THE CONSTITUTIONAL COURT
OF THE REPUBLIC OF LATVIA

JUDGMENT

IN THE NAME OF THE REPUBLIC OF LATVIA

Riga, July 13, 1998

on case No. 03 - 04(98)

The Constitutional Court of the Republic of Latvia in the body of the Chairman of the Court session A.Endziņš, the justices R.Apsītis, I.Čepāne, A.Lepse, I.Skultāne and A.Ušacka, with the secretary of the Court session L.Vīnkalna

in the presence of the deputy of the 6. Saeima I.Bišers - the representative of the party of the applicant - i.e. twenty one deputies of the Saeima, namely Z.Čevers, E.Jurkāns, Ē.Zunda, V.Nagobads, V.Stikuts, L.Kuprijanova, A.Sausnītis, O.Grinbergs, Ā.Ločmelis, E.Bāns, G.Gannusa, D.Turlais, O.Deņisovs, I.Bišers, J.Kaksītis, V.Dinēvičs, J.Celmiņš, V.Boka, V.Dozorcevs, L. Stašs and M.Lujāns

and the head of the Legal Bureau of the Saeima G.Kusiņš - the representative of the institution that issued the normative act which is disputed - the Saeima,

under Article 85 set by the Satversme (Constitution) as well as Article 16, paragraph 3 and the first part of Article 17 of the Constitutional Court Law

in a public hearing on June 25, June 26 and June 30 reviewed the case

”On Conformity of the Saeima 30 April, 1998 Resolution on the Vote of Confidence for the Cabinet of Ministers with the Law

”The Structure of the Cabinet of Ministers” and Rules of Procedure of the Saeima”.

The Constitutional Court established:

In April, 1998, five of the Cabinet Ministers, namely - Deputy Prime Minister J.Kaksītis, Minister of Economics A.Sausnītis, Minister of the Interior Z.Čevers, Minister of Education and Science J.Celmiņš and the Minister of Municipal Affairs Ē.Zunda resigned from office.

On April 29, 1998 - in compliance with Article 20 of the Satversme (Constitution)- the Prime Minister G.Krasts submitted a letter to the Saeima Presidium, requesting to convoke an extraordinary sitting of the Saeima on vote of confidence to the Cabinet of Ministers. In conformity with it, the Presidium of the Saeima adopted a decision to convoke the extraordinary sitting of the Saeima on April 30,1998 (just after the regular sitting).

On April 30, 1998, the Saeima at its regular sitting reviewed the draft Resolution about a non-confidence vote to the Prime Minister and the draft Resolution on a non-confidence vote to the Cabinet of Ministers. The Saeima rejected both the above drafts.

Only one issue was on the agenda of the April 30, 1998 extraordinary sitting of the Saeima - the draft Resolution ”On the Vote of Confidence for the Cabinet of Ministers”.

The draft Resolution envisaged to simultaneously give its vote of confidence to the acting members of the Cabinet of Ministers and to the persons invited to take up office into the Cabinet of Ministers.

In conformity with Article 135 of the Rules of Procedure of the Saeima (henceforth - Rules of Procedure) ten deputies of the Saeima expressed the viewpoint that the case on its merit should not be reviewed by the Saeima and suggested to reach a decision about it. However, the proposal did not receive the support of the majority of the Saeima.

The Saeima adopted the draft Resolution on the vote of confidence for the Cabinet of Ministers and the Saeima Chairman

A.Čepānis -under the procedure anticipated by the second part of Article 21 of the Rules of Procedure - made an announcement about it.

The applicant questions conformity of April 30, 1998 Resolution by the Saeima extraordinary sitting on the vote of confidence for the Cabinet of Ministers (henceforth - the disputable act) with Articles 6 and 11 of the law "The Structure of the Cabinet of Ministers" and Articles 27 and 28 of the Rules of Procedure and petitions to declare the Resolution null and void from the moment of its adoption.

The applicant considers, that in compliance with Article 11 of the law "The Structure of the Cabinet of Ministers" the Prime Minister has had an obligation to nominate other persons into the office of the ministers who have resigned, informing the President of the State and the Saeima Chairman of the changes, as well as requesting the Saeima to give the vote of confidence for the above persons, whereas the Prime Minister has submitted the draft Resolution, requesting to give the vote of confidence for the whole body of the Cabinet of Ministers, including the four persons about whose nomination into the office he had not informed the Saeima Chairman, who at the time was also carrying out the obligations of the State President, before the Saeima extraordinary sitting.

The application declares that in conformity with Article 6 of the law "The Structure of the Cabinet of Ministers", the ministers which are subsequently appointed by the Prime Minister need a special Saeima resolution on the vote of confidence and not a resolution on the vote of confidence for the whole body of the Cabinet of Ministers.

The applicant stresses that, when adopting the disputable act, the deputies of the Saeima have been restricted in expressing their attitude to the newly appointed members of the Cabinet of Ministers, as the deputies, who supported continuation of the activities of the existing Cabinet of Ministers, were denied the possibility of giving a non- confidence vote to the subsequently appointed ministers.

Besides, the application points out that the Rules of Procedure do not envisage the right of the Prime Minister to request the Saeima to give the vote of confidence to the acting government. To his mind, the Prime Minister has made use of the procedure, envisaged for

formation of a new Cabinet of Ministers, and he has had no right to do it, as the previous Cabinet of Ministers had not resigned and the State President had not asked the present Prime Minister to form a new government.

At the Court session the applicant upheld the above claim.

In addition to the legal motivation, he stressed that both - the Saeima and the Cabinet of Ministers - as the subjects of public law are authorised to perform only the activities, envisaged by law.

The representative of the applicant expressed a viewpoint, that the Rules of Procedure determine cases, when the Saeima is authorised to reach decisions about the vote of confidence or non-confidence vote for the Cabinet of Ministers or a separate member of it in detail.

Moreover, the Resolution of the Saeima on giving a vote of confidence for the Cabinet of Ministers, that has already been given the vote of confidence and is acting (henceforth- the Saeima Resolution on a Repeated Vote of Confidence) bears no legal importance and has no legal effect. However, according to the Satversme (Constitution) the Saeima is authorised to adopt only acts, which are of legal importance.

Applying grammatical, historical and systemic methods of interpretation of legal norms, the representative of the applicant stressed, that the specific resolution by the Saeima on the vote of confidence for separate ministers, subsequently appointed by the Prime Minister, should not be included in other draft acts.

The representative of the applicant told, that several deputies, who voted for the disputable act, had expressed the viewpoint that if the vote of confidence for the newly appointed ministers had been detached, they would have voted differently than for the disputable act. However, the representative of the applicant abstained from expressing a statement that the Resolution on the vote of confidence for the newly appointed ministers would not have been adopted.

The representative of the applicant stressed that there has been no possibility to vote for separate parts of the disputable act, as the parts of the draft Resolution were not autonomous enough and could

not have been adopted one after the other. Besides, the deputies had considered that the draft resolution on its merit should not be reviewed at the Saeima.

However, the representative of the applicant acknowledged, that the disputable act was not at variance with any Article of the Satversme (Constitution).

The Saeima in its written reply declares, that the application is ungrounded and to be rejected as it is not in compliance with the essence of the Satversme (Constitution), the law "The Structure of the Cabinet of Ministers" and Rules of Procedure.

The Saeima stresses, that the disputable act is in compliance with Article 59 of the Satversme (Constitution) and the law "The Structure of the Cabinet of Ministers", as the norm included in the very first sentence of Article 6 of the law "The Structure of the Cabinet of Ministers" reads that the Saeima shall give its vote of confidence to the Cabinet of Ministers, including state ministers, by adopting a specific resolution.

The written reply recognises, that the applicants have groundlessly tried to apply the norm, included in the second sentence of Article 6 of the law "The Structure of the Cabinet of Ministers ", to the April 30, 1998 sitting. The above norm, to their mind, is to be applied in cases, when separate ministers are being appointed, but not when the vote of confidence for the whole body of the Cabinet of Ministers is requested.

Besides a viewpoint is expressed that an attempt to connect the disputable act with Article 11 of the law "The Structure of the Cabinet of Ministers" is ungrounded, as the norm, included in the first sentence of the above Article regulates action of the Prime Minister and not that of the Saeima or legitimacy of the resolution, adopted by the Saeima. The norm, included in the second sentence of the Article, according to them, determines the moment from which the appointed persons shall begin to fulfil the obligations of ministers and cannot be referred to legitimacy of the disputable act either.

The written reply stresses, that the disputable act shall not be connected with Articles 27 and 28 of the Rules of Procedure,

because these two articles regulate quite different situations and shall not be applied in cases, when an acting Prime Minister requests the vote of confidence for the whole body of the Cabinet of Ministers. Article 27 of the Rules of Procedure shall be applied in cases, when the candidate to the office of the Prime Minister, invited by the State President, and not an acting Prime Minister makes a statement on formation of the Cabinet of Ministers, whereas Article 28 of the Rules of Procedure shall be applied in cases, when the Prime Minister, who is holding the office, invites or appoints a Deputy Prime Minister, a Minister or a Minister of State later.

At the Court session the representative of the Saeima upheld the viewpoint, that the claim of the applicant was unfounded and to be dismissed.

He stressed that confidence was the only constitutional basis of the action of the government and in cases, when the Prime Minister had well-grounded doubt about loss of confidence, he was authorised to request the Saeima to give a repeated vote of confidence for the Cabinet of Ministers.

The representative of the Saeima pointed out, that the right of requesting a repeated vote of confidence follows from Article 59 of the Satversme (Constitution).

He reminded that up to 1996 the procedure of giving the vote of confidence for the Cabinet of Ministers had not been established by the Rules of Procedure, but that had been no obstacle in adopting Resolutions on it. Besides, according to him, the Rules of Procedure is not an exhaustive document and in cases, not envisaged by it, the Saeima has the right of establishing the procedure by its resolution.

The Saeima representative stressed that, when interpreting the law ”The Structure of the Cabinet of Ministers ” and the Rules of Procedure one should not solely make use of the method of grammatical interpretation of legal norms, but also apply the method of systemic, teleological and historical interpretation.

He pointed out, that the notion ”specific resolution”, included in Article 6 of the law ”The Structure of the Cabinet of Ministers” meant the resolution on giving the vote of confidence and not a ”separate resolution”. The Saeima representative expressed the

viewpoint, that nomination of a person for taking up office into the Cabinet of Ministers did not mean changes in the Cabinet of Ministers, as the ministers started fulfilling their obligations only after they had received a vote of confidence from the Saeima.

The Constitutional Court concluded:

1. The applicant groundlessly considers, that in compliance with Article 11 of the law ”The Structure of the Cabinet of Ministers” the Prime Minister ” is obliged to nominate other persons into the office of the ministers who have resigned, thereby informing the President of the State and the Saeima Chairperson of the changes in the Cabinet of Ministers”.

The norm, included in the first sentence of the Article envisages, that in cases, if one or more ministers resign from office, ”the Prime Minister shall temporarily undertake their obligations , temporarily assign the fulfilment of their duties to other ministers or nominate other persons into the office of the ministers who have resigned, thereby informing the President of the State and the Saeima Chairperson of the changes.”

In its turn, the norm included in the second sentence of the Article determines the moment from which the nominated persons become members of the Cabinet of Ministers. Namely, these persons ”shall begin to fulfil the obligations of ministers only after they have received a vote of confidence from the Saeima”. Neither the applicant, nor the Saeima representative doubts that up to the above moment the persons shall not be considered the members of the Cabinet of Ministers.

Thus, inviting a person to undertake the obligations of a minister who has resigned does not cause changes in the Cabinet of Ministers.

Changes in the Cabinet of Ministers, envisaged in Article 11 of the law ”The Structure of the Cabinet of Ministers” are like this:

1.) the minister has resigned from office;
2.) obligations of the minister are temporarily undertaken by the Prime Minister or other member of the Cabinet;

3.) after receiving a vote of confidence from the Saeima, the person, nominated by the Prime Minister into the office of a minister who has resigned, begins to fulfil the obligations of a minister.

Article 11 of the law ”The Structure of the Cabinet of Ministers” establishes the obligation of the Prime Minister to inform the President of the State and the Chairperson of the Saeima of the above changes, but not of inviting a person to undertake the obligations of a minister who has resigned. Besides, the law does not determine the form of the information.

Thus, the disputable act is in conformity with Article 11 of the law ”The Structure of the Cabinet of Ministers”.

2.) Article 59 of the Satversme (Constitution) establishes, that ”the Prime Minister and Ministers shall by necessity enjoy the confidence of the Saeima and shall be responsible to the Saeima for their activities. Should the Saeima defeat the vote of confidence in the Prime Minister, the whole Cabinet shall resign. Should the Saeima defeat the vote of confidence in any particular minister, that minister shall resign and the Prime Minister shall invite another person to take his place”.

Thus, the Article authorises the Saeima to reach decisions on issues, connected with expressing confidentiality or non-confidentiality to the Cabinet of Ministers.

On September 20,1921, at the sitting of the Satversme assembly, making an announcement on the draft of the Satversme in its first reading , the reporter J.Purgals interpreted the fundamental principle of relations between the Saeima and the Cabinet of Ministers, included in the above Article, like this: ”… ministers are responsible only before the Saeima, all of them together - for the policy of the government and individually - for their personal activities. They can remain in their office only while having the vote of confidence by the Saeima; as soon as they lose confidence, they shall resign”.

Confidence by the Saeima is the only constitutional principle of the activity of the Cabinet of Ministers. If it is lost, the President of the State has the right of inviting the former Prime Minister or another person to form a new government.

The former method of implementation of the above principle is unambiguous if referred to cases when:

1.) the candidate to the office of the Prime Minister, invited by the President of the State, has formed the Cabinet of Ministers and has not received the majority vote of confidence ;

2.) the authority of the Saeima, that has given the vote of confidence to the government has expired and the government does not have the confidence vote of the Saeima;

3.) the Saeima has adopted a resolution about a non-confidence vote to be given to the Cabinet of Ministers or the Prime Minister.

In all the above cases the President of the State has invited either the former Prime Minister or another person to form a new Cabinet of Ministers.

There has never been a case when the Saeima has voted for a draft resolution on giving a repeated vote of confidence to the Cabinet of Ministers and the required majority of vote has not been received.

If there had been a case like that, then in conformity with Article 59 of the Satversme (Constitution), the constitutional principle, required for activity of the government, would cease to exist and the President of the State, under procedure set by the law, would have had the right of requesting to form the Cabinet of Ministers anew.

Neither the applicant, nor the witnesses - the Prime Minister G.Krasts and the Leader of the Bureau of the Prime Minister J.Viņķelis - connected consequences, that could arise if the Saeima rejected the draft Resolution on giving a repeated vote of confidence for the Cabinet of Ministers, with unambiguous resignation of the government and - under the procedure anticipated by law - the right of the President of the State of requesting to form the Cabinet of Ministers anew.

The viewpoint, expressed by the applicant, that the repeated vote of confidence was of no legal importance, therefore it had not been envisaged in the Rules of Procedure and could not be reviewed by the Saeima, was incorrectly based on the fact, that after the March 2, 1998 Saeima sitting the Prime Minister did not resign.

The representative of the applicant considers, that the Saeima ”refused to give a repeated vote of confidence”, however, as can be established from the exhibits of the case, on March 2, 1998, the Saeima reached its decision only about the issue whether the draft Resolution, submitted by the Prime Minister, could be reviewed on its merit by the Saeima. Namely, the Saeima reached a decision whether to review the issue or not, but not on the vote of confidence for the Cabinet of Ministers. Therefore one cannot compare consequences of the Saeima March 2, 1998 Resolution i.e. refusal to review the draft Resolution on a repeated vote of confidence for the Cabinet of Ministers on its merit, with consequences that could arise if the Saeima had voted for the Resolution and rejected it.

The Saeima representative expressed a contradictory viewpoint on consequences of rejection of a draft Resolution on repeated vote of confidence for the Cabinet of Ministers. On the one hand he declared, that the consequence of the above Resolution could serve as a political obligation for the Prime Minister to resign. On the other hand, the Saeima representative expressed a motivated viewpoint that, as concerns the above case, the President of the State - in compliance with Article 59 of the Satversme (Constitution)- would have the right of inviting some other person to form the Cabinet of Ministers anew.

An attempt to consider the Saeima Resolution on a repeated vote of confidence for the Cabinet of Ministers only as an ”informative”, ”formal” or ”political ” act without any legal importance is incorrect and unconformable with the essence of the Resolution.

Resolution on a repeated vote of confidence for the Cabinet of Ministers or its separate member is initiated by the government, but resolution on a vote of non-confidence to the Cabinet of Ministers or its separate member shall be initiated by the Parliament. These are two different forms, giving the possibility to find out if the Cabinet of Ministers and Ministers enjoy the Saeima confidence. In both cases it is possible to establish exactly whether confidence does or does not exist.

Thus, in compliance with Article 59 of the Satversme (Constitution), the Saeima enjoys the right of reviewing a resolution on a repeated vote of confidence for the Cabinet of Ministers. Adoption or rejection of the Resolution has specific legal

consequences : if the vote of confidence has been given, the government is authorised to continue working, if the vote of confidence has not been given, the President of the State is authorised to invite the former Prime Minister or another person to form the Cabinet of Ministers anew.

3. Chapter II of the law "The Structure of the Cabinet of Ministers" - The Cabinet and the Saeima - was included to determine the procedure of defining mutual relations between the Cabinet of Ministers and the Saeima. The legislator has tried to make these relations sufficiently flexible and mutually serious.

When renewing the law "The Structure of the Cabinet of Ministers" in 1993, Chapter II has been changed less of all and almost fully corresponds to the 1925 law. At the February 13, 1925 Saeima sitting, the reporter V.Bastjānis stressed, that " by Chapter II the commission tried to regulate that Parliament practice, which had been established during the years of existence of our State".

Article 6 of the law in the wording of 1925 determined that "confidence to the Cabinet of Ministers or a separate Minister shall be expressed by the Saeima with the help of confidence formula or just passing over to the next item of the agenda". As can be seen, the above Article referred to the procedure of the Saeima performance, and it permitted the possibility of expressing confidence not only by confidence formula, but also by passing over to the next item of the agenda.

When in 1993 the law "The Structure of the Cabinet of Ministers" was renewed, Article 6 - in difference from the other Articles of the Chapter - was expressed in a new wording, including several essential amendments in it. Thus, the 5. Saeima clearly voiced the intention of declining the practice of the previous Saeima in this issue and form a new, more precise procedural order.

At the Saeima 15 July, 1993 sitting, when making a report on the draft law in its first reading, the reporter of the Commission E.Levits in his speech stressed:" the principle is to base the law on the traditional April 1, 1925 law "The Structure of the Cabinet of Ministers", taking into consideration the practice of the small European countries as well". As in the above countries it is widely practised to require the vote of confidence not only for a new but

also for the acting Cabinet of Ministers, it can be concluded, that Article 6 of the law by the notion " Resolution on the vote of confidence for the Cabinet of Ministers" included both possibilities.

Up to June 1, 1996, when the law "Amendments to the Rules of Procedure of the Saeima" took effect, the Rules of Procedure did not regulate the procedure of giving the vote of confidence to the Cabinet of Ministers, the Prime Minister or a separate Minister and the Saeima, when making a decision on the vote of confidence to the Cabinet of Ministers was guided by Article 6 of the law "The Structure of the Cabinet of Ministers".

On April 21, 1994 - under the above Article- the Saeima passed a Resolution on giving a repeated vote of confidence to the Cabinet of Ministers. No motion, denoting that the case shall not be reviewed on its merit at the Saeima, was submitted and no deputies questioned the procedure of adopting the Resolution.

Article 21 of the Satversme (Constitution) establishes, that " the Saeima shall draw up the Standing Orders for the regulation of its activities and its internal procedure." The Article included the principle of sovereignty of the Parliament. The Saeima itself and nobody else establishes the procedure of its activities.

Most European countries enjoy similar constitutional norms, but in some of them, the Regulations of the Parliament are adopted as simple resolutions and thus - as concerns their legal force - they are subordinated to laws.

As has been acknowledged by the Latvian science of law " the Rules of Procedure is not the Regulation by the Legislative Chamber in its formal sense, but a law. As concerns Article 21 of the Satversme (Constitution), one could conclude, that the Rules of Procedure of the Saeima is considered to be the Regulation by the Legislative Chamber and not a law. But our constitutional practice has solved the issue. The Saeima has adopted its Rules of Procedure as the law and the President of the State has promulgated it as the law; thus, from the formal point of view, it undoubtedly is the law of a general significance." (K. Dišlers. The Institutions of the State Power of Latvia and their Functions. Riga, 1925, pp.65-66).

In Latvia the Rules of Procedure is considered to be the law not only because it contains separate regulations of a general significance, but also to ensure the stability of the Saeima internal procedure in the conditions, when the parliamentary traditions have not been developed. (see A.Kviesis. Rules of Procedure of the Saeima. Jurists, 1929, No. 4).

The objective of the Rules of Procedure is to determine such a procedure of activities that, while realising the will of the majority, the Rules guarantee the rights of the minority and ensure the efficiency of the Saeima performance. However, the Rules of the Procedure do not regulate all the cases in detail. In separate cases, other laws and Saeima Resolutions have established the procedure of the Saeima activities. Norms, regulating the activities of the Saeima , are expressed by the law ”The Structure of the Cabinet of Ministers” as well. That is not at variance with Article 21 of the Satversme (Constitution), because the notion included in the Article ”the Standing Orders” shall be interpreted more comprehensively, i.e. as a body of norms, regulating the activities of the Parliament.

On May 6, 1996 was adopted the law ”Amendments to Rules of Procedure of the Saeima”, that took effect on June 1, 1996 and expressed Chapter III of the Rules in a new wording, generalising the practice, connected with election, approval, discharge or dismissal of the Saeima officials, a vote of confidence or non-confidence.

The objective of the amendments, as regards the vote of non-confidence for the Cabinet of Ministers, on the one hand was to ensure the stability of the government, protecting it from a hasty decision by the Saeima, adopted by an accidental majority , on the other - to guarantee the possibility of submitting a request to the Saeima to review the Resolution on the vote of confidence for the Cabinet of Ministers or separate its member.

The statement of the Saeima representative, that the draft resolution could have been reviewed under a different procedure, without amending the Rules of Procedure is ungrounded, as it follows from both - the construction of Article 29 of the Rules of Procedure and the objective of the adoption of the Article - that regulate when and how the draft Resolution on the vote of non-

confidence to the Cabinet of Ministers or separate its member shall be reviewed.

Judgement on the exhaustive nature of Article 29 of the Rules of Procedure shall not be applied to Article 27. This Article has been formulated differently, it does not envisage who and in what cases may submit a draft resolution on the vote of confidence to the Cabinet of Ministers, but it determines the procedure under which the draft resolution on the vote of confidence, drawn up by the candidate to the office of Prime Minister invited by the President of the State, shall be advanced.

Both, the applicant and the Saeima representative agree that the Rules of the Procedure do not regulate the resolution on a repeated vote of confidence for the Cabinet of Ministers. However, the statement of the applicant that Chapter III of the Rules of Procedure prohibits to review such a draft resolution is groundless.

The representative of the applicant refers to the Saeima Resolution adopted on March 2, 1998, and which - to his mind - expresses the decision of the Saeima, that a draft Resolution on a repeated vote of confidence for the Cabinet of Ministers on its merit shall not be reviewed at the Saeima.

The decision that - in compliance with Article 135 of the Rules of Procedure - the Saeima shall not review the case on its merit was adopted at the sitting. However, the deputies I.Bišers and V. Boka in their motion pointed out that there were several shortcomings in the particular Resolution. Thus, it cannot be stated that the Saeima has discontinued reviewing the draft resolution just because it envisaged giving a repeated vote of confidence for the Cabinet of Ministers. The more so, as at the beginning of the above sitting an analogous proposal, stating that the reason of discrepancy was the requirement to give a vote of confidence to an acting Cabinet of Ministers, did not receive the majority support.

The Rules of Procedure do not prohibit reviewing cases, not envisaged by the Rules of Procedure. In the same way, the Rules of Procedure do not forbid reviewing cases in compliance with the parliamentary traditions, if they are not at variance with the Rules of Procedure.

However, one of the basic principles of the parliamentary action demands to clearly understand the essence of the procedure of reviewing cases. If there are no established traditions, then the Saeima, before it starts reviewing the particular case, shall establish the procedure of the review.

In compliance with Article 59 of the Satversme (Constitution) the Saeima is authorised to make a decision on giving a repeated vote of confidence for the Cabinet of Ministers, although, before it began considering the issue, it had to determine the procedure of reviewing it. As the verbatim report of the April 30, 1998 extraordinary Saeima sitting proves, the Saeima did not take this fundamental principle into consideration.

In its turn, the procedure, under which the draft resolution about the vote of confidence to be given to the Deputy Prime Minister, a Minister or a Minister of State invited or appointed by the Prime Minister later shall be submitted, is established by Article 28 of the Rules of Procedure.

This Article shall be interpreted taking into consideration the norm included in the second sentence of Article 6 of the law ”The Structure of the Cabinet of Ministers”, because Article 28 of the Rules of Procedure as well as the norm of the law ”The Structure of the Cabinet of Ministers” refers to cases when a person is nominated into the office of a Minister ”later”, namely, the Saeima has not given the vote of confidence for that person as envisaged by Article 27 of the Rules of Procedure, when the candidate to the office of the Prime Minister invited by the President of the State has asked the Saeima to give the vote of confidence to the formed Cabinet of Ministers.

A norm is included in Article 6 of the law ”The Structure of the Cabinet of Ministers” establishing that a person who is invited into the office of a Minister later shall need ”a special resolution on the vote of confidence”. The term ”a special resolution on the vote of confidence” has been used to separate the form and the point of the resolution from the ”specific resolution” on the vote of confidence for the whole Cabinet of Ministers by the Saeima, envisaged in the first sentence of the Article.

The contents and the form of the above ”special resolution” are clearly defined in Article 28 of the Rules of Procedure. Namely, in cases, when a person is invited into the office of a Minister later, a draft resolution of the Saeima about the vote of confidence to that person is required. Such a resolution - as has been with good reason pointed out by the applicant - is the resolution, that has been adopted separately from any other resolution, including the resolution on giving a repeated vote of confidence for the Cabinet of Ministers.

In compliance with Article 11 of the law ”The Structure of the Cabinet of Ministers”, persons, nominated into the office of ministers who have resigned, shall begin to fulfil the obligations of ministers only after they have received a vote of confidence from the Saeima.

The disputable act should have been discussed by the Saeima and reviewed as two separate cases - first of all on the vote of confidence to the persons who have not received it and then - on the vote of confidence for the whole government.

By discussing and reviewing the disputable act as one case, the Saeima has not taken into consideration both -Article 6 of the law ”The Structure of the Cabinet of Ministers” and Article 28 of the Rules of Procedure.

However, not every violation of the parliamentary procedure can serve as the reason of considering it an act without a legal force. To declare an act null and void because of violation of parliamentary procedure, one should have well-founded doubt, that - in case - if the procedure was observed, the Saeima would have adopted a different resolution.

On April 30, 1998 the Cabinet of Ministers enjoyed the vote of confidence by the Saeima. That is proved by the fact that the Saeima rejected both - the draft resolution on a non-confidence vote to the Prime Minister and the draft Resolution on a non-confidence vote to the Cabinet of Ministers. At the Court session even the representative of the applicant did not question the fact that on April 30, 1998 the Cabinet of Ministers did enjoy the vote of confidence of the Saeima.

Even though the form of the draft of the disputable act was not in compliance with the norm included in Article 6 of the law ”The Structure of the Cabinet of Ministers” and the demands of Article 28 of the Rules of Procedure, the deputies had a possibility to eliminate the shortcomings of the draft. The President of the State in his address to the Saeima before adoption of the disputable act stressed: ”… I do ask you to give the vote of confidence for the new Ministers of the Cabinet of Ministers: the Minister of Economics Laimonis Strujevičs,; the Minister of the Interior Andrejs Krastiņš; the Minister of Education and Science Jānis Gaigals; the Minister of Municipal Affairs Jānis Bunkšs. Complying with the request of the partners of coalition I appeal to you to give the vote of confidence for the whole body of the Cabinet of Ministers as well”.

Thus, one may come to the conclusion that already before voting the deputies knew that they were going to give the vote of confidence not only for the whole body of the government but also for the persons, nominated to take up office into the Cabinet of Ministers. Every deputy, who wanted to take exception to one or several persons, invited to take up office into the Cabinet, under Article 133 set by the Rules of Procedure, had the right to demand separation of the motion, namely, a separate vote for the particular person or persons. However, during the process of adoption of the disputable act, such a motion was not expressed.

The applicant could not substantiate that, in case if there had been a separate vote for the ministers, who had been nominated anew, some of them would not have received the vote of confidence. Thus there is no doubt that the Saeima has given its vote of confidence to both -the whole body of the Cabinet of Ministers and to every of the above Ministers.

Under Articles 30-32 set by the Constitutional Court Law

the Constitutional Court

DECIDED:

to declare that the April 30, 1998 Resolution by the Saeima on giving the vote of confidence to the Cabinet of Ministers has been adopted **not taking into consideration several procedural norms**,

included in Article 6 of the law ”The Structure of the Cabinet of Ministers” and Article 28 of the Rules of Procedure, however **on its merit it is in compliance with Article 59 of the Satversme (Constitution) of the Republic of Latvia.**

The Judgment takes effect from the moment of its announcement. The Judgment is final and allowing of no appeal.

The Judgment was announced in Riga on July 13, 1998.

The Chairman of the Court session A.Endziņš

Justice of the Constitutional Court R.Apsītis

Justice of the Constitutional Court I.Čepāne

Justice of the Constitutional Court A.Lepse

Justice of the Constitutional Court I.Skultāne

Justice of the Constitutional Court A. Ušacka