

## **RIGHTS OF THE ENTIRETY OF CITIZENS IN LEGISLATIVE PROCESS IN LATVIA**

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**ABSTRACT:** *Already since adoption of the Constitution of Latvia – Satversme (1922) several mechanisms were secured therein that set forth the way how the electors may participate in the legislative process. One of the principal mechanisms secured in the constitution as well is the right of legislative initiative granted to the electors. Pursuant to the legal regulation 1/10 of the electors in Latvia may file a completely elaborated draft law with the parliament, the Saeima. The Saeima must discuss such draft law at the following session and in the event the parliament not adopting such or adopting with amendments to contents the draft law shall be delivered for deciding in a referendum. Similarly, also the most essential sections of the Satversme that set forth the conceptual basis of the country (Sections 1, 2, 3, 4, 6 and 77 of the constitution) may be amended only by the nation in the referendum.*

*In due course of time, by the democracy developing, the possibilities of electors to participate in legislative process have increased, because new mechanisms have been introduced how the electors may get involved in the work of the parliament. Latvia joining the European Union has also expanded the range of issues that should be decided by national vote in relation to the EU issues.*

*Though legal acts do not expressis verbis set forth the issues regarding which the electors are not allowed to initiate draft laws, the Constitutional Law Commission and the competent governmental institutions have concluded that such rights are not entirely absolute: the draft law fled by the electors as well cannot be aimed against the values and general legal principles of the country. A theory has developed in the constitutional law science regarding the so-called non-amendable core of the Satversme: the values of the Latvian state which cannot be amended.*

**KEY WORDS:** *Constitution of Latvia, citizens, legislative process, the national referendum.*

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After collapse of the Soviet Union the Republic of Latvia restored its national independence and became an independent country again. Unlike in many post-socialist countries, no new constitution has been adopted in Latvia, but the pre-war one, the constitution (the *Satversme*) of 1922, was renewed which is fully operational in Latvia since 6 July 1993.

Pursuant to the provisions of Section 2 of the constitution of Latvia the sovereign power of Latvia is vested in the people of Latvia. The people implement their sovereign power in a manner of both direct and representative democracy. For purposes of constitutional law the term *people of Latvia* means the entirety of citizens of Latvia. In the name of the nation the sovereign power is implemented by the citizens of the Republic of Latvia entitled to vote. Capable citizens of Latvia of at least 18 years of age have voting rights.

Section 64 of the Constitution sets forth that there are two legislative subjects in Latvia: the Parliament (the *Saeima*) and the people. Of course, one may speak about the delegated legislation in Latvia as well, i.e. the Cabinet of Ministers is also entitled to issue external legal acts if such has been delegated to it by the primary legislator, i.e. the people or the *Saeima*. Also the local authorities may issue binding regulations within their competence, if they have received such delegation.

Already since adoption of the Constitution in 1922 several mechanisms were secured therein that set forth the way how the electorate may participate in the legislative process, however after restoration of independence the number of mechanisms by which the electorate can influence legislation has increased. Further in this article the 2 principal legal mechanisms by which the people implement their legislative power will be analysed, i.e. the right of the electorate to initiate laws and the regulation of the national referendum, or the referendums.

### 1. THE RIGHT TO INITIATE LAWS (LEGISLATIVE INITIATIVE)

Section 78 of the Constitution sets forth: “Not less than one tenth of the electorate have the right to submit a fully elaborated draft of an amendment to the Constitution or of a law to the President, who shall present it to the *Saeima*. If the *Saeima* does not adopt it without change as to its content, it shall then be submitted to national referendum.”

All citizens of Latvia that are entitled to elect the *Saeima* may participate in initiation of laws. The electorate has the right to initiate both draft laws and draft amendments to the Constitution, and irrespective the way the legal act is initiated, the procedure of its initiation is the same.

It should be noted that the right of the electorate to initiate laws does not exist in every democratic country; such rights are not widespread even on the European scale. (Ņikuļceva, 2009)

The issues related to the legislative initiative are regulated by the law “On the Referendum and Initiation of Laws” of 1994<sup>1</sup>, though several essential amendments were adopted in 2012 which have rendered this procedure more complicated. Initiating the law by the electorate consists of several stages:

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<sup>1</sup> The law “On the Referendum and Initiation of Laws” of 31.03.1994. <http://www.likumi.lv/doc.php?id=58065>

1) *Establishment of the initiative group and submission of the draft law regarding which gathering signatures of the electorate is planned to the Central Election Commission.*

The initiative group may be established by two types of subjects: the political parties or the unions (public organisations) uniting at least 10 members having voting rights. Such procedure is a novelty since 2012. The requirement for registration of such initiative groups exists in all European countries where the electorate is entitled to submit draft laws to the Parliament.<sup>2</sup> The benefits of registration are that, first, it allows obtaining accurate information about the persons gathering signatures and financing gathering of such, thus, for example, it prevents financing gathering the signatures of electorate from abroad. Secondly, it allows preventing the situation that only after the signatures have been gathered it is established that the draft law or the draft amendments to the Constitution have not been comprehensively elaborated and cannot be advanced further. At this stage the Central Election Commission may adopt the resolution to register the draft law, to postpone its registration (to set the deadline for elimination of deficiencies) or to refuse registration. If required, the Central Election Commission may involve the experts (for example, quite often the opinion about the draft law is asked from the Faculties of Law of higher education institutions).

Entitlement to refuse registration of the draft law exists only in 2 occasions: if the initiative group does not meet the requirements set forth in the law or if the draft law has not been comprehensively elaborated as to its form or contents. The initiative group may appeal the refusal to register the draft law to the Supreme Court Senate Administrative Case Department.

2) *In the event the draft law is registered then the next stage follows, i.e. gathering of signatures.*

Initially signatures in support of the draft law are gathered by the initiative group itself and it must be paid for by the initiators of the draft law themselves. Each signature of the electorate must be notarised (it should be noted that the Constitutional Court had to evaluate the issue on whether the signatures should be notarised, and it concluded that such procedure allows ensuring truthfulness and validity of expression of will of a person to minimise the possibility of influencing the people's legislative process by forged signatures or in another unlawful manner and thereby protect the democratic state system.)<sup>3</sup> This stage may be called the first phase of gathering the signatures. In the event if gathering of signatures has been relatively productive, i.e. at least 30,000 signatures of the electorate have been gathered, then the second stage of gathering the signatures follows which is fully funded from the state budget and is organised by the state (by means of the Central Election Commission).<sup>4</sup> This gathering of signatures arranged by the state lasts 21 days. In practice, gathering of signatures is performed in a way that documents for gathering signatures are sent to all local authorities and the electorate may, free of charge, sign in support of the particular draft law in the sections defined by local authorities.

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<sup>2</sup> Amendments to the referendum and initiation of laws regulation. What changes and when may be expected. <http://www.lvportals.lv/print.php?id=252811> (looked into on 20.03.2013)

<sup>3</sup> The Constitutional Court judgment of 19 May 2009 in the case No. 2008-40-01.

<sup>4</sup> Until 2012 this threshold for adoption of amendments was lower: only 10,000 signatures had to be gathered initially and if such succeeded then gathering of signatures was taken over by the state.

3) *If not less than 1/10 of the number of citizens entitled to vote on the previous elections to the Saeima have signed then the President shall deliver the draft law to the Parliament, the Saeima, for discussion.* Discussion of the draft law in the Parliament is no different from discussing other draft laws. Draft laws in Latvia are discussed in 3 readings (if the MPs acknowledge the draft law as urgent then in 2 readings). So the draft law submitted by the electorate could not be delayed the law sets forth that the *Saeima* must discuss it during the same term when it has been submitted.

4) *In the event the Saeima does not adopt the submitted draft or adopts with amendments to its contents then, pursuant to Section 78 of the Constitution, a referendum shall be organised on whether the draft law submitted by the electorate should be adopted.*

Only in this stage there appears the difference between whether the electorate have initiated a simple draft law or the amendments to the Constitution, because there are different requirements for the quorum to adopt the respective amendments: amendment to the Constitution delivered for referendum is adopted if at least a half of those entitled to vote agree to it, while the draft law is adopted if the number of voters is at least a half of the electorate that had participated in the previous elections to the *Saeima* and if the majority has voted for adoption of the draft law (Section 79 of the Constitution).

Legislative rights of the electorate are a mechanism applied in practice. After restoration of independence the state-funded gathering of signatures has taken place 7 times. (Kārklīņa, et al., 2012) Several of these draft laws related to the issues from the pension, social and educational sectors, but the largest storm of discussions in the Latvian constitutional law was caused by the draft law submitted in 2011 which envisaged amending the Constitution of Latvia by setting forth that the second official language in Latvia is Russian. Considering that after collapse of the Soviet Union many immigrants stayed in Latvia the native language of which is Russian, the required 1/10 (12.14 % to be accurate) of signatures of the electorate were gathered and therefore the draft amendments were delivered for discussion in the Parliament. The Parliament rejected this draft law and therefore a referendum about this draft, which provided for the status of the second official language for Russian, took place in Latvia on 18 February 2012. This referendum was distinguished by a large activity: 71% of the electorate participated in it, of which 74.8 % voted against the amendments to the Constitution<sup>5</sup>, i.e. against Russian the second official language (for the amendments to the Constitution be adopted, pursuant to Section 79 of the Constitution such must be supported by at least a half of all of those entitled to vote).

After this so-called *language referendum* a discussion started in the public and among lawyers on whether the electorate may initiate draft laws on any issues whatsoever. In September 2012 the Constitutional Law Commission established by the President published its conclusions “Regarding constitutional foundations of the Latvian state and the untouchable core of the Constitution”<sup>6</sup> and it was concluded that the electorate, however, does not have unlimited rights to initiate any amendments to the

<sup>5</sup> Available at: <http://www.tn2012.cvk.lv/> [looked into on 06.09.2012]

<sup>6</sup> Searching the core of the Latvian state. *Jurista Vārds*. No. 6 (705), 7 February 2012; Opinion of the Constitutional Law Commission regarding constitutional foundations of the Latvian state and the untouchable core of the Constitution. [http://www.president.lv/pk/content/?cat\\_id=2896](http://www.president.lv/pk/content/?cat_id=2896) [looked into on 07.02.2013.]

Constitution. Respectively, it was concluded that the Constitution includes the values which are not amendable, and one of those is the official language, considering that Latvia is a national state and Latvian language is the identity of this country.

Considering that initiators of these amendments to the Constitution<sup>7</sup> were not satisfied with the result of the referendum and that Russian was not granted the status of the official language, a new initiative was organised in 2012. The initially required, slightly more than 10,000 signatures were gathered for granting citizenship to all non-citizens. However, in researching the draft law the Central Election Commission established that such amendments did not meet the criteria of a 'comprehensively elaborated draft law' (because they contradicted the document with higher legal power, the Independence Declaration of 4 May 1990 and the principle of continuity arising from it as well as the principle of international law which provides that acceptance to citizenship should be individual and voluntary) and for this reason the gathering of signatures did not follow.

In fact, these events encouraged the Parliament in 2012 to decide on amendments to legal acts related to the legislative initiative rights of the electorate. The threshold of initially required signatures set forth prior to amendments, 10,000 signatures, was too low and allowed the persons acting against the interests of the Latvian state to initiate draft laws on any issues, moreover, by funding further gathering of signatures from the state budget. Furthermore, such procedure of draft law initiating did not exclude the possibility that gathering of signatures is organised and funded by anonymous foreign groupings not loyal to the country. The so-called *language referendum* was a reason to perfect the law, because, so far, the law did not *expressis verbis* set forth the competence of the Central Election Commission to verify the content of the submitted draft laws. In connection with this *language referendum* more than 30 MPs went to the Constitutional Court by contesting the too liberal regulation existing so far.<sup>8</sup> In course of the proceedings the Parliament adopted the amendments discussed above and therefore the Constitutional Court decided to terminate the proceedings.

The Parliament has set forth that as from 2015 the gathering of signatures will be organised only in one phase and it will be organised by the initiative group which will have to gather signatures of 1/10 of the electorate during 12 months so that the draft law or the draft amendments to the Constitution is submitted to the *Saeima*. It is envisaged that as from 1 January 2015 the initiative group will be allowed to gather signatures in support of the draft law or the draft amendments to the Constitution online as well, which is not yet possible in Latvia at the moment.

Theoretically, another mechanism for the electorate to get involved in initiating of laws is by intermediation of the President. In Latvia, the President is one of the subjects who may submit draft laws to the Parliament without limitation.<sup>9</sup> Moreover, the President is the only subject which does not have to submit a comprehensively elaborated draft law

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<sup>7</sup> These initiatives were organised by the scandalous Vladimirs Lindermans who is not a citizen of Latvia, but is known as a member of the National-bolshevik Party of Russia, and his supporters. V. Lindermans has expressed various anti-state ideas on several occasions.

<sup>8</sup> See the Constitutional Court resolution of 19.12.2012 regarding termination of proceedings in the case No. 2012-03-1, Paragraph 15.16.

<sup>9</sup> Note. Draft laws may be submitted to the parliament by the President, the Cabinet of Ministries, the Commissions of the *Saeima*, no less than five MPs as well as one tenth of the electorate.

(i.e. he may express, for example, only an orienting idea). Therefore the electorate may approach the President with the idea of initiating some draft law, though such call will not be legally binding for the President.

With respect to the rights of the electorate to involve in legislation it should be noted that a new mechanism has been introduced by legal acts of Latvia since 2012, *the right to deliver a collective application to the Saeima*, or the so-called ‘my vote’ procedure. On 19 January 2012 the *Saeima* adopted amendments to the “Rules of Order of the *Saeima*” by securing a new procedure, reviewing the collective application.<sup>10</sup> Thus procedure sets forth that not less than 10,000 citizens of Latvia who have reached the age of 16 on the day of filing the application have the right to file the collective application with the *Saeima*. Signatures in support of such initiative may be gathered on a website, neither notary nor any other verification is required for such. By means of this procedure any issue that should be discussed in course of legislation may be put on the agenda of the *Saeima*, including initiating elaboration of a draft law by the *Saeima*, ensuring inclusion of the already elaborated draft law into agenda of the *Saeima* and its evaluation and perfection in commissions of the *Saeima*. Quite soon after securing the new procedure, in June 2012, the first collective application was submitted to the *Saeima* which proposes setting forth the liability for violation of the oath of the MP.<sup>11</sup>

## 2. THE NATIONAL REFERENDUMS (REFERENDUMS)

On 6 June 1993 when operation of the Constitution of the Republic of Latvia adopted in 1922 was completely restored, it set forth only four occasions in which national referendums must be organised. In course of time, by the democracy developing and also considering the course of Latvia towards the European Union, three more occasions were secured in the Constitutions which are decided by the electorate of a referendum. These 7 occasions when referendums must be organised in Latvia will be discussed further and the former practice in organising referendums will be reviewed. It should be noted that all referendums in Latvia have a binding (mandatory) power, because the so-called consulting referendums are not envisaged in Latvia.

*1) If the Saeima has amended Sections 1, 2, 3, 4, 6 or 77 of the Constitution, such amendments, in order to come into force as law, shall be submitted to a national referendum (Section 77 of the Constitution).*

The principles secured in the Sections of the Constitution listed above form the conceptual basis of the Constitution (Dišlers, 1930, pp. 110.), meaning that they govern the most essential issues in the Latvian state: they defined the basic principles of the state system, protect the independence and democratic system of the Republic of Latvia.<sup>12</sup> Therefore the *Saeima* cannot amend such principles without acceptance of the people.

<sup>10</sup> Amendments to the Rules of Order of the *Saeima*: Law of the Republic of Latvia. *Latvijas Vēstnesis*, No. 18 (4621)

<sup>11</sup> <http://www.saeima.lv/lv/aktualitates/saeimas-zinas/19988-saeima-uzdod-tieslietu-ministrijai-petit-deputatu-zveresta-regulejumu-es-dalibvalstis> [looked into on 12.03.2013.]

<sup>12</sup> Section 1: Latvia is an independent democratic republic. Section 2: The sovereign power of the State of Latvia is vested in the people of Latvia. Section 3: The territory of the State of Latvia, within the borders established by international agreements, consists of Vidzeme, Latgale, Kurzeme and Zemgale. Section 4: The Latvian language is the official language in the Republic of Latvia. The national flag of Latvia shall be red with a band of white.

No such national referendums have taken place during the former history of Latvia. In the context of this event of national referendum, prior to Latvia entering the European Union, discussions were raised by the issue whether membership of Latvia in the European Union will not affect the definition of independence included in Section 1 of the Constitution and the principle of national sovereignty secured in Section 2, and whether there is a reason to organise the national referendum in the procedure of this Section 77 of the Constitution. As the result, the responsible institutions concluded that by joining the European Union the sovereignty and independence of Latvia is not affected and, therefore, there is no need to organise the national referendum in the procedure of Section 77 of the Constitution.<sup>13</sup>

In 2009 as well several individuals approached the Constitutional Court in the so-called Lisbon case by noting that the law “On the Lisbon Treaty Amending the European Union Treaty and the European Community Establishment Treaty” has allegedly amended Section 2 of the Constitution on its merits and thus it was required to organise the national referendum about the Lisbon Treaty. The Constitutional Court noted in its judgment that it had not established such provisions of the Lisbon Treaty that would interfere with the principle of national sovereignty secured in Section 2 of the Constitution and for this reason the court adjudged that there was no need to organise national referendum in this case.<sup>14</sup>

2) *The President has proposed the dissolution of the Saeima (the Parliament) (Section 48 of the Constitution).* It should be noted that, unlike many countries, in Latvia the President is not entitled to dissolve the *Saeima*, but he is only entitled to initiate the referendum for dissolution of the *Saeima*. For this reason foreign legal scientists have characterised this procedure as quite peculiar. (Caxapov, 1994)

The above Section 48 of the Constitution is closely related to Section 50 of the Constitution, which sets forth that “If in the referendum more than half of the votes are cast against the dissolution of the *Saeima*, then the President shall be deemed to be removed from office, and the *Saeima* shall elect a new President to serve for the remaining term of office of the President so removed”. Some time ago the established scientist of constitutional law professor K. Dišlers has noted that the President should be granted the right to initiate dissolution of the *Saeima* without risking his official position. (Dišlers, 1930, pp. 177.) When analysing this procedure for dissolution of the Parliament the professor K. Dišlers noted: “it is doubtful whether initiation of dissolution of the *Saeima* will become an institute applicable in practice. /..!”<sup>15</sup> Similar assumptions had been expressed by other modern law scientists as well. Such prognosis has not come true though, because on 28 May 2011 the President V. Zatlers issued the order No. 2 “On initiating dissolution of the *Saeima*”. Based on this order the Central Election

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Section 6: The *Saeima* shall be elected in general, equal and direct elections, and by secret ballot based on proportional representation. Section 77: If the *Saeima* has amended the first, second, third, fourth, sixth or seventy-seventh Article of the Constitution, such amendments, in order to come into force as law, shall be submitted to a national referendum.

<sup>13</sup> The issues related to joining the EU were evaluated by the working group established by the order of the Prime Minister. See the 20 April 2011 order of the Prime Minister “Regarding the working group for development of the draft law ensuring compatibility of the constitutional system of Latvia with the law of the European Community”. *Latvijas Vēstnesis*. 24 April 2001, No. 63

<sup>14</sup> The Constitutional Court judgment of 7 April 2009 in the case No. 2008-35-01.

<sup>15</sup> *Ibid.*

Commission announced on 30 May 2011 and organised on 23 July the national referendum regarding dissolution of the 10th *Saeima*.

The above order of the President initiated a range of discussions among lawyers<sup>16</sup> including filing the application with the Administrative District Court in which it was requested to repeal the resolution of the Central Election Commission regarding announcing the national referendum. The main discussions among the lawyers were caused by the issue on whether the President was entitled to issue the order on dissolution of the *Saeima* when so little time was left until the end of his presidency (the term of office of the President V. Zatlers expired on 7 July 2011), because for this reason it was not possible, in fact, to implement the mechanism secured in Section 50 of the Constitution: in the event if during national vote more than a half of votes would be against dissolution of the *Saeima* then the President would be deemed removed from the office. The Administrative Court resolved to refuse accepting the application because it concluded that the resolution of the Central Election Commission is not an individual resolution establishing legal relations in the field of state administration, but is rather an organisational executive tool subject to the order adopted by the President. Therefore the national referendum took place on 23 July 2011 in which the activity of the electorate was 44.73 percent. A persuasive majority of voters, 94.3 %, voted for the dissolution of the 10th *Saeima* and only 5.48 % of voters were against the dissolution of the 10th *Saeima*.<sup>17</sup> It should be noted that the national referendum on dissolution of the *Saeima* would be deemed as valid even if only some electorate would have taken part in it, because this is the only case of the national referendum discussed in the Constitution which does not require a quorum. There is a rational reason for such absence of quorum, because in the event if any quorum would be set and the activity of the electorate in the referendum would be quite minimal then the conflict that had occurred between the President and the *Saeima* would not be resolved and further rational cooperation of these two institutions could be quite encumbered. The first, and the last so far, extraordinary elections in the history of Latvia took place on 17 September 2011.

3) *The President has suspended proclamation of a law for 2 months and during these 2 months the request of no less than one tenth of the electorate has been received to deliver the suspended law for national referendum (Section 72 of the Constitution).*<sup>18</sup>

This is a peculiar regulation of a two-stage nature: first the electorate must gather the signatures of at least one tenth of the electorate, thus requiring organisation of a national referendum, and afterwards, if the required number of signatures has been gathered, a national referendum is organised. The purpose of this national referendum set forth in Section 72 of the Constitution is cancellation of laws. In this event of the national referendum the people use their right of veto, or the right to reject the law adopted by the *Saeima*.

The President must suspend the law if such is requested by no less than one third of the MPs (sentence 2 of Section 72), though the President is free to act himself as well,

<sup>16</sup> Dissolution of the *Saeima*: the Constitution and the unclear issues. *Jurista Vārds*, No. 23 (670), 7 June 2011.

<sup>17</sup> <http://web.cvk.lv/pub/public/29957.html> [looked into on 17.03.2013.]

<sup>18</sup> A national referendum shall not take place, however, if the *Saeima* again votes on the law and not less than three-quarters of all members of the *Saeima* vote for the adoption of the law. (Section 72 of the Constitution).

because he is entitled to suspend proclamation of the law for two months (sentence 1 of Section 72).

Section 72 of the Constitution has secured a complicated procedure and one should agree to the opinion expressed in the legal science that, notwithstanding the fact that the Constitution does not set forth the preconditions when the President is entitled to use such rights, the President would, probably, settle on suspending proclamation of the law only when the issue tackled in it will be principally important for the Latvian state. (Pleps, 2007)

In former practice the Presidents have suspended proclamation of laws several times upon request of the MPs, but the greatest discussion in the field of constitutional law in the context of Section 72 of the Constitution took place in 2007 when the former President V. Vīķe-Freiberga suspended two arguable draft laws in 2007 based on her own initiative.<sup>19</sup> This was the first time during the history of Latvian constitutional law when the President has suspended proclamation of the law based on her own initiative. The above event caused a range of discussions of constitutional character, including on whether such order of the President requires a countersign (countersignature).<sup>20</sup> The President had suspended proclamation of this law without a countersign and considering that no objections were raised, the practice was established that such resolution do not require countersigning. The second issue that was widely discussed was whether after such notification of suspending proclamation of the law was published, it may be revoked. An interesting situation occurred in practice, because after these laws were suspended the *Saeima* cancelled the previously accepted and critically assessed amendments thereby as if correcting its error. So, an uncertainty of legal nature occurred whether this should be carried on further and whether gathering of signatures and the national referendum should be organised. The experts of constitutional law, however, expressed a somewhat united position regarding the fact of the majority of the *Saeima* making amendments after the law has been suspended does not suspend either the gathering of signatures or the national referendum.

4) *The Saeima has not adopted a draft law or the draft amendments to the Constitution submitted by not less than one tenth of the electorate without change as to its content (Section 78 of the Constitution).*

This regulation of Section 78 of the Constitution regarding the event of organising the national referendum if the Parliament has not approved the draft law submitted by the electorate is a peculiar one and little common in other countries. As noted in legal science, out of all European countries such regulation exists only in Switzerland. (Ņikuļceva, 2009)

This event of national referendum is closely related to the other institute of direct democracy, the legislative initiative of the electorate which was discussed at the beginning of this publication. Though with respect to the national referendum practice it

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<sup>19</sup> The arguable amendments to the security institutions law envisaged expanding competence of the Cabinet of Ministers in the issues related to national security by setting forth that the National Security Institutions' Council is chaired not by security structure professionals, but by the Prime Minister. Heads of law enforcement institutions expressed their concern about these amendments to national security laws, because in that way the range of people who may obtain operative information would be expanded.

<sup>20</sup> See Lawyers analysing the activities of the President and Section 81 of the Constitution. *Jurista Vārds*. No. 12 (465), 20 March 2007.

should be noted that after restoring independence the national referendum was organised three times due to the reason of the *Saeima* not accepting the draft law submitted by the electorate. None of these laws was adopted in the referendums that took place because such was not supported by the required number of the electorate.

5) *Membership of Latvia in the European Union shall be decided by a national referendum, which is proposed by the Saeima (Section 68 of the Constitution).*

This event of national referendum was secured in the Constitution in 2003 considering that on 13 December 2002 in Copenhagen Latvia received the invitation to join the European Union, after which the issue of organising national referendum regarding the EU membership became one of the most important issues of domestic policy.

It should be noted that the issue about the way how to decide on the EU membership was the object of extensive polemics among both the lawyers and the politicians. Three possible options on which national referendum should be organised were discussed: 1) amendments to the Constitution, 2) the law by which the treaty for Latvia joining the EU is approved; 3) an abstract issue. As the result, the specially established working group recognised voting on an abstract issue as the most suitable, because such would allow a possibly simple and clearly understandable formulation of the question put on voting. Thus, in the national referendum that took place on 20 September 2003 the electorate had to answer the question: "Do you vote for membership of Latvia in the European Union?"<sup>21</sup> There were 1,010,467 voters that participated in the referendum and, considering that 66.97% of the electorate gave positive answer to this question, Latvia became a full EU Member State on 1 May 2004, and thus a significant period in the purposefully implemented foreign policy came to an end.

6) *Substantial changes in the terms regarding the membership of Latvia in the European Union shall be decided by a national referendum if such referendum is requested by at least one half of the members of the Saeima (Section 68 of the Constitution).*

This event of the national referendum was secured in the Constitution in 2003 as well, simultaneously with the aforementioned event of the national referendum when the issue of the EU membership of Latvia should be decided.

The working group which elaborated the amendments to the Constitution in relation to the planned EU membership justified the need for such event of national referendum by noting that "as long as the issue of the EU membership depends on the choice of people, it would not be correct to limit such to joining or withdrawal only. Amendments to the European Community Establishment Treaty or the European Union Treaty could very significantly change the balance between the issues decided on the national level and the exclusive competence of the EU. Therefore, to maintain membership of Latvia in the EU legitimate, it is required to provide the possibility for delivering to national referendum also the issues regarding amendments to the Treaties".<sup>22</sup>

<sup>21</sup> Available at [www.cvk.lv/cgi-bin/.../sae8dev.bals\\_rez03e](http://www.cvk.lv/cgi-bin/.../sae8dev.bals_rez03e) [looked into on 28.07.2012.]

<sup>22</sup> See 'Why amendments to the Constitution of Latvia are required?' Theoretical background of the draft proposed by the working group for elaboration of amendments to the Constitution. *Jurista Vārds*. No. 14, 5 May 2001.

Such national referendum would be organised only with respect to essential issues related to the EU and the issue whether such amendments are so 'essential' to be delivered for national referendum would be decided by at least half of members of the *Saeima*. The fact that the MPs have the right, but not the duty to deliver the issues related to European integration to national referendum has been noted also by the Constitutional Court in its case law.<sup>23</sup> It should be noted that the requirement for at least a half of members of the *Saeima* expressing such request is a quite high threshold and it requires great political consensus, which means, most likely, that national referendums will be actually organised only on the really important issues of European integration. No such national referendums have taken place in Latvia so far.

7) *National referendum regarding recalling of the Saeima (Section 14 of the Constitution)*.

This event of a national referendum was introduced in Latvian constitutional law only on 8 April 2009 when adopting the latest, so far, amendments to the Constitution.

Pursuant to Section 14 of the Constitution not less than one tenth of electors has the right to initiate a national referendum regarding recalling of the *Saeima*. If the majority of voters and at least two thirds of the number of the voters who participated in the last elections of the *Saeima* vote in the national referendum regarding recalling of the *Saeima*, then the *Saeima* shall be deemed recalled. The right to initiate a national referendum regarding recalling of the *Saeima* may not be exercised one year after the convening of the *Saeima* and one year before the end of the term of office of the *Saeima*, during the last six months of the term of office of the President, as well as earlier than six months after the previous national referendum regarding recalling of the *Saeima*. The right of the electorate to initiate and decide the issue regarding recalling of the Parliament is rarely common in other countries of the world. (Nikuļceva, 2010)

Thus, after such amendments entered into force, the number of premature termination of authority of the *Saeima* has been expanded, because in addition to the former regulation which provided for the right to *dissolve* (emphasis by the author) the *Saeima* in the procedure of Section 48 of the Constitution (if initiated by the President), now also the electorate have the right to *recall* the *Saeima*, which means that now the people themselves may initiate a national referendum on dissolution of the *Saeima*.

It should be noted that attempts to secure the right of the people to recall the *Saeima* had been made earlier as well: on 2 August 2008 a national referendum regarding accepting the law "Amendments to the Constitution of the Republic of Latvia" was held. These draft amendments to the Constitution were initiated by the Free Trade Union Confederation of Latvia to set forth that the electorate has the right to initiate dissolution of the *Saeima*. When the draft law was discussed by the *Saeima*, it rejected this draft amendment to the Constitution initiated by the electorate and therefore, according to Section 78 of the Constitution, the draft law had to be delivered for national referendum. Activity of the electorate in the national referendum was insufficient and therefore the draft law was not adopted on the national referendum (42 % of the electorate participated in the national referendum, a demonstrative majority of which, 96.78 %, supported adoption of the amendments). After the unsuccessful referendum of August 2008 the

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<sup>23</sup> See the Constitutional Court judgment of 7 April 2009 in the case No. 2008-35-01.

President V. Zatlers assigned the *Saeima* to elaborate amendments to the Constitution which were then adopted on 8 April 2009.

Compared to the pre-war Latvia, nowadays national referendums take place comparatively more often. During the period from 1922 when the Constitution entered into force, until 1934 when operation of the Constitution was suspended, there were 4 national referendums held and all of those were based on the reasons set forth in Section 78 of the Constitution, i.e. the *Saeima* had not adopted the legislative initiatives submitted by the electorate. (Ņikuļceva, 2010), (Šilde, 1976, pp. 432-433.), (Dišlers, 1930, pp. 112.) Eight national referendums have been organised in Latvia after restoration of independence and they have taken place due to various reasons. Out of the seven options set forth in the Constitution when national referendum must be organised three have not been tried in practice yet: the mechanism secured in Section 14 of the Constitution which entitles the electorate to recall the *Saeima*, amendments to the Constitution regarding the conceptual basis of the state that must be approved under Section 77 of the Constitution and the issues regarding substantial changes in the terms regarding the membership of Latvia in the European Union that must be decided at a national referendum under Section 68 of the Constitution.

Though during the latest years of history of Latvia national referendums have taken place quite often they have not, however, stood out with a great activity of the electorate, in several of those the defined quorum threshold had not been achieved.

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