

# Rechtspolitisches Forum

## Legal Policy Forum

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Ringolds Balodis

The Constitution of Latvia

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The article offers a concise view on the constitution of the Baltic state of Latvia. After an introduction focusing on constitutional history, the author explores basic principles and human rights in the text of the constitution and explains the main constitutional bodies and their functions in legislative, executive and judiciary. Chapters on citizenship and religious rights round up this introduction to the Latvian Constitution.

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# THE CONSTITUTION OF LATVIA

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## *At-a-Glance*

Official name:	Republic of Latvia
Capital:	Riga
Population:	2,300.000
Size:	24,937 sq mi (64,589 sq km)
Languages:	Latvian (official), Lithuanian, Russian, other
Religions:	Protestant 30%, Orthodox 25%, Catholic 30%, Old Believer Orthodox 0,4%
National or ethnic composition:	Latvians 57.6%, Russians 29.6%, Byelorussians 4.1%, Ukrainians 2.7%, Poles 2.5%, Lithuanians 1.4%, Jews 0.4%, Germans 0.1% and others 1.6%
Date of independence or creation:	November 18, 1918 (from Soviet Union: August 21, 1991)
Type of government:	Parliamentary democracy
Type of state:	Unitary state
Type of legislature:	Unicameral parliament or Saeima
Date of constitution:	February 15, 1922
Date of last amendment:	April 30, 2002

## 1. *Constitutional History*

Despite the fact that the fundamental law of the state – the Constitution – was adopted more than 80 years ago, it is still at the beginning of its development. There are grounded reasons for this. One of the major reasons is, that in 50 years of Soviet occupation the state of Latvia and constitutionalism could exist only in the imagination of people. The first Republic of Latvia was established on November 18, 1918 and existed until the Soviet's occupation in 1940. The second Republic of Latvia was established in 1991.\*

The first Republic of Latvia's legislative institution was called the People's Council, and was established as a body of 40 members on November 17, 1918. This was a result of an agreement among eight of Latvia's democratic political parties and happened in co-operation with a representative of the *Latgale* (east side region of Latvia). The political situation was such that elections could not be held at that time. Mandates in the Council were not granted to individual persons.<sup>1</sup> Each party had a certain number of seats in the Council, and these were filled by members authorized by the party. The People's Council was also called *Pre-Parliament* and it consisted of almost 300 members. The People's Council had 22 standing committees and altogether held 57 general meetings in 8 sessions.<sup>2</sup> The Council adopted several important laws on rural local governments and their election, on the Latvian monetary system, on educational institutions and on citizenship. On June 1, 1918 the Council elaborated a political platform which can be regarded as the first

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\* Actually from the Latvian constitutional point of view the Latvian State was renewed in 1991, and not established. The restored 1991 Republic of Latvia is a legitimate and internationally recognised successor of rights and obligations to the country invaded in 1940.

<sup>1</sup> Internet site of the Latvian Parliament / History of Legislature // [http://www.saeima.lv/Informacija\\_eng/likumdeveju\\_vesture.html](http://www.saeima.lv/Informacija_eng/likumdeveju_vesture.html).

<sup>2</sup> Šilde Ā. Latvijas vēsture 1914. – 1940. *Valsts tapšana un suverēna valsts. (History of Latvia (1914-1940). Formation of the state and sovereign state)* – Stokholma, 1976. – 332., 335. lpp.

provisional Constitution (*Satversme*) of the Republic of Latvia.<sup>3</sup> It was established in a hurry and those constitutional norms included in the platform were too vague and superficial.

Being aware that *legitimization of state power is based on popular delegation*<sup>4</sup> acquired in democratic elections, the Council undertook fulfilling this task after peace was established in the country.

At first, the convening of a constitutional assembly was required. Its basic duty was to adopt a fundamental law of the state that would provide for a political system for Latvia. On August 19, 1919 the People's Council adopted a *Law on Elections of a Latvian Constitutional Assembly*.<sup>5</sup> Following the above-mentioned law, the Constitutional Assembly of the Republic of Latvia was elected on April 17 and 18, 1920 and its first session was on May 1, 1920. The *Declaration of the State of Latvia* was already adopted in a month's time – on May 27.<sup>6</sup> The Declaration proclaimed Latvia to be an *independent, sovereign republic of a democratic political system vested in the people of Latvia*. The Constitutional Assembly adopted *Interim Regulations on a Political System of Latvia* with a majority vote on June 1, 1920. The People's platform was repealed and the mentioned regulations became the second temporary Constitution of Latvia that provided functioning of the state of Latvia from 1920 to 1922.

**The Constitutional Assembly was Latvia's first elected legislative body.** Elections were held on April 17 and 18, 1920, and 84.9% of those who had suffrage (677,084 people) voted.

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3 Latvijas Pagaidu Valdības Likumu un Rīkojumu Krājums (*Law and Decree Collection of Latvian Temporary Government*). – 1919. – 15. jūlijs.

4 *Levits E.* Normatīvo tiesību aktu demokrātiskā leģitimācija un deleģētā likumdošana: teorētiskie pamati / Likums un Tiesības (*Democratic legitimization of legislation and resolutions and delegated legislation: theoretical principles*) 2002. septembris 4. sējums, Nr. 9 (37).

5 Latvijas Pagaidu Valdības Likumu un Rīkojumu Krājums (*Law and Decree Collection of Latvian Temporary Government*). – 1919. – 27. septembris.

6 Latvijas Pagaidu Valdības Likumu un Rīkojumu Krājums (*Law and Decree Collection of Latvian Temporary Government*). – 1920. – 31. augusts.

There were 57 candidate-lists covering 5 constituencies, and 16 of the lists won seats in the Assembly. 150 members, including five women, were elected altogether. The Constitutional Assembly drafted the basic law of the state – the *Satversme* – as well as other laws. It adopted a law on agrarian reform, a law on the election of the *Saeima* (Parliament) and other laws. The Constitutional Assembly had 21 standing committees. It held 213 plenary sessions and adopted 205 laws and 291 regulations having the force of law. The Assembly functioned until November 7, 1922. Then a period commenced that may be called the *period of Parliament*. It lasted from 1922 to 1934.

The legislative work that was begun by the Constitutional Assembly was continued in the period of Parliament. Under the Constitution, Parliament was to be elected for a term of three years in general, through equal, direct, secret and proportional elections. The mandate of the current period of Parliament ended when the new Parliament convened for its first session. Elections of the 1<sup>st</sup> Parliament were held on October 7 and 8, 1922. A total of 82.2% (800,840 eligible voters) participated.

The political atmosphere was being favorable for and even promoting **authoritarianism around Latvia**. Latvia was also surrounded by non-democratic regimes like Estonia, Lithuania and Poland.<sup>7</sup> World War II was approaching and a significant crisis of democracy and constitutionalism predominated in Latvia as well. This usually leads to the subversion of the constitutional system and the generation of an authoritative regime in the end. After the recurrent resignation of the Latvian government, Dr. **Karlis Ulmanis** became Prime Minister. He overturned the state on **May 15, 1934** by using his position. The Revolution took place quickly and without any bloodshed. There was no resistance. Just then, making a pretext of *inland riot*, martial law was proclaimed for six months. On May 18, 1934 a cabinet of ministers was constituted, whose chairman happened to be the leader of the conspirators: Dr. K. Ulmanis. He *retained* the legally elected President Alberts Kviesis *in position* in order to reassure the people and to create the appearance of a judicial

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<sup>7</sup> *Balodis R. Pasaules konstitucionālās attīstības galvenie posmi (Main stages of world constitutional development) / Likums un Tiesības – R.: Ratio iuris, 2004 janvāris, 6. sējums, Nr. 1 (53).*

state like Mussolini had done in Italy. Freedom of speech was restricted and censorship was introduced. Labor unions and hundreds of associations were closed. **All 103 political organizations of that time were closed without any exception.** It is peculiar that the leading party was not retained in Latvia unlike in other authoritative countries of that time. All processions and political meetings were prohibited. Dozens of newspapers and magazines were closed, hundreds of books were prohibited. Several hundreds of social democrats were sent to a concentration camp (however they were set free after a year of work on peat marshes). Many officials, municipal employees, teachers and others lost their job due to political causes. The total number of arrested and dismissed people was approximately 3,000. During that time anybody could be handed over to a court martial for any severe trespass. Municipalities were reorganized and elected municipalities (town, circuit and parish) turned into appointed ones by the minister of the Interior (mayors of towns and rural district elders).

When the term of President Kviesis set forth in the Constitution ceased on April 11, 1936, he participated in a constitutional travesty non-grumblingly and handed over his powers to Ulmanis, the Prime Minister of the Republic of Latvia under an injunction signed with his own hand. Ulmanis was still *head of the government*<sup>8</sup> and was called *the President and Prime Minister of Latvia* until the Soviet occupation. Since then the initial authoritarianism developed into a dictatorship. To be more precise, Ulmanis was the representative head of the state, the leader of the executive and legislative power and also embodied judicial power.<sup>9</sup>

The Government of the USSR issued an ultimatum in June 16, 1940, asking for the Latvian Government to resign. After that there followed a military aggression by the USSR on June 17, 1940. Thus, violating basic principles of international law, the USSR occupied Latvia. The incorporation of Latvia into the USSR was carried out according to a plan under the direct

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8 *Griņš A. Latvijas vēsture (History of Latvia) – Rīga, 1936. – 270. lpp.*

9 *Ziemele I. (ed.) Cilvēktiesības pasaulē un Latvijā (Human rights in the world and in the Latvia) – Rīga, 2000. – 205. lpp.*

supervision of Moscow. The President signed legal documents dictated by the invaders of the country that was already occupied. At first, Dr. Karlis Ulmanis accepted the government of Mr. Augusts Kirhensteins<sup>10</sup> that had already been approved by Moscow; then he signed a law on Parliamentary Elections on July 4 initiated by a pro-Moscow cabinet of ministers.

There is no doubt that the new government of Latvia was formed under the dictate of the Government of the USSR. The law stipulated that elections to Parliament should take place in the shortest term – in ten days! On July 20, 1940 President K. Ulmanis signed the law on the Parliamentary Assembly obediently and handed over his functions to Mr. Augusts Kirhensteins. The elections of July 14 and 15, 1940 to the Parliament of occupied Latvia were held under conditions of political terror after an illegal and unconstitutional election law had been adopted. Of the 17 lists of candidates that had been submitted, only one was permitted in the election – the list of the Working People's Bloc. The pre-election platform of the Working People's Bloc did not include any demand to establish Soviet power in Latvia or to join the Republic of Latvia into the Soviet Union. The illegally and fraudulently formed Parliament did not represent the will of the People of Latvia. It had no constitutional powers to change the state system and to liquidate the sovereignty of the State of Latvia. Only the people had the right to decide on these matters, but no free referendum was held. Hence, according to international law and the Declaration of the Supreme Soviet of the Latvian SSR *On the Renewal of the Independence of the Republic of Latvia of May 4, 1990* the incorporation of the Republic of Latvia into the Soviet Union is invalid.

A new Parliament adopted the Constitution of the Latvian Soviet Socialist Republic – a copy of Stalin's constitution. Soviet power existed in Latvia for one year when World War II had begun. After that war Latvia happened to be in the *USSR zone* and continued to exist as a republic of the USSR.

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<sup>10</sup> Grava – Kreituse I., Feldmanis I., Goldmanis J., Stranga A. *Latvijas okupācija un aneksija: 1939 – 1940: Dokumenti un materiāli (Occupation and annexation of Latvia (1939-1940): Documents and materials)* – Rīga, 1995. – 21.-22. lpp.

Taking advantage of the beginning collapse of the USSR in 1990, Latvia renewed its independence like the other Baltic states. On July 28, 1989 the Supreme Council of the Latvian Soviet Social Republic (SC of LSSR) adopted the *Declaration On the Sovereignty of the Latvian State*. This Declaration (article 5) stated that laws of the USSR should take effect on the territory of Latvia after the SC of LSSR would have ratified them. The automatic application of the USSR legislation in Latvia was thus stopped and a way to dismantling the Soviet system and establishing a new legal system was provided.

Elections of the Supreme Council of the Republic of Latvia were held on March 18, 1990. For the first time since the Soviet occupation, candidates from various political movements were allowed to run for parliament. The turnout was 81.25% (1,593,019 eligible voters).

On May 4, 1990, the SC of LSSR adopted a *Declaration on the Renewal of Independence of the Republic of Latvia*. It was the beginning of revoking the Soviet law system<sup>11</sup> that actually overtook experiences from Estonia<sup>12</sup> and stipulated that *de iure* the state had not ceased and the *principle of continuity (state succession)* is met concerning laws of the First Republic. The *Declaration is a precisely defined document*<sup>13</sup> that had the status of a constitutional law without doubt\* as the Constitution of

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11 Juridiskās metodes pamati 11 soļi tiesību normu piemērošanā (*Principle of legal method: 11 steps in applying laws*). – R., 2003. – 9. lpp.

12 *Apsītis R.* 4. maija Deklarācijas tapšanas vēsturiskie aspekti (*Historical aspects of declaration formation*) / Latvijas Vēsture – Jaunie un Jaunākie laiki. – R.: LV Fonds, 2002. 2 [46] – 12. lpp.; *Jundzis T.* Tiesību reformas un to loma neatkarības atjaunošanā. 1988. gads – 1990. gada 4. maijs (*Law reforms and their role in renewal of independence [1988 – May 4, 1990]*) // Latvijas Vēstures Institūta Žurnāls. – R., 1995. – Nr. 2. – 148. lpp.

13 *Levits E.* 4. maija Deklarācija Latvijas tiesību sistēmā (*May 4 Declaration in Latvian law system*) / Rakstu, atmiņu un dokumentu krājums par Neatkarības deklarāciju (Red. Jundzis T.). – R., 2000. – 53. lpp.

\* Mr. Juris Jelagins, Judge of the Constitutional Court of Latvia, grounds it on the fact that a declaration is admitted to be a constitutional law because 138 deputies voted for the Declaration on the Independence of Latvia, but only 134 votes of 201 deputies were required for the adoption of the constitutional law.

1922 could be partially renewed (article 1, 2, 3 and 6) and the validity of the amount of the *Constitution of the LSSR* of 1978 could be stipulated, following a constitutional law only. The Declaration on Independence of Latvia reads:<sup>14</sup>

- to declare null and void from the moment of adoption of Parliament's Decision of July 21, 1940: *On the Republic of Latvia's Joining the USSR*;
- to renew the authority of the Constitution of the Republic of Latvia, adopted by the Constituent Assembly on February 15, 1992, in the entire territory of Latvia;
- to set a transition period for the renewal of the *de facto* independence of the Republic of Latvia, which will conclude with the convening of Parliament of the Republic of Latvia. During the transition period, the supreme state authority in Latvia is held by the Supreme Council of the Republic of Latvia;
- during the transition period, to consider the possibility to implement those constitutional and other legislative acts of the Latvian SSR which are in effect in Latvia when this Declaration is adopted, insofar as they do not contradict Articles 1, 2, 3 and 6 of the Constitution of the Republic of Latvia.

The Declaration on Independence also stipulated the invalidity of the Declaration adopted on February 15, 1940 on the Republic of Latvia's joining the USSR which is a renewal of the state *de facto* as of November 18, 1918. The Declaration asks to develop relations between the Republic of Latvia and the USSR in accordance with the Peace Treaty between Latvia and Russia of August 11, 1920, which is still in force and which recognizes the independence of Latvia forever. A government commission for conducting negotiations with the USSR was established. The Declaration on the Independence of Latvia is the first document that recognized the fact of occupation as a legal one.<sup>15</sup> It is very

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<sup>14</sup> Par Latvijas Republikas neatkarības atjaunošanu (*Declaration of the Supreme Soviet of the Latvian SSR "On the Renewal of the Independence of the Republic of Latvia"*): LR Augstākās Padomes (1990.04.05.) Deklarācija. Ziņotājs, 1990, Nr. 21.

<sup>15</sup> Lēbers D. A.. Latvijas neatkarības atjaunošanas prasības dažos pirms 1990. gada 4. maija dokumentos (*Requirements of Latvian re-*

important.\* On August 21, 1991 the Supreme Council of the Republic of Latvia adopted a *constitutional law* “*On the State Status of the Republic of Latvia*” which ended the *transition period* proclaimed in the Declaration on the Independence of May 4, 1990. It also stated that laws of the USSR became null and void on the territory of Latvia. Eight days later – on August 29, 1991 the Supreme Council adopted the *resolution* “*On the Application of Legislation of the Latvian SSR in the Territory of the Republic of Latvia*”. Some criticize this process. Professor Juris Bojars, for example, is harsher as usually and calls this period to be “badly organized, almost elemental restoration of capitalism whose legal regulation is on a much lower level than before the war.”<sup>16</sup> Taking into account that there were no constitutional reforms, but that the Soviet occupation may not be considered as legitimate, one must admit that the Constitution of 1922 was still effective\*, and the people of Latvia should begin their renewal with a fundamental law of their state when the ter-

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\* Mr. R. Apsitis, Judge of the Constitutional Court of Latvia said about the declaration on August 22, 1996: “First of all, we address countries of the world and international organizations by this document not only in order to remind of the tragic fate of our people and state, but also in order to make the world understand that it is impossible for Latvia to overcome consequences of 50-year occupation alone in so short term. Therefore we need both political and economic assistance and perhaps even more: understanding that special citizenship and language problem solutions are required in Latvia in favor of self-preservation of the Latvian nation. In other words, Latvia needs that other countries and international organizations would reckon with whose historical facts that caused the situation in our country since August 23, 1939.”

<sup>16</sup> Bojars J. *Kā Latvijā izveidot tautvaldību un uzcelt labklājības valsti (How to establish rule of people in Latvia and how to form a state of welfare)*. – R., 1994. – 4. lpp.

\* There is no reason to doubt that the Constitution adopted on February 15, 1922 was effective during the entire period of dictatorship by K. Ulmanis and Soviet occupation due to the fact that authoritative government of the Republic of Latvia only *repealed* the Constitution on May 18, 1934 and *overtook functions of the Parliament* instead of *amending or revoking* the Constitution.

ritory of Latvia became free of invaders.”<sup>17</sup> In fact, this is opposite to Lithuania and Estonia that had got new constitutions following popular referendums in 1992. Latvia was the only one to renew its pre-war constitution. In relation therewith Russia<sup>18</sup> considered that the most radical dismantling of the Soviet system among former republics of the USSR occurred exactly in Latvia.\*\* Elections of the 5<sup>th</sup> Parliament were held on June 5 and 6, 1993. The legal basis for the elections was the Law on the Elections of the Fifth Parliament adopted on October 20, 1992. This was a slightly amended and modified version of the 1922 Parliamentary Elections Law. The turnout was 89.9% (1,118,316 eligible voters); 18,413 citizens living abroad took part in the elections. Twenty-three candidate lists were submitted, and eight of them won seats in the Parliament.<sup>19</sup> Parliament rehabilitated the Constitution of the Republic of Latvia. On June 12, 1995 Latvia and the European Union signed an association treaty, and approximation of Latvian legislation to the European standards was proposed as one of the main tasks of the government already at the end of that year. To join the EU, Latvia had to secure stable operation of its institutions that should guarantee compliance with requirements of democracy, rule of law and human rights in the country.<sup>20</sup> Intense harmonization of legislation as well as EU norms and requirements had begun. On October 15, 1998 the Constitution of Latvia was supplemented with human rights articles.

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17 Gulbis K. Latvijas starptautiski tiesiskais stāvoklis (*International legal status of Latvia*) / Archīvs Raksti par Latviskām problēmām: XI Zelts, Tiesības (red. Edgars Dunsdorfs). – Austrālija 1971. – 57. lpp.

18 Под.ред. Сухарева А.Я. Правовые системы стран мира (*Law systems of various countries*) – М., 2001. – С. 375.

\*\* It happened because it was easier to adopt new constitutions for the restorers of state sovereignty in the neighboring countries of Latvia instead of amending them. In its turn, Latvia could renew its Constitution in 1993 as it is modern and democratic, which is the main thing.

19 Internet site of Latvian Parliament / History of Legislature // [http://www.saeima.lv/Informacija\\_eng/likumdeveju\\_vesture.html](http://www.saeima.lv/Informacija_eng/likumdeveju_vesture.html).

20 Sandgrēns K., Iļjanova D. Latvijas tieslietu sistēmas vajadzību novērtējums (*Assessment of the needs of Latvian judicial system*) / Likums un Tiesības 2001. jūnijs 3. sējums, Nr. 6 (22).

## 2. *Form and Impact of the Constitution*

The Constitution of the Republic of Latvia (*Latvijas Republikas Satversme*) is a written, codified and single document. The Constitution is without a preamble.

The Constitution of Latvia consists of 116 articles, which are divided in eight chapters: General Provisions (Articles 1-4), *Saeima* (Parliament) (5-34), the President (35-54), the Cabinet (55-63), Legislation (64-81), Courts (82-86), The State Audit Office (87-88) and Fundamental Human Rights (89-116). The chapters of the Latvian Constitution were amended on 15 October 1998 to include basic human rights.

Apart from the constitution in a formal sense, which is the Constitution, a great deal of constitutional law in the material sense is contained in ordinary laws (Latvia has no Laws which have constitutional status) which directly implement and concretize the Constitution and provide detailed rules for the functioning of the organs of the constitution. These include: the *Bill of Parliament*, the *Saeima Election Law*, the *Law on the Central Election Commission*, the *Law on City, District, County and Pagasts Election Commissions and Polling Station Commissions*, the *Law of Cabinet of Ministers*, the *Bill of the Cabinet of Ministers*, the *State Administration Law*, the *Constitutional Court Law*, the *State Audit Office Law*, the *Law on Religious Organisations*, the *Law on Judicial Power* and many others.

## 3. *Basic Organizational Structure*

The *Constitution of Latvia* is rather short and laconic. According to the manner of its amending, it may be classified as flexible. The Republic of Latvia is a unitary republic. According to the administrative structure, the country may be defined as an expressively parliamentary republic. As far as the administrative division is concerned, one can observe that, first of all, in accordance with Article 3 of the Constitution the territory of the State of Latvia, within the borders established by international agreements, consists of *Vidzeme*, *Latgale*, *Kurzeme* and *Zemgale*.

The *Law On Local Governments* determines (Article 2)<sup>21</sup> that there are two types of local government in Latvia. Firstly, there is a *territorial local government* – city, country and parish local government. Secondly, there is a *district local government*. The territorial local government is a local administration that, through bodies of county council (parish council) and authorities and institutions established by them, ensures the performance of the functions presented by law, as well as the performance of tasks assigned by the Latvian government and specified by law. According to Article 3 of the Law on Local Governments a district local government is the district (regional) administration, which, through the agency delegated by the territorial local governments – the district council – and authorities and institutions established by the council, ensures the performance of its functions.

The Ministry of Regional Development and Local Government is included as an independent ministry in the Cabinet of ministers of the Republic of Latvia. The development of the Latvian regional policy is within the authority of this ministry in order to provide a balanced development on the entire territory of the state. At present, an administrative reform takes place, and a priority is set forth in the ministry that, instead of the existing 542 local municipalities, territories shall be established, concentrating current financial funds as well as securing a more efficient functioning and better provision of services to the population. It is not clear how many territories will be established as there are discussions among municipalities, population and the government taking place. Some support 33 territories whereas others support 101 territories.

The Latvian Constitution was last changed in 2003 on Articles 68 and 79. From now on, all international agreements, which settle matters that may be decided by the legislative process, shall require ratification by the Latvian Parliament. Upon entering into international agreements, Latvia, with the purpose of strengthening democracy, may delegate a part of its State institution's competencies to international institutions. International

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<sup>21</sup> Par pašvaldībām (*Law On Local Governments*) LR likums, Latvijas Vēstnesis, 1994, Nr. 61.

agreements in which a part of the State institution's competencies are delegated to international institutions may be ratified by Parliament in sittings in which at least two-thirds of the members of Parliament participate, and a two-thirds majority vote of the members present is necessary for ratification. According to these amendments the membership of Latvia in the European Union shall be decided by a national referendum, which is proposed by the Parliament.

Substantial changes in the terms regarding the membership of Latvia in the European Union shall be decided by a national referendum if such a referendum is requested by at least one-half of the members of the Parliament. Article 79 of the Constitution states that an amendment to the Constitution submitted for a national referendum shall be deemed adopted if at least half of the electorate has voted in favor. A draft law/decision regarding membership of Latvia in the European Union or substantial changes in the terms regarding such membership submitted for a national referendum shall be deemed adopted if the number of voters is at least half the number of the electors that participated in the previous parliamentary election and if the majority has voted in favor of the draft law, the membership of Latvia in the European Union or substantial changes in the terms regarding such membership.

#### 4. *Leading Constitutional Principles*

Since the Declaration of the Supreme Soviet of the Latvian SSR *On the Renewal of the Independence of the Republic of Latvia* questions on the principle of the Latvian legal system's singularity and the principle of succession of state actions and rights arise.<sup>22</sup> The Republic of Latvia has a republican structure. The constitution takes democracy as its starting point and adopts a representative democracy. According to Article 1 of the Constitution, Latvia is an independent democratic republic.

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<sup>22</sup> Vildbergs H., Feldhūne G. *Atsauces Satversmei (References to the Satversme)*. – EUROFACULTY Rīga, 2003. 2. lpp.

The Constitutional Court of Latvia has concluded in its judgments<sup>23</sup> that this article includes such general principles of legislation as the principle of a law-based state, the principle of proportion, justice and legal confidence. The principle of power division as well as the fact that all state authorities should meet legitimacy in their operation and carry out inter-supervision as well as to meet the law of public power subordination, i.e., supra-supervision of law, are interpreted following the notion of a democratic republic included in article 1 of the Constitution.

As another key principle of the Latvian Constitution should be mentioned the Latvian language as the official language in the Republic of Latvia (Article 4). In accordance with Article 2 of the Constitution the sovereign power of the State of Latvia is vested in the people of Latvia. All state authority must therefore be justifiable as the will of the elected representatives of the people and thus, ultimately, of the people as sovereign.

Another key principle is laid down in Article 6 of the constitution – Parliament shall be elected in general, equal and direct elections, and by secret ballot based on proportional representation.

The European Integration principle is reflected in the Constitution's Articles 68 and 79. The openness of the Latvian Constitution towards European integration is increasingly gaining outstanding importance as an additional fundamental constitutional

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<sup>23</sup> The Republic of Latvia Constitutional Court judgment in case No. 04-01 (99) from April 20, 1999 "On Conformity of Paragraph 29 of the Cabinet of Ministers 20. May, 1997 Regulations No.187 'The Procedure for the Repayment in Cash to Persons who were Granted Compensation Certificates (Vouchers) for the Former Landed Property in Rural Areas' with Articles 105 and 91 of the Constitution of the Republic of Latvia, as well as with Article 1 (the second part), Article 12 (the second part, paragraph 3) of the Law 'On Land Privatization in Rural Regions' and Article 9 of the Law 'On the Determination of the Status of Politically Repressed Persons Suffered during the Communist and Nazi Regimes'"; The Republic of Latvia Constitutional Court judgment in case No. 2001 – 09 – 01 from January 21, 2002 "On the Compliance of the Cabinet of Ministers February 27, 2001 Regulations No. 92 'Procedure for Stating the Amount of Sugar-Beet Supply for Sugar – Beet Growers with Article 91 of the Satversme (Constitution)'".

principle. It is certainly not longer possible to understand Latvian law without taking into account Community law.

## 5. *Constitutional Bodies*

According to the Constitution the constitutional bodies are: (1) Parliament (*Saeima*); (2) the President, (3) the Cabinet of Ministers, (4) the Courts, i.e. district (city) courts, regional courts, Supreme Court and the Constitutional Court; and (5) the State Audit Office.

### (1) *Parliament (Saeima)*

The Latvian Parliament consists of 100 delegates whose mandates have been approved by Parliament. Parliament shall be elected for a term of four years. Eligible for Parliament is any citizen of Latvia, who enjoys full rights of citizenship and who is more than 21 years of age on the first day of the elections. According to Article 14 of the Constitution delegates of the Latvian Parliament are not recallable from electors.

Parliament has an elected Presidium. The presidium includes the Speaker of Parliament, two Deputy Speakers, the Secretary and the Deputy Secretary. The Presidium shall function continuously during the mandate of Parliament. The Speaker shall represent Parliament and shall chair and maintain the order during the Parliamentary sittings. During the Speaker's absence and upon mutual consent, his/her duties shall be fulfilled by one of the Deputy Speakers. The Speaker and the Deputy Speakers shall divide the current responsibilities among themselves, including the duty of chairing the Parliamentary sittings. The Presidium shall convene sessions of Parliament and schedule regular and extraordinary sittings as well as convene sittings of Parliament if requested by the President, the Prime Minister, or not less than one third of the members of Parliament.<sup>24</sup> Parliament itself shall review the qualifications of its members and shall make decisions by an absolute majority of votes of the members present at the sitting, except in cases specifically set out in the

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<sup>24</sup> *Saeimas kārtības rullis (The Bill of Parliament)*: LR likums, spēkā esošs. Latvijas Vēstnesis, 1994, Nr. 96.

Constitution. Delegates have the right to refuse to give evidence at court, so that they may not be called to account by any judicial, administrative or disciplinary process in connection with their voting or their views as expressed during the execution of their duties. Court proceedings may be brought against members of the Parliament if they, albeit in the course of performing parliamentary duties, disseminate defamatory statements, which they know to be false, or defamatory statements about private or family life. Delegates shall not be arrested, nor shall their premises be searched their personal liberty be restricted in any way without the consent of Parliament. Delegates may be arrested if apprehended in the act of committing a crime. The Presidium shall be notified within twenty-four hours of the arrest of any member of Parliament.\* The Presidium shall raise the matter at the next sitting of Parliament for a decision as to whether the member shall continue to be held in detention or be released. When Parliament is not in session, the opening of a session is pending, the Presidium shall decide whether the member of Parliament shall remain in detention. Without the consent of Parliament, a criminal prosecution may not be commenced and administrative fines may not be levied against its members.

According to the Parliamentary Bill the working language of Parliament is the Latvian language.<sup>25</sup> Sittings of Parliament shall be

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\* If Parliament agrees that a criminal prosecution of a delegate be initiated, the respective delegate shall lose the right to participate in sittings of Parliament, meetings of its committees and other institutions to which this delegate has been elected or appointed by Parliament until the charges are dismissed or until the court sentence enters into force. During this time the Prosecutor's Office and the court have the right to apply any of the coercive measures applicable under the criminal procedure laws. If a member has been arrested, he or she shall lose the right to participate in sittings of Parliament, meetings of its committees or other institutions to which this member has been elected or appointed by Parliament. Upon request of the Mandate and Submissions Committee, Parliament shall rule whether it agrees that administrative charges be brought against a relevant delegate, that he/she be forcefully brought to court, that a delegate or his/her property be searched, or that documents possessed by this delegate be seized.

<sup>25</sup> Saeimas kārtības rullis (*The Bill of Parliaments*): LR likums, spēkā esošs. Latvijas Vēstnesis, 1994, Nr. 96.

held in public, but Parliament may decide to sit in closed session by a majority vote of not less than 2/3 of the delegates present, if so requested by ten members of Parliament, by the President, the Prime Minister, or a Minister. Sittings of Parliament may take place if at least half of the delegates participate therein. Parliament shall establish committees and determine the number of their members and duties. Committees have the right to require from individual Ministers or local government authorities all information and explanations necessary for the work of the committees, and the right to invite to their sittings responsible representatives from the relevant ministries or local government authorities to furnish explanations. Committees may also carry on their work between sessions of the Parliament. Parliament shall appoint parliamentary investigatory committees for specified matters if not less than one-third of its members request it. The number of delegates in each committee and the principles for establishing a committee shall be determined by Parliament.\* A delegate may be a member of no more than two standing committees at a time. Each committee shall elect from its members a chairperson and a secretary, and, if necessary, a deputy chairperson. Parliament may form *ad hoc*-committees to undertake specific legislative assignments. In specific cases Parliament shall appoint a parliamentary inquiry committee if so requested by at least 1/3 of the delegates (Article 26).

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\* The following 17 standing committees function in the Latvian Parliament: Foreign Affairs Committee; Budget and Finance (Taxation) Committee; Legal Affairs Committee; Human Rights and Public Affairs Committee; Education, Culture and Science Committee; Defense and Internal Affairs Committee; Public Administration and Local Government Committee; Economic, Agricultural, Environmental and Regional Policy Committee; Social and Employment Matters Committee; Mandate and Submissions Committee; Government Review Committee; Public Expenditure and Audit Committee; Administrative Committee; National Security Committee; Citizenship Law Implementation Committee; European Affairs Committee; Committee on Supervising the Prevention and Combating of Corruption, Contraband and Organized Crime.

## (2) *The President*

The Latvian President is elected by secret ballot with a majority of the votes of members of Parliament, i.e. not less than 51 votes. The term of office for the President is four years. Eligible to the office of Head of State is any person enjoying full rights of citizenship and having attained the age of 40 years. The post of Head of State shall not be held concurrently with any other office. If the person elected as President is a delegate of Parliament, he/she shall immediately resign from his/her mandate. Strictly prohibited is a presidency for more than two terms (8 years). The President has no political responsibility for the fulfillment of presidential duties.

In accordance with Article 42 of the Constitution the President is in times of peace the head of the Latvian army.

The President shall declare war (Article 43) on the basis of a decision of Parliament. The President has the right to grant clemency to criminals against whom a judgment of court has come into legal effect. The extent of, and procedures for, the utilization of this right shall be set out in a specific law. Amnesty is granted by Parliament.

According to Articles 48, 49 and 50 of the Constitution the Head of State shall be entitled to propose the dissolution of the Parliament.<sup>26</sup> Following this proposal, a national referendum shall be held. If more than half of the votes in the referendum are casted in favor of dissolution, Parliament shall be considered dissolved, new elections shall be called for, and such elections shall be held no later than two months after the date of the dissolution of Parliament. If Parliament has been dissolved, the mandates of the members of Parliament shall continue to be in effect until the newly elected Parliament has convened, but the dissolved Parliament may only hold sittings at the request of the President. The President shall determine the agenda of such sittings. If more than half of the votes in the referendum are casted against the dissolution of Parliament, the Head of State shall be deemed to be removed from office, and Parliament shall elect a

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<sup>26</sup> Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) // Latvijas Vēstnesis, 01.07.1993, Nr. 43.

new President to serve for the remaining term of office of the removed President.

The Latvian constitution contains no impeachment, if Articles 51 and 54 of the constitution are not taken into account, which determine that the Head of State may be subject to criminal liability if Parliament consents thereto by a majority vote of not less than two-thirds and that upon the proposal of not less than half of all of the members of Parliament, Parliament may decide, in a closed session and with a majority vote of not less than 2/3 of all of its members, to remove the President from office. If the President resigns from office, dies or is removed from office before his/her term has ended, the Chairperson of Parliament shall assume the duties of the President until Parliament has elected a new President. Similarly, the Chairperson of Parliament shall assume the duties of the President if the latter is away from Latvia or for any other reason unable to fulfill the duties of office.

### (3) *The Cabinet of Ministers*

The Cabinet of Ministers is the Government and the highest executive body of the country. According to Article 55 of the Constitution the Cabinet of Ministers shall be composed of the Prime Minister and the Ministers chosen by the Prime Minister. The Cabinet also includes persons invited by the President. The Cabinet of Ministers starts exercising its duties after having received a confidence vote by Parliament. Parliament shall have the right to submit (Article 27) requests and questions to the Prime Minister or to an individual Minister, which either they, or a responsible government official duly authorized by them, must answer. The Prime Minister or any Minister shall furnish the relevant documents and enactments requested by Parliament or by any of its committees.<sup>27</sup>

The number of ministries and the scope of their responsibilities, as well as the relations between State institutions, shall be as

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<sup>27</sup> Ministru kabineta kārtības rullis (*The Bill of the Cabinet of Ministers*): 2002.12.03. Ministru kabineta noteikumi Nr. 111, spēkā esošs. Latvijas Vēstnesis, 2002, Nr. 42.

provided for by law. The administrative institutions of the State shall be under the authority of the Cabinet.<sup>28</sup>

Meetings of Cabinet shall be chaired by the Prime Minister, and in his/her absence by a Minister authorized to do so by him/her.<sup>29</sup>

The State Chancellery is a public administration institution which:

- provides preconditions for the work of the Prime Minister and the Cabinet of Ministers;
- manages the documents of the Cabinet of Ministers and the Prime Minister, and, if necessary, also manages the documents of the Deputy Prime Minister, the Minister for Special Affairs, and also of persons who were invited by the State President to form the Cabinet of Ministers;
- coordinates the cooperation of ministries and other institutions in order to provide enforcement and succession.

The State Chancellery comprises the Prime Minister's Bureau, the Crisis Management Center and the structural units established by the Director of the State Chancellery. The main tasks of the State Chancellery are:

- to coordinate the planning and implementation of a single national policy and in cooperation with the ministries to present proposals to the Cabinet of Ministers on priorities for the development of the country;
- to perform legal analyses of policy planning documents and to draft legal acts submitted to the Cabinet of Ministers in order to determine their compliance with other legal acts and decisions of the Cabinet of Ministers, and to present proposals to the Prime Minister on their further progress;
- to provide preparation and process of the Cabinet's sittings, meetings of the Committee of the Cabinet of Ministers, meetings of the State Secretaries, meetings of ministries, Parliamentary Secretaries and other meetings provided for by the legal acts or set out by the Prime Minister;

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<sup>28</sup> Lēbers A., Bišers I. *Ministru kabinets (The Cabinet of Ministers)* – Rīga, Tiesiskās informācijas centrs, 1998, p. 63-67.

<sup>29</sup> *Ministru kabineta iekārtas likums (The Law of Cabinet of Ministers)*: LR likums, spēkā neesošs. Ziņotājs, 1993, Nr. 28.

- to provide legal formalization and editing of legal acts, the announcement of legal acts and policy planning documents of the Cabinet of Ministers, as well as further the progress of approved draft laws according to the procedure set forth in the normative acts;
- to coordinate circulation of information necessary for the government's work among state institutions.

#### (4) *Legislative Procedure*

In accordance with the Constitution (Article 64) the right to legislate is given to the Latvian Parliament. Draft laws may be submitted to Parliament by (1) the President, (2) the Cabinet, (3) Parliament committees, (4) at least five members of Parliament, or (5) 1/10 of the electorate (Article 65). Legislative initiatives must be drawn up in the form of draft laws. The President shall be entitled to submit legislative initiatives, which do not have to be in the form of draft laws. According to Article 86 of the Parliament Bill, no draft law shall be put on the agenda and considered at a Parliament sitting before it has been considered by the responsible committee. The responsible committee shall submit its opinion and an explanatory note concerning the draft law to the Parliament Presidium. The opinion and the explanatory note shall be immediately distributed to delegates of Parliament.<sup>30</sup>

All international agreements, which settle matters that may be decided by the legislative process, shall require ratification by Parliament (Article 68). International agreements in which a part of the State's competencies are delegated to international institutions may be ratified by Parliament in sittings in which at least two-thirds of the members of Parliament participate, and a two-thirds majority vote of the members present is necessary for ratification.<sup>31</sup>

According to the Constitution (Articles 69 and 70) the President shall proclaim laws passed by Parliament not earlier than the

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<sup>30</sup> Internet site of the Latvian Parliament / History of Legislature // [http://www.saeima.lv/Informacija\\_eng/likumdeveju\\_vesture.html](http://www.saeima.lv/Informacija_eng/likumdeveju_vesture.html).

<sup>31</sup> Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) // Latvijas Vēstnesis, 01.07.1993, Nr. 43.

7<sup>th</sup> day and not later than the 21st day after the law has been adopted. A law shall come into force 14 days after its proclamation unless a different term has been specified in the law.

The President has the right (Article 72)\* to suspend the proclamation of a law for a period of two months. The President shall suspend the proclamation of a law if so requested by not less than 1/3 of the members of Parliament. This right may be exercised by the President, or by 1/3 of the delegates, within seven days of the adoption of the law by Parliament. The law thus suspended shall be put to a national referendum if so requested by not less than one-tenth of the electorate. If no such request is received during the aforementioned two-month period, the law shall then be proclaimed. A national referendum shall not take place, however, if Parliament again votes on the law and not less than three-quarters of all members of Parliament vote for the adoption of the law.

Finally, according to Article 81 of the Constitution, the Cabinet of Ministers has the right, if there is an urgent need between sessions of Parliament, to issue regulations that have the force of law. Such regulations may not amend the law regarding elections of Parliament, laws governing the court system and court proceedings, the Budget and rights pertaining to the Budget, as well as laws adopted during the term of the current Parliament, and they may not pertain to amnesty, state taxes, customs duties, and loans and they shall cease to be in force unless submitted to Parliament not later than three days after the next session of Parliament has been convened. According to Article 83 of the Parliament Bill Act, the regulations issued by the Cabinet under Article 81 of the Constitution shall also become null and void if they have not been adopted in accordance with the legis-

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\* According to Articles 74 and 75 of the Constitution a law adopted by Parliament and suspended pursuant to the procedures of this article shall be repealed by a national referendum if the number of voters is at least half of the number of electors as have participated in the previous Parliamentary election and if the majority has voted in favor of repealing the law. Should Parliament, by not less than a two thirds majority vote, determine a law to be urgent, the President may not request reconsideration of such law, it may not be submitted to national referendum, and the adopted law shall be proclaimed no later than the third day after the President has received it.

lative procedure within the term of office of the Parliament that has forwarded them to committees. If the regulations issued by the Cabinet under Article 81 of the Constitution have not been adopted in accordance with the legislative procedure, then within six months since the day when the decision to forward the regulations to committees was made, they shall become null and void.

#### (5) *The State Audit Office*

In accordance with Articles 87 and 88 of the Constitution the State Audit Office of the Republic of Latvia shall be an independent collegial institution. The State Audit Office is an independent collegiate body reporting to Parliament on the utilization of public funds.<sup>32</sup> The task of the State Audit Office is to supervise legal, effective and correct collection and spending of the resources of the basic and special budget of the state and local governments, as well as the handling of the state and local government property. The State Audit Office provides annual reports to Parliament on the actual implementation of the state budget of the previous year and issues opinions on collection and spending of state resources and handling of state property.<sup>33</sup> Auditors General shall be appointed to their offices and confirmed pursuant to the same procedures as judges, but only for a fixed period of time, during which they may be removed from office only by a judgment of a court.<sup>34</sup>

#### (6) *The Courts*

There are district (city) courts, regional courts and a Supreme Court. The court system shall be financed from the State budget. In the Republic of Latvia, only a court shall adjudge jus-

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32 Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) // Latvijas Vēstnesis, 01.07.1993, Nr. 43.

33 State Audit Office of the Republic of Latvia / <http://www.lrvk.gov.lv/htmls/english/engindex.htm>.

34 Valsts kontroles likums (*The State Audit Office Law*): LR likums, Latvijas Vēstnesis, 2002, Nr. 80.

tice. According to the Constitution (Article 83)<sup>35</sup> judges in Latvia shall be independent and subject only to the law. Judicial appointments shall be confirmed by Parliament and they shall be irrevocable. Parliament may remove judges from office against their will only in cases provided for by law, based upon a decision of the Judicial Disciplinary Board or a judgment of a court in a criminal case. The age of retirement from office for judges may be determined by law. According to the Law on Judicial Power, which Parliament adopted on 15 December 1992 an independent judicial power exists in the Republic of Latvia, alongside the legislative and the executive power. Judicial power in the Republic of Latvia is vested in district (city) courts, regional courts, the Supreme Court and the Constitutional Court. Latvian courts work in accordance with the following principles: legality, openness, presumption of innocence, equality of parties and collegiality.

A judge has immunity during the time he or she fulfils his or her duties in relation to adjudication in a court. A criminal matter against a judge may be initiated only by the Prosecutor General of the Republic of Latvia. A judge may not be detained or be subjected to criminal liability without the consent of Parliament. A decision concerning the detention, forcible conveyance, arrest, or subjection to a search of a judge shall be taken by a Supreme Court justice specially authorized for that purpose. Administrative sanctions may not be applied to a judge, and he or she shall not be arrested pursuant to administrative procedures. A judge is subject to disciplinary liability for the committing of administrative offences. A judge in Latvia is not financially liable for the damages incurred by a person who participates in a matter, as a result of an unlawful or unfounded judgment of a court. In the cases provided for by law, damages shall be paid for by the State.

In accordance with the previously mentioned Law On Judicial Power, section 51 states: In selecting a candidate for the office of a judge, the principle shall be observed that only Latvian citizens, who are highly qualified and fair lawyers, may work as

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<sup>35</sup> Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) // Latvijas Vēstnesis, 01.07.1993, Nr. 43.

judges. In the selection of judges, no discrimination based on origin, social and financial status, race or nationality, sex, attitude towards religion, type and nature of occupation, or political or other views is permitted. The requirement that a judge must be a Latvian citizen shall not be considered as discriminatory.

A Regional Court is the court of first instance for those civil and criminal matters, which are within the jurisdiction of regional courts in accordance with the law. A Regional Court shall have a Civil Matters Division, a Criminal Matters Division and an Administrative Matters Division. A Regional Court is a court of appellate jurisdiction for civil matters, criminal matters and administrative matters, which have been adjudicated by a district (city) court, or by a single judge. A Regional Court, as a court of first instance, shall adjudicate civil matters and criminal matters collegially. A Regional Court, sitting as a court of appellate instance, shall adjudicate civil matters, criminal matters and administrative matters collegially, by a panel comprising three regional court judges. Five regional courts shall be established in the Republic of Latvia.\* The Chief Judge of a Regional Court shall be appointed by Parliament for five years from among the judges of the court, upon the joint recommendation of the Minister for Justice and the Chief Justice of the Supreme Court, on the basis of the opinion of the Judicial Qualification Board. The Chief Judge of a Regional Court shall be removed from office, upon his or her own request, by Parliament. The Chief Judge of a Regional Court may be dismissed from office by Parliament, upon the recommendation of the Minister for Justice or the Chief Justice of the Supreme Court, on the basis of an opinion of the Judicial Disciplinary Board.

According to the Law on Judicial Power (section 42.1) the Regional Courts shall have Land Registry Offices for the supervision of the Land Registers. Land Registry Offices are judicial institutions. Judges of the Land Registry Offices shall record real property and fix the rights associated therewith in the Land Register. The judicial status of the judges of the Land Registry Offices shall be equivalent to that of the district (city) judges.

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\* The Riga Regional Court, the Kurzeme Regional Court, the Latgale Regional Court, the Vidzeme Regional Court and the Zemgale Regional Court.

The composition of the Supreme Court of the Republic of Latvia shall be: the Senate and two judicial panels, the Civil Matters Panel and the Criminal Matters Panel. The Senate shall be composed of three departments: the Civil Matters Department, the Criminal Matters Department and the Administrative Matters Department. The Senate of the Supreme Court shall adjudicate matters collegially, in panels composed of three senators. According to the Law on Judicial Power (section 45), the total number of judges in the Supreme Court, as well as the number of judges in the Senate and in the Panels of the Court, shall be determined by Parliament, pursuant to the recommendation of the Chief Justice. The work of the Supreme Court shall be managed by the Chief Justice of the Supreme Court, who is appointed from among the judges upon the nomination of the Cabinet, and shall be confirmed by Parliament for seven years. The Chief Justice of the Supreme Court shall submit a recommendation to Parliament concerning the appointment of the Prosecutor General to office, and implement other authorizations provided for in the Law on the Office of the Prosecutor, which are associated with the appointment, removal or dismissal of the Prosecutor General.

The Ministry of Justice is responsible for selecting candidates for the office of judges of regional and district (city) courts and organizing the training of the employees of the regional and the district (city) courts in the Latvian Republic. The Ministry with respect also to the Land Registry Offices has the duty and shall provide for the construction of court buildings and the maintenance for a good condition of existing courthouses and shall supply the courts with the necessary material and technical facilities.

#### *(7) The Constitutional Court*

On June 5, 1996, Parliament elaborated Amendments to Article 85 of the Constitution, establishing that *there existed a Constitutional Court in the Republic of Latvia*. At the same time, getting over hindrances of political character, the Constitutional Court Law was passed and took effect on June 28, 1996. In October and November of 1996 six judges were confirmed by Parliament. On December 9, 1996, the judges of the Constitutional

Court swore the oath, but on December 11, 1996 assembled to hold the first session. On April 21, 1997 the Constitutional Court adopted its Rules of Procedure, establishing the structure of the court, its procedure and – up to the time of passing the Procedural Law of the Constitutional Court – the procedure of reviewing cases as well.<sup>36</sup> The Constitutional Court is an independent institution of judicial power, which is within the jurisdiction set forth in the Constitution. According to Article 85 of the Constitution the Constitutional Court shall review cases concerning the compliance of laws with the Constitution, as well as other matters regarding which jurisdiction is conferred upon it by law.<sup>37</sup> The Constitutional Court shall have the right to declare laws or other enactments or parts thereof invalid.

The Constitutional Court shall review cases regarding:

- compliance of laws with the Constitution
- compliance of international agreements signed or entered into by Latvia (even before Parliament has confirmed the agreement) with the Constitution;
- compliance of other normative acts or their parts with the legal norms (acts) of higher legal force;
- compliance of other acts (with an exception of administrative acts) by Parliament, the Cabinet of Ministers, the President, the Chairperson of Parliament and the Prime Minister with the law;
- compliance of Regulations by which a minister, authorized by the Cabinet of Ministers, has rescinded binding regulations issued by the Dome (Council) of a municipality with the law;
- compliance of the national legal norms of Latvia with the international agreements entered into by Latvia, which are not contrary to the Constitution.

In accordance with the *Constitutional Court Law* (Article 17), the right to submit an application is given to the President;

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<sup>36</sup> Dr. iur. Romāns Apsītis Judge of the Constitutional Court Introduction / Constitutional Court of the Republic of Latvia / <http://www.satv.tiesa.gov.lv/Eng/ievads.htm>.

<sup>37</sup> Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) // Latvijas Vēstnesis, 01.07.1993, Nr. 43.

Parliament; not less than twenty members of Parliament; the Cabinet of Ministers; the Prosecutor General; the Council of State Control; the Dome (Council) of a municipality; the State Human Rights Bureau; a court, when reviewing an administrative, civil or criminal case; a judge of the Land Registry when entering real estate – or thus confirming property rights on it – in the Land Book; a person whose fundamental rights established by the Constitution have been violated.<sup>38</sup>

The Constitutional Court shall have seven justices. The appointment of judges to the Constitutional Court shall be confirmed by Parliament for a term of ten years, by secret ballot with a majority of the votes of not less than fifty-one members of Parliament. Three justices of the Constitutional Court shall be confirmed upon the recommendation of not less than ten members of Parliament, two upon the recommendation of the Cabinet of Ministers, but two justices of the Constitutional Court upon the recommendation of the Plenum of the Supreme Court. The Plenum of the Supreme Court may select candidates for the office of a justice of the Constitutional Court only among judges of the Republic of Latvia.

The Constitutional Court is an independent constitutional body and according to the Constitutional Court Law (Article 2) direct or indirect interferences with actions of the Constitutional Court in relation to judging shall not be permissible.

The Chairperson of the Constitutional Court at this moment is professor and doctor of Law Janis Endzins (*Jānis Endziņš*).

The Republic of Latvia Constitutional Court is dealing with many cases, so for example in the year 2002 it declared the first sentence of Article 27 of the Higher School Law and the text of Article 28 (the second part: “*or for the time period until the age of 65 years*”) as well as Article 29 (the first sentence of the fifth part) of the *Law on Scientific Activity* to be unconfirmable with

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<sup>38</sup> Satversmes tiesas likums (*The Constitutional Court Law*): LR likums, Latvijas Vēstnesis, 1996.05.06, Nr. 103.

Article 106 of the Constitution and null and void as of the date of the announcement of the Judgment.<sup>39</sup>

## 6. *The Election Process and Political Participation*

According to the *Saeima Election Law*, Article 2, all citizens of Latvia who have reached the age of 18 by Election Day have the right to vote<sup>40</sup> and with the exceptions determined by the Law\* to be eligible for Parliament. The elections for Parliament in Latvia are held every four years on the first Saturday in October. The Latvian Parliamentary election is a proportional representation election system by secret ballot for the 100 seats in the Parliament. The next Parliamentary elections (9th Parliament in Latvian history) will be held on Saturday, October 5, 2006. The Parliamentary elections are held in five constituencies (election districts): *Riga, Vidzeme, Latgale, Zemgale* and

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<sup>39</sup> The Republic of Latvia Constitutional Court judgment in case No. 2002 – 21 – 01 from May 20, 2003 "On the Compliance of Article 27 (the Fourth Part) and the Text of Article 28 (the Second Part) "...for the Time Period until the Age of 65 Years" of the Higher School Law and Article 29 (the Fifth Part) of the Law "On Scientific Activity" with Articles 91 and 106 of the Republic of Latvia Satversme".

<sup>40</sup> Saeimas vēlēšanu likums (*The Saeima Election Law*): LR likums, Latvijas Vēstnesis, 1995, Nr. 86.

\* According to Article 5 of the Saeima Election Law persons are not to be included in candidate lists and are not eligible to the Saeima if they: (1) have been legally recognised as incapacitated; (2) are serving a court sentence in a penitentiary; (3) have been sentenced for a deliberately committed crime and if their previous criminal record has not been expunged or annulled unless the persons have been pardoned; (4) have committed a criminal offence in an irresponsible state or who, after having committed a crime, have become mentally ill and are incapable of taking conscious action or controlling it and as a result have been subjected to compulsory treatment, or their case has been dismissed without applying such a compulsory measure; (5) belong or have belonged to the salaried staff of the USSR, the Latvian SSR or another country's state security, intelligence or counterintelligence services; (6) after 13 January 1991 have been active in the CPSU (the CP of Latvia), the Working People's International Front of the Latvian SSR, the United Board of Working Bodies, the Organisation of War and Labour Veterans, the All-Latvia Salvation Committee or its regional committees.

*Kurzeme.* In contrast to local government elections, Parliamentary elections are also held in those foreign countries where a substantial number of Latvian citizens reside. Thus, the Riga constituency also includes the electorates residing outside of Latvia.

According to Article 6 of the *Law on the Central Election Commission* the commission shall determine the procedure by which the election commissions shall send vote counting records and other materials related to elections or national referendums, including referendums on legislative initiatives, to the Central Election Commission.<sup>41</sup> The Central Election Commission shall register only those lists of candidates whose submitters have made a security deposit of 1,000 lats in the bank account of the Central Election Commission.

The Central Election Commission is responsible for establishing all election commissions that shall be elected by the respective city council, district council, county council or *pagasts* council within three months after the relevant council has been elected or formed. The Central Election Commission also gives instructions to district, city, county and *pagasts* election commissions on all issues pertaining to ensuring the compliance of the election process with the law and check election results in specific constituencies or polling stations on the basis of received complaints or on its own initiative. The Parliamentary elections are held on one day and the polling stations are open for voters from 08.00 to 20.00, local time. A voter has the right to vote in any polling station in Latvia or abroad irrespective of his/her place of residence or registered address. Parliamentary elections do not allow voting in advance of the Election Day, but voters who reside abroad are able to vote by mail.<sup>42</sup> The Central Commission shall exercise its authority in accordance with the provisions of the *Saeima Election Law* and the *Law on the Election of City*.<sup>43</sup> Any legally registered political organization

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41 Par Centrālo vēlēšanu komisiju (*Law on the Central Election Commission*): LR likums, spēkā esošs. Latvijas Vēstnesis, 1994, Nr. 8.

42 Central Election Commission in Latvia / [http://web.cvk.lv/pub/?doc\\_id=28170](http://web.cvk.lv/pub/?doc_id=28170).

43 Par pilsētu, rajonu, novadu un pagastu vēlēšanu komisijām un vēlēšanu iecirkņu komisijām (*Law on City, District, County and Pa-*

(party) or association of political organizations (parties) may submit a list of candidates for Parliament. Any citizen of Latvia who has reached the age of 21 by Election Day may be nominated as a candidate. Four months before Election Day the Central Election Commission determines the number of Parliament seats for each of the five constituencies, based on the Population Register statistics.<sup>44</sup> Only those lists of candidates that have received at least 5% of the total number of votes casted in all five election constituencies will enter Parliament. In the 7th Saeima elections (October 3, 1998) six lists of candidates received more than 5% of the total number of votes cast (944,667 votes or 71.9% of the eligible voters), although 21 candidate lists participated in the elections with a total number of 1,081 candidates.

On June 12, 2004, elections to the European Parliament (EP) were held in Latvia for the first time. Both voters of Latvia and other member countries of the European Union may participate in these elections. In the EP elections Latvia was a single electoral district from which 9 deputies were elected. On Election Day, the voting stations were open from 07:00 until 22:00. In the EP elections in Latvia a primary vote also took place during three days preceding Election Day – June 9, 10 and 11, 2004. By prior application, voters staying in foreign countries could participate in the EP elections by postal vote. Voters who cannot appear at the voting station on the election day due to their health condition and persons taking care of such voters may request to arrange voting at their residence. Starting with these elections, the voter registration procedure in Latvia was altered. To participate in the elections, a voter had to be entered on the Latvian Voter's Register in one particular voting station and had also to appear for voting only at this voting station.

According to the Constitution (Article 80), all citizens of Latvia who have the right to vote in elections of Parliament may participate in national referendums. All citizens of the Republic of Latvia that have the right to vote in parliamentary elections

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*gasts Election Commissions and Polling Station Commissions*): LR likums, Latvijas Vēstnesis, 1995, Nr. 77.

44 Par Centrālo vēlēšanu komisiju (*Law on the Central Election Commission*): LR likums, Latvijas Vēstnesis, 1994, Nr. 8.

are entitled to participate in a popular referendum in Latvia. A Referendum may be initiated:

- if the President proposes a dismissal of Parliament;
- if the President suspends a publication of a law for 2 months and at least 1/10 of the electors request a referendum;
- if Parliament would like amend Articles 1, 2, 3, 6 of the Constitution;
- if 1/10 of the electors present completely developed draft amendments of the Constitution or a draft law to the President and Parliament does not accept it.

Article 73 of the Constitution forbids the following to be proposed for a referendum: budget and laws on loans, taxes, customs, railroad tariffs, conscription, proclamation of war and opening hostilities, entering into a peace treaty, proclaiming a state of emergency and its termination, mobilization and demobilization, treaties with foreign countries.

## 7. *Political Parties*

According to the existing legislation in Latvia, a party (a political organization) may be organized if not less than 200 persons have founded it. Article 43 of the *Law on Public Organizations and their Partnerships* of December 15, 1992 states: “*Political organizations are a sub-group of public organizations founded by not less than 200 citizens of Latvia in order to carry out political operation following the community of their political aims, participate in an election campaign, nominate candidates of the members of the Parliament, manage parliamentary actions of the members of the Parliament and implement its program via them as well as involve in establishment of state administration institutions.*” Before the year 2000, the Minister of Justice incorporated the parties, whereas now the Register of Enterprises of the Republic of Latvia incorporates them. A Communist party and parties of national socialist disposition are forbidden in Latvia by law. At present, there are about 40 political organizations in Latvia of which 8 are represented in Parliament. A new Law on Political Organizations has been developed as the operation of the parties has been regulated according to the Law on Public Organizations and their Partnerships of 1992 until now.

Finally, special attention is devoted to the issues of party financing. According to the amendments of the *Administrative Offence Code* of Latvia of June 22, 2004 (Article 166.34), political organizations may be fined at an amount between 200 and 20,000 Euro for violating financing regulations (for instance, failure to submit annual reports on financial operations, disclosure of pre-election expenses or furnishing false data in such disclosures). The Latvian *Criminal Law* from July 2004 determines that a political organization's financial operations through third persons should be punished by imprisonment of up to two years.

*Political parties in Parliament.* According to Article 186 of the Bill of Parliament, at least five members of the same political party or of the same candidate list may form a faction. The staff of a faction shall be employed for the term of office of the faction and shall be dismissed by the Parliamentary Chancellery upon the recommendation of the faction's chairperson and in conformity with the provisions of the *Labor Law*. The principal limitation of the term of employment by contract is specified in paragraph 1 of Article 45 of the *Labor Law*. It shall not apply to the aforementioned employees. Factions may form political blocs. Delegates who are not affiliated with any faction may join these blocs (Bill of Parliament, Article 188). Each faction or political bloc shall delegate one representative to the Council of Factions. Decisions of the Council of Factions shall be of an advisory nature, and they shall not be binding upon factions or political blocs. However, those factions or political blocs that do not agree with the opinion voiced by their representative at a meeting of the Council of Factions must inform the Presidium of this by the beginning of the next Saeima sitting.

At least three Members blocs (the *Bill of Parliament* Article, 194.1) may form a group of Parliament Members for promoting cooperation with parliaments of other countries or for expressing some other interests related to their work in the Latvian Parliament. No special funding shall be allocated for such groups.

## 8. *Citizenship*

Latvian citizens have equal rights and obligations irrespective of the manner in which they have acquired citizenship. All citizens

of Latvia who enjoy full rights of citizenship and, who have attained 18 years of age on Election Day shall be entitled to vote for the Parliament of Latvia. On 22 June 1994 Parliament adopted the *Citizenship Law*. According to Article 2 of this Law, *Latvian citizens are*: persons who were Latvian citizens on 17 June 1940, and their descendants who have registered in accordance with the procedures set out in the law, except persons who have acquired citizenship (nationality) of another state after 4 May 1990 and persons who have acquired *Latvian citizenship by naturalization* or otherwise in accordance with the procedures set out in law.\* Latvian citizens are also those persons whose permanent residence is Latvia, who have registered in accordance with the procedures set out in the law, and who have completed a full educational course in general education schools in which the language of instruction is Latvian, or in two-stream general education schools, in the Latvian stream, having acquired a primary or general secondary education in these schools, if these persons do not have the citizenship (nationality) of another state, or if they have received an expatriation permit from the state of their former citizenship (nationality), if such permit is provided for by the laws of that state. Their minor children up to the age of fifteen who permanently reside in Latvia shall also acquire citizenship at the same time as these persons.<sup>45</sup>

A *non-citizen* is a person who, in accordance with the "Law on the Status of those Former U.S.S.R. Citizens who do not have

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\* Citizens of Latvia and their descendants who, during the period from 17 June 1940 to 4 May 1990, left Latvia as refugees in order to escape the terror of the occupation regimes of the U.S.S.R. and Germany, were deported, or due to the aforesaid reasons have not been able to return to Latvia and have become naturalized during this time in a foreign state, retain their right to register in the Population Register as citizens of Latvia, and after registration shall, to the full extent, enjoy the rights of citizens and fulfill the obligations of citizens, if registration occurs by 1 July 1995. If such persons register after 1 July 1995, they shall renounce the citizenship (nationality) of the foreign state.

<sup>45</sup> Added by amendment, March 16, 1995; modified by amendment, June 22, 1998.

the Citizenship of Latvia or that of any Other State”, has the right to a non-citizen passport issued by the Republic of Latvia.<sup>46</sup>

*Dual citizenship* may not be effected respecting a person who is admitted to Latvian citizenship (Article 9). If a Latvian citizen may, in accordance with the laws of a foreign state, be simultaneously considered also a citizen (national) of that state, in legal relations with Latvia he/she shall be considered solely as a Latvian citizen.

*Naturalization procedures.* A person may, upon his/her request, be admitted to Latvian citizenship through naturalization procedures. All persons who are admitted to Latvian citizenship shall sign a pledge regarding loyalty to the Republic of Latvia. It should be mentioned that if a person who has submitted an application for naturalization may be held criminally liable, or the verification procedure with regard to establishing the fact of cooperation with the *Komitet Gosudarstvenoj Bezopasnosti* (K.G.B.) has been instituted regarding them, the examination of the application shall be stalled until a judgment of a court comes into effect or the case has been dismissed. According to Article 12, only those persons who are registered in the Population Register may be admitted to Latvian citizenship through naturalization procedures and who have submitted a notice regarding the renunciation of their former citizenship (nationality) and have received an expatriation permit from the state of their former citizenship (nationality), if such permit is provided for by the laws of that state, or have received a document certifying the loss of citizenship (nationality), or, if they are citizens of the former U.S.S.R. whose permanent place of residence on May 4, 1990 was in Latvia, a certificate that they have not acquired the citizenship (nationality) of another state.

*The examination of the knowledge takes place orally and in written: oral examination* – means that an applicant answers one question on the basic principles of the Constitution of the Republic of Latvia and the other one on the history of Latvia. *Written examination* means, that an applicant executes a test consisting of 18 questions. In both forms of this examination an applicant has to write or to recite the text of the national anthem.

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<sup>46</sup> Added by amendment, June 22, 1998.

The citizenship of Latvia through naturalization can be granted to persons that have been registered in the Residents' Register Office. They must have reached the age of 15, have their permanent residence on the submission date of their application for naturalization in Latvia for no less than five years counting from May 4, 1990 (for persons who entered Latvia after July 1, 1992, the five-year term shall be counted from the date of the issuance of their permanent residence permit) and must know the Latvian language and the history of Latvia, i.e. the basic principles of the Constitution and the text of the national anthem. They must have a legal source of income; must have submitted a statement of renunciation of their former citizenship and must have received an expatriation permit from the country of their former citizenship, if such a permit is provided for by the laws of that country, or must have received a document certifying the loss of citizenship.

Persons shall not be admitted (Article 11) to Latvian citizenship who:

- have, by unconstitutional methods, acted against the independence of the Republic of Latvia, the democratic parliamentary structure of the State or the existing power in Latvia, if such has been established by a judgment of a court;
- after May 4, 1990, have propagated fascist, chauvinist, national-socialist, communist or other totalitarian ideas or incited ethnic or racial hatred or discord, if such has been established by a judgment of a court;
- are officials of state power, administration or law-enforcement institutions of a foreign state;
- serve in the armed forces, internal military forces, security service or police (militia) of some foreign state;
- after June 17, 1940, have chosen the Republic of Latvia as their place of residence directly after demobilization from the armed forces of the U.S.S.R. (Russia) or the internal military forces of the U.S.S.R. (Russia), and who did not, on the day of their conscription into service or enlistment, permanently reside in Latvia. This restriction shall not apply to

persons specified in Section 13, Paragraph one, Clauses 6 and 7, and Paragraph five;<sup>47</sup>

- have been employees, informers, agents or safe house keepers of the former Latvian Soviet Socialist Republic, former K.G.B. (or Committee of State Security), or of the security service, intelligence service or other special service of some other foreign state, if this fact has been established in accordance with the procedures prescribed by law;
- have been punished in Latvia or another state for committing an offence which is also a crime in Latvia at the moment this Law comes into force;
- after January 13, 1991, have worked against the Republic of Latvia in the former Communist Party of the Soviet Union (the former Latvian Communist Party), the Working People's International Front of the Latvian S.S.R., the United Council of Labor Collectives, the Organization of War and Labor Veterans, the All-Latvia Salvation of Society Committee or their regional committees or the Union of Communists of Latvia.

#### *The Breakdown of Latvian Residents as to Nationality*<sup>48</sup>

	Latvian Citizens	Non-citizens	Aliens	In total	
Latvians	1 355 067	2 536	936	1 358 539	58.6%
Lithuanians	16 977	13 662	1 382	32 021	1.4%
Estonians	1 466	776	307	2 549	0.1%
Byelorussians	25 939	62 148	1 829	89 916	3.9%
Russians	327 293	321 755	19 362	668 410	28.8%

<sup>47</sup> Modified by amendment, March 16, 1995.

<sup>48</sup> The Breakdown of the Residents of Latvia as to Nationality (data of the Board for Citizenship and Migration Affairs – January 1, 2004) Naturalization Board of the Republic of Latvia.  
[http://www.np.gov.lv/index.php?en=fakti\\_en&saite=residents.htm](http://www.np.gov.lv/index.php?en=fakti_en&saite=residents.htm).

	Latvian Citizens	Non-citizens	Aliens	In total	
Ukrainians	10 974	45 232	3 613	59 819	2.6%
Poles	40 209	16 488	495	57 192	2.5%
Jews	6 443	3 176	308	9 927	0.5%
Others	18 483	15 579	5 019	39 081	1.7%
<b>In total</b>	<b>1 802 851</b>	<b>481 352</b>	<b>33 251</b>	<b>2 317 454</b>	<b>100%</b>

## 9. *Fundamental Rights*

The objective of the state is to monitor that its citizens manifestations of freedom do not collide with the interests of society and the core principles of democracy, ensuring at the same time that every individual can freely express his or her opinion in accordance with his/her religious or aesthetic convictions. The incorporation process of human rights into the Latvian constitution started long before they were formally incorporated in 1998. In 1921, the Latvian Constitution Founding Meeting (when discussing the Constitution project) was close to including a section on human rights, providing freedoms of consciousness, belief and cult. Although this project failed, the fact is interesting, because the Constitution of Latvia nearly becomes one of the most modern ones in Europe.

On October 15, 1998, Parliament adopted Chapter VIII *Fundamental Human Rights* of the Latvian Constitution. From now on the State shall recognize and protect fundamental human rights in accordance with the Constitution, laws and international agreements binding upon Latvia (Article 89). First of all, according to Articles 90 and 91 everyone in Latvia has the right to know about his/her rights and all human beings in Latvia shall be equal before the law and the courts and human rights shall be realized without discrimination of any kind. According to Article 92, everyone has the right to defend his or her rights and lawful interests in a fair court. A court shall adjudge a trial irrespective

of the origin, social and financial status, race or nationality, sex, education, language, attitude towards religion, type and nature of occupation, place of residence, or political or other views of a person. A person has the right to court protection against threats to his or her life, health, personal freedom, honor, reputation, and property. Each person has a guaranteed right to have the rights and obligations of any such person, or the validity of charges brought against him or her, determined on the basis of complete equality, by an independent and impartial court adjudicating the matter in open court and having regard to all the requirements of justice. Everyone shall be presumed innocent until guiltiness has been established in accordance with law. Everyone has a right to commensurate compensation, where rights are violated without basis. Everyone has a right to assistance of counsel. The right to life of everyone shall be protected by the law (Article 93).<sup>49</sup>

According to the Latvian Constitution every citizen has the right to participate in the activities of the State and of local government, and to hold a position in the civil service, as provided for by law. Local governments shall be elected by Latvian citizens who enjoy full rights of citizenship. The working language of local governments is the Latvian language (Article 101). Persons belonging to ethnic minorities have the right to preserve and develop their language and their ethnic and cultural identity (Article 114).

Articles 96 and 97 of the Latvian Constitution guarantee the right to inviolability of private life for everyone, home and correspondence and free movement and to choose a place of residence. Everyone has the right to freely depart from Latvia. Everyone having a Latvian passport shall be protected by the State while being abroad and has the right to freely return to Latvia. A citizen of Latvia may not be extradited to a foreign country (Article 98). In the sphere of labor rights (Articles 106, 107 and 108) everyone in Latvia has the right to freely choose his/her employment and workplace according to abilities and qualifications. Forced labor is prohibited. Participation in the relief of disasters

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<sup>49</sup> Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) // Latvijas Vēstnesis, 01.07.1993, Nr. 43.

and their effects, and work pursuant to a court order shall not be deemed forced labor. Every employed person in Latvia has the constitutional right to receive, commensurate remuneration for work done, which shall not be less than the minimum wage established by the State. Everyone has the right to weekly holidays and a paid annual vacation. Employed persons have the right to a collective labor agreement, and the right to strike. The State shall protect the freedom of trade unions. The Latvian State (Article 113) shall also recognize the freedom of scientific research, artistic and other creative activity, and shall protect copyright and patent rights.

According to the Constitution of Latvia the *State shall generally protect:*

- human honor and dignity. Torture or other cruel or degrading treatment of human beings is prohibited. No one shall be subjected to inhuman or degrading punishment (Article 95);
- the freedom of previously announced peaceful meetings, street processions, and pickets (Article 103);
- support marriage, the family, the rights of parents and rights of the child. The State shall provide special support to disabled children, children left without parental care or who have suffered from violence (Article 110);
- human health and guarantee a basic level of medical assistance for everyone (Article 111);
- the right of everyone to live in a benevolent environment by providing information about environmental conditions and by promoting the preservation and improvement of the environment (Article 111);

In accordance with the Latvian Constitution *everyone has the right to:*<sup>50</sup>

- liberty and security of person. No one may be deprived of or have his/her liberty restricted, otherwise than in accordance with law (Article 94);

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<sup>50</sup> Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) // Latvijas Vēstnesis, 01.07.1993, Nr. 43.

- freedom of thought, conscience and religion. The church shall be separate from the State (Article 99);
- freedom of expression, which includes the right to freely receive, keep and distribute information and to express views. Censorship is prohibited (Article 100);
- form and join associations, political parties and other public organizations (Article 102);
- address submissions to State or local government institutions and to receive a materially responsive reply. Everyone has the right to receive a reply in the Latvian language (Article 104);
- own property. Property shall not be used contrary to the interests of the public. Property rights may be restricted only in accordance with the law. Expropriation of property for public purposes shall be allowed only in exceptional cases on the basis of a specific law and in return for fair compensation (Article 105);
- social security in old age, for work disability, for unemployment and in other cases as provided by law compensation (Article 109);
- education. The State shall ensure that everyone may acquire primary and secondary education without charge. Primary education shall be compulsory (Article 112).

Finally it must be noted that the rights of persons (Article 116) set out in Articles 96, 97, 98, 100, 102, 103, 106, and 108 of the Constitution may be subject to restrictions in circumstances provided for by law in order to protect the rights of other people, the democratic structure of the State, and public safety, welfare and morals. On the basis of the conditions set forth in this Article, restrictions may also be imposed on the expression of religious beliefs.

In 1996, the Latvian National Human Rights Office started its work. It is an independent national institution aimed at promoting the observance of human rights. The Latvian National Human Rights Office is contributing to the creation of a society where

human rights are respected.<sup>51</sup> The Office is independent in its decisions and activities. The status, functions, duties and responsibilities of it are provided for by the Law of December 5, 1996 on the Latvian National Human Rights Office. The Office was established already on July 18, 1995 pursuant to Regulations of the Cabinet of Ministers on the Latvian National Human Rights Office, passed in accordance with Article 81 of the Constitution. It is a full voting member of the International Ombudsmen Institute. The Office is headed by a Director, who is appointed for a term of four years following the recommendation of the Cabinet of Ministers. It reacts to violations of human rights and determines situations that might cause violations of human rights on its own initiative.

## 10. Economy

The legislators of the Latvian Constitution have not mentioned financial matters directly. Only view parts of the Constitution related with economic matters.

According to Article 105 of the Constitution everyone in Latvia has the right to own property.<sup>52</sup> Property shall not be used contrary to the interests of the public. Property rights may be restricted only in accordance with the law. The expropriation for public purposes shall be allowed only in exceptional cases on the basis of a specific law and in return for fair compensation.

Secondly, according to Article 73 of the Constitution, the Budget and laws concerning loans, taxes, customs duties, railroad tariffs, military conscription, declaration and commencement of war, peace treaties, declaration of a state of emergency and its termination, mobilization and demobilization, as well as agreements with other nations may not be submitted to a national referendum.

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<sup>51</sup> Par Valsts cilvēktiesību biroju (*Law on Human Rights Office*): LR likums, spēkā esošs. Ziņotājs, 1997, Nr. 1.

<sup>52</sup> Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) // Latvijas Vēstnesis, 01.07.1993, Nr. 43.

## 11. Religious Communities

The separation of church and state has never implied segregation of religion from society or the complete exclusion of the Church from social life. This would not be possible in a democratic country, as religion and religious associations form one of the structural elements of society. The role of the Church in internal national processes in Latvia should not be underestimated. Public polls show that 70% of Latvian citizens and 60% of non-citizens believe in the Church. Embracing this potential, the Church seeks to influence state policy and laws.

Nowadays, at the beginning of the 21<sup>st</sup> century, Latvia is a multi-confessional country, where the three largest denominations are Catholics, Lutherans and the Orthodox Church. In total, there exist about 170 different denominations and religious groups.<sup>53</sup> The largest include: Pentecostal's Congregation, Baptists, Methodists, Seventh Day Adventists, Muslims, Buddhists, Mormons, Jehovah's Witnesses, Scientologists, Christian Science, Moonists etc.\* According to a survey made by a Latvian public

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<sup>53</sup> *Balodis R. State and Church in the Latvia // State and Church in the Baltic States: 2001. – Riga, Latvian Association for Freedom of Religion, 2001. p. 15-17.*

\* The Latvian state is characterised by religious tolerance, which is an important factor in the enforcement of human rights and can be explained by the historical situation within which Latvia has developed as a multi-confessional country. Up to October 2003 the Justice Ministry has registered 1098 congregations. This total includes: Lutheran (307), Roman Catholic (252), Orthodox (117), Baptist (90), Old Believer Orthodox (67), Seventh Day's Adventist (47), Jehovah's Witnesses (12), Methodists (12), Jewish (13), Buddhist (5), Muslim (5), Hare Krishna (10), Church of Jesus Christ of Latter-Day Saints (Mormons) (3), and more than 100 others. Data at disposal of the Board of Religious Affairs seems to be more reliable since these are data from denominations themselves. According to these data the Roman Catholic church has 433 480 members, Ev. Lutheran churches – about 400 300, Orthodox - 350 000, Old Believers – 60 000, Baptists – 6 788, Evangelical Religion Christians and New Generation – 6 589, the Seventh Day's Adventists – 3 869, Trinity (Pentecost) – 3 721, Muslims – 1000, New Apostolic – 973, Methodists – 750, the Last Day Saints (Mormons) – 605, neopagans "Dievturi" – 603, Jews – 550, Augsburg Religion Lutherans – 392, Armenian Orthodox Apostolic Church – 275, Jehovah's Witnesses – 115, Krishna followers –

opinion research centre in 2003, 49.3% of the inhabitants of Latvia do not read the Bible, 4% are reading the Bible almost every day, and more than half of the inhabitants of Latvia are reading the Holy Scripture from time to time. According to the survey data, 25% of the population indicate themselves being Orthodox, 25% being Lutherans, 21% Roman Catholics, 2,7% Old Believer Orthodox, 0,4% Adventists and 0,1% Jews. Under this survey 9% consider themselves to be believers, however they cannot reckon themselves in a particular denomination, while 12% have specified as being non-believers.<sup>54</sup> There is a significant number of atheists. Orthodox Christians, many of them Russian-speaking, non-citizen, permanent residents, are concentrated in the major cities, while many Catholics live in the east.

There is no state religion. The Constitution does not mention any specific religion. In the Constitution religion/church is mentioned only in Article 99, where it is declared that: *“Everyone has the right to freedom of thought, conscience and religion. The Church shall be separate from the State.”*<sup>55</sup> This provision was included in the Constitution in 1998, when the Constitution was supplemented with the new section on human rights. The principle of freedom of religion is further determined in the *Law on Religious Organizations* of September 7, 1995. The Latvian legislative norms (unlike Lithuanian) have no such concept as “tra-

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135 (in 1995: 2 400!), Buddhists – 75, Reformats – 95, Bahai’ – 48, followers of *Vissarion* – 23, Presbyterians – 14. Others religions totally have 1253 members. With regard to Ev. Lutherans it must be noted that in 2000 the Church indicated the figure of 400 300, while in 2001 and subsequent years, objecting to exaggerated, to their mind, number of Catholics and Orthodox believers (appearing through application of different numeration methods) it is indicating a figure of 37 000 in reports to the Board of Religious Affairs. Taking into account data about number of believers provided by other churches, it seems that to Ev. Lutherans the number of believers in 2001 being 400 300 would have matched better. In regard to Muslims it should be said that the number is rather approximate.

54 Results of the 2000 population and housing census in Latvia – collection of statistical data. – Riga, Central Statistical Bureau of Latvia. 2002.

55 Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) // Latvijas Vēstnesis, 01.07.1993, Nr. 43.

ditional” denominations. It should be noted that the state-church relationship in the Republic of Latvia is based on the following principles: *separation, respectful neutrality, religious freedom and delegation of some peculiar powers*. Government has delegated the right to register marriages only to some denominations, the ecclesiastics of which perform the responsibilities of state officials, but are not provided with fees or social guarantees of the state.<sup>56</sup>

The Republic of Latvia guarantees the right to freedom of religion, including the right to adhere to a particular religion individually or in association with others or to have no religious affiliation, to freely change one’s religion or conviction as well as to freely express one’s religious opinions in accordance with the existing laws. According to Article 4 of the Law on Religious Organizations, the explicit or implicit restrictions of the right of inhabitants or the creation of privileges to inhabitants, as well as the infringement of their feelings or the instigation of hatred due to their attitude to religion shall be prohibited. Persons guilty of violating this provision shall be held liable in accordance with the procedure prescribed by law. No reference shall be made to a person’s attitude to religion or his/her religious affiliation in the identification documents issued by the state. However, it is determined in part 4 of Article 4 of the Law on Religious Organizations that it is prohibited for state and municipal institutions, public organizations as well as enterprises and entrepreneurial companies to require from their personnel and other persons information concerning their attitude to religion or their religious affiliation.

According to the *Law on Religious Organizations*, twenty lawful-aged individuals registered in the Latvian Citizens Register, having one confessional affiliation, can establish a religious organization. Ten or more congregations of the same denomination and with permanent registration status may form a religious association. As provided for by the Law on Religious Organizations, religious organizations (church congregations, religious communities (Churches) and dioceses) as well as educational

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<sup>56</sup> Balodis R. Church and State in Latvia / Law and Religion in Post-Communist Europe (Ed. Silvio Ferrari, W.Cole Durham). PEETERS, LEUVEN – PARIS – DUDLEY, MA 2003 142-143.

establishments for priesthood, monasteries and deaconates are to be registered. Only churches with a religious association status may establish theological schools or monasteries.

A decision to register a church is made by the Board of Religious Affairs that was formed in the end of 2000. The Board of Religious Affairs is a state authority supervised by the Ministry of Justice, which acts pursuant to the regulations by the Cabinet of Ministers. The Board of Religious Affairs is a legal entity. Within the limits of its competence it ensures the implementation of the state policy and co-ordination of religious affairs, manages issues related to state-church relationship and follows the efficiency of the effective regulations in the area of religious practices within the state. It also submits proposals on undertakings aimed at preventing human rights violations related to religion in accordance with the Latvian Constitution and international agreements. The Head of the Board of Religious Affairs is appointed and dismissed by the Cabinet of Ministers. The Head of the Board of Religious Affairs is responsible for the work of the Board and performance of its functions. The Board of Religious Affairs has the following rights: (1) to issue recommendations and methodical instructions pertaining to the procedure of issuing and submitting of documents required for registration of religious communities and those institutions; (2) to apply for and receive from religious organizations and those institutions information and documents stated in the normative acts; (3) if necessary, to apply for additional information so as to be sure that the information given by registered and not registered religious organizations and those institutions is true and loyal towards the Latvian state; (4) to apply for and get free of charge from state and self-governmental institutions information necessary for the work of the Board and apply and receive information from other states in accordance with international agreements concluded; (5) to check the compliance of documents connected with establishment and activity of religious organizations and those institutions with laws, other normative acts and actual situation; (6) on a constant basis and in co-operation with other state institutions to prepare and submit to the Minister of Justice information on infringements of Article 99 of the Constitution, infringements of other normative acts regulating human rights and analysis of

circumstances preceding the appropriate violations of law; (7) to provide effective activity in the religious aspect legally regulated by state, to develop and submit to the Ministry of Justice proposals and normative acts drafts pertaining to religion; (8) to participate in development of normative acts and drafts connected with regulation of activity of religious communities; (9) if necessary, to invite experts and specialists to perform tasks pertaining to the activity of the Board and conclude with them appropriate agreements and to analyze and gain foreign experience for the solution of matters connected with religion and cooperate with appropriate foreign institutions as well. The statutes of the religious organization can encompass other by-laws regulating the internal matters of the organization. The Board of Religious Affairs has to process applications within one month.<sup>57</sup> Having been registered at the Board of Religious Affairs, religious communities are given the status of a legal person. It is not provided for by Legislation of the Republic of Latvia that registration is obligatory to express freedom of belief. Therefore, every religious group not registered has right for divine services, religious rituals and ceremonies as well as charity acts, unless those break the law.

Activities of religious communities are restricted in accordance with Article 116 of the Latvian Constitution. Activities of religious communities announcing the ideas of religious intolerance and hate, breaking the law and inciting others to do that, violating or failing to execute statutes (regulations) of religious organizations, threatening state security, public order and peace as well as other persons' health and morals (sermon) can be ceased in accordance with court ruling. Article 14 of the Law on Religious communities also provides that the state has the right to restrict activities of religious communities and their followers, if they: preach religious intolerance and hatred, do not obey or call on disobedience of law, violate the statutes of the religious communities and impose threat to public security, peace and order,

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<sup>57</sup> Latvijas Republikas Ministru kabineta 2000. gada 19. septembra noteikumi Nr. 321 "Reliģisko lietu pārvaldes nolikums" (*Regulations of Cabinet of Ministers of the Republic of Latvia of 19<sup>th</sup> September 2000 "Rule of the Board of Religious Affairs"*) // Latvijas Vēstnesis, 22.09.2000, Nr. 331/333.

as well as health and morals of other people. The government should ensure that citizens can freely practice their religion; however, the religious freedom does not release anybody from the obligation to observe laws. If necessary, the state can restrict (basing on law) manifestations of religion in order to protect: rights of other people, democratic state establishment, public security, public order, public welfare, morals and health of other people. The religious organization has the right to submit a repeated application after it is declined, if it has eliminated the reasons mentioned in the decision on the rejection of the registration.<sup>58</sup> The decision of the Board of Religious Affairs chairman on the registration of a religious organization or the refusal to register can be appealed against within ten days from its receipt.

## 12. *Military Defense and State of Emergency*

According to the Constitution of the Republic of Latvia (Article 67) Parliament shall determine the size of the armed forces of the State during peacetime. If, in accordance with Article 62 of the Constitution, the State is threatened by an external enemy, or if an internal insurrection which endangers the existing political system arises or threatens to arise in the State or in any part of the State, the Cabinet has the right to proclaim a state of emergency and shall inform the Presidium within twenty-four hours and the Presidium shall, without delay, present such decision of the Cabinet to Parliament.

In Latvia, the leading institution of state administration in the defense field is the Ministry of Defense that is directly subordinated to the Minister of Defense. The function of the Ministry is to develop the state defense policy, as well as organize and coordinate the implementation of it. The Minister of Defense manages the work of the Ministry of Defense. He is a civilian with a political responsibility to Parliament and the Cabinet of Ministers. The Ministry's State Secretary is a civil servant, who manages the administrative work of the Ministry and ensures its continuity

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<sup>58</sup> 1995. gada 7. septembra Reliģisko organizāciju likums (*Law on Religious Organisations of 7<sup>th</sup> September 1995*) // Latvijas Vēstnesis, 26.09.1995, Nr. 146.

when the political leaders of the Ministry are exchanged. The Central Body of the Ministry consists of departments and unaffiliated sections. It employs 200 persons including six advisors for the Minister and the State Secretary. There are 17 persons representing Latvia abroad as military attaches and other representatives. Due to the high demand of cooperation within the international organizations, the rotation of civil servants is expected to rise. In order to improve the integration of the Latvian defense system into NATO and to activate the work of the ministry, a conceptually new and transparent structure reflecting the goals of the Ministry is implemented. The current structure was approved on April 13, 2004.

According to Article 42 of the Constitution<sup>59</sup> the President shall be the Commander-in-Chief of the armed forces of Latvia. During wartime, the President shall appoint a Supreme Commander. Article 43 of the Constitution gives the right to declare war on the basis of a decision of the parliament to the President. Under the Latvian Constitution (Article 44), the President has the right to take whatever steps necessary for the military defense of the State, should another state declare war on Latvia or an enemy invade its borders. Concurrently and without delay, the President shall convene Parliament that shall decide as to the declaration and commencement of war.

On May 30, 2002, Parliament adopted the *Military Service Law* that came into force on July 1, 2002. According to Article 16 of this Law, during peacetime units shall be recruited from Latvian citizens who are conscripted into mandatory active military service. They are accepted into professional service, can enter military educational institutions, are employed as military employees and are employed in civil positions provided for in the staff list. A Latvian citizen shall not be conscripted or accepted into military service if he or she has been sentenced for a criminal offence, is a suspect, an accused or a defendant, is unfit for service due to state of health or is or has been a staff employee or a supernumerary of the security service, intelligence or

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<sup>59</sup> Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) // Latvijas Vēstnesis, 01.07.1993, Nr. 43.

counter-intelligence service of the USSR, Latvian S.S.R. or a foreign state, or an agent, resident or safe-house keeper.

On June 18, 2002, Parliament passed the Law on *Alternative Service Law* that determines the procedures for the performance of alternative service. In accordance with Article 3 of the Alternative Service Law, the duration of alternative service shall be 24 months, but for persons who have obtained a higher education it shall be 18 months. Alternative services shall be performed in State or local government institutions, State or local government capital companies or public organizations that engage in fire-fighting, search and rescue operations, social care, provision of medical assistance, public utility and public transport services, improvement of State or local government objects and territories or customs control. Specific institutions, capital companies and public organizations in which alternative services may be performed shall be determined by the Cabinet upon a proposal of the Minister for Defense which has been coordinated with the Minister for the relevant sector, head of the relevant local government or head of the relevant capital company or public organization. A person performing alternative service shall be assigned to perform alternative service in the administrative territory where the permanent place of residence of the person performing alternative service is located or from which it is possible for him to return every day to his permanent place of residence, except in cases where the institution, capital company or public organization in which the person performing alternative services performs services provides him with living premises. According to Article 6 part two of the Alternative Service Law persons performing alternative services have a duty to: arrive within the specified time at the place for the performance of alternative service specified in the warrant. They are responsible to comply with the internal procedural rules and lawful instructions of the administration of the place for the performance of alternative service. It should be noticed that the Law prohibits the persons performing alternative service from mutually joining together in political organizations (parties). Persons performing alternative service are prohibited from entering into collective agreements, going on strikes and forming trade unions. During their performance of alternative service persons are prohibited

from engaging in paid employment. Persons performing alternative services and are prohibited from combining the performance of alternative service with full time studies in institutions of higher education or with full time studies in institutions of general secondary education or vocational education.

### 13. *Amendments to the Constitution*

According to Article 76 of the Constitution, Parliament may amend the Constitution in sittings at which at least two-thirds of the members of Parliament participate.<sup>60</sup> The amendments shall be passed in three readings by a majority of not less than two-thirds of the members present. If Parliament has amended Article 1 (form of state), Article 2 (the sovereign power of the state belongs to the people of Latvia), Article 3 (the territory components), Article 4 (the state language), Article 6 (principles of the election of parliament) or Article 77 of the Constitution, such amendments, in order to come into force as law, shall be submitted to a national referendum. According to Article 78 of the Constitution, electors in number comprising 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 Parliament. If the Latvian Parliament does not adopt it without change as to its content, it shall then be submitted to national referendum. Article 79 of the Constitution prescribes that an amendment to the Constitution submitted for national referendum shall be deemed adopted if at least half of the electorate has voted in favor. A draft law, decision regarding membership of Latvia in the European Union or substantial changes in the terms regarding such membership submitted for national referendum shall be deemed adopted if the number of voters is at least half of the number of electors as have participated in the previous Latvian parliament election and if the majority has voted in favor of the draft law, membership of Latvia in the European Union or substantial changes in the terms regarding such membership.

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<sup>60</sup> Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) // Latvijas Vēstnesis, 01.07.1993, Nr. 43.

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