

Dear President of the Riigikogu!

Dear members of the Riigikogu!

Today, I am making a political statement to the Riigikogu in order to submit to our Parliament a draft Act to amend the Constitution and to explain the reasons and content of this motion.

I make this motion for amending the Constitution in order to regulate the command of national defence and to strengthen civilian control.

Chapter X of the Constitution, which deals with national defence, is one of the most criticised parts of our Constitution. Experts have drawn our attention to its shortcomings, problems have been admitted by earlier Parliament memberships. Yet so far, no relevant draft for amending the Constitution has been submitted to the Parliament.

What is the content of this motion?

I propose to amend the provisions of the Constitution referring to the Commander of the Defence Forces and the Commander-in-Chief of the Defence Forces. Those are first and foremost the provisions concerned with the procedures for appointing the Commander of the Defence Forces and the Commander-in-Chief of the Defence Forces.

At the present time, as we know, the Commander or Commander-in-Chief of the Defence Forces is appointed by the Riigikogu on the proposal of the President of the Republic. If the Riigikogu finds it appropriate to pass the draft Act I am submitting today, and the amendments enter into force, the Constitution of the Republic of Estonia shall no longer refer to the Commander or Commander-in-Chief of the Defence Forces. And the procedures for appointing the Commander of the Defence Forces shall be provided by Riigikogu by means of legislation.

The proposed draft Act shall not change the status of the President of the Republic as Supreme Commander of the Defence Forces. I find this to be consistent with the constitutional tradition of European states, according to which the Head of State is formally termed the Supreme Commander of National Defence. This status, though symbolic and ceremonial, is also a balancing feature. Yet the supreme commander of national defence has no means to interfere with the organisation of national defence on daily basis, because in a parliamentary state, it is only the government that has the executive power and organises national defence, and is responsible to the parliament.

Why am I submitting this motion?

In my opinion, some provisions of the Constitution concerning national defence have obstructed the development of national defence and caused discord. It is obviously not an overstatement to say that all the previous Ministers of Defence have had clashes with the respective Commanders of the Defence Forces. Thus it is not a question of particular persons and their compatibility – rather, we can see that the controversy has been programmed into the Constitution.

Let us remember that the Constitution of the Republic of Estonia from 1992 is a Constitution of a parliamentary republic. Yet the chapter on national defence has been drawn up proceeding from the Constitution of 1937, which was a Constitution of a presidential state. The result is a hybrid which enables those concerned to have different and even contrary ideas of their role and position in organising the national defence. This results in deficient civilian command and deficient civilian control.

In a parliamentary state, the defence forces cannot be subordinated to anyone except the Government. This is the only way to subordinate them to democratic, including parliamentary, control. I remind you that on 12 June 2002, the Riigikogu, in rare spirit of unanimity – 85 votes in favour – passed the new Peacetime National Defence Act, which brought the legislation concerning the command of national defence largely into compliance with parliamentary administration. Now also the status of the commander of national defence and the procedures for his appointment are to be brought to conformity with parliamentary governance. This cannot be reached without amending the Constitution.

What could the legislative proceedings of this motion look like, in my view?

It is my conviction that provisions of the Constitution concerning issues of national defence require the maximum possible unanimity from the political parties represented in the Riigikogu. Yet the amendments I propose are quite urgent in nature. Therefore, I would see the Riigikogu amending the Constitution as a matter of urgency in accordance with Section 166 of the Constitution. This would require a most extensive agreement within the Riigikogu.

In order to reach the consensus necessary for amending the Constitution, I have had meetings with representatives of all the Riigikogu factions, as well as the Committee of National Defence and the Constitutional Committee. After those meetings, I am convinced that the legislative proceedings of the draft Act I am to submit to the Riigikogu will be constructive. I have as well heard the position of the National Defence Council, which is that of unanimous support.

I understand and support the opinion that members of the Riigikogu must receive a comprehensive outline of how the passing of this draft Act will affect the legal atmosphere. Therefore, I have an agreement with the Minister of Defence that the Ministry of Defence shall present all relevant draft Acts to the Members of Parliament. Those are to provide the procedures for appointing and releasing the Commander of the Defence Forces after the Constitution has been amended. In order to avoid politicising of this post, precise and stringent criteria that the commander of national defence shall meet are also to be provided in legislation.

And finally.

I request the Riigikogu not to extend the content of this draft Act in the course of legislative proceedings. I have deliberately concentrated only on issues concerned with the institution of the commander of the defence forces. The experience of amendments to the Constitution so far has demonstrated that it is possible to reach consensus if the draft in question concentrates on one, clearly delineated issue.

Dear members of the Riigikogu, I ask you to take a serious and statesmanlike approach to the draft Act amending the Constitution, which I submit today.

Thank you, and more power to your elbow!