

About the The Constitution of the Republic of Latvia: History and Modern Days

I

In democratic, lawful countries Constitution is one of the most significant symbols of statehood. Along with its legal functions the Constitution also holds a symbolic meaning – it serves as evidence to the dreams of the founders of statehood and quest for the future generations. It was no coincidence that one of the most significant experts of the Constitutional Law of Latvia of the past century Kārlis Dišlers wrote that “democratic lawful country cannot be imagined without the constitutional law that determines the legal foundations of its political system.”¹

Taking into consideration the historically complicated destiny of the statehood of Latvia, the date of adoption of our state constitution – the Constitution of the Republic of Latvia (hereinafter – the Constitution) might seem surprising to many. The Constitution was really adopted on 15 February 1922, announced on 30 June 1922 and came into force on 7 November 1922.² After the restoration of independence Latvia deliberately decided to renew also the act of its only constitution. The foundation of the constitutional system of this country still remains the same – the Constitution.

II

The Constitution will always be related to the statehood of Latvia, telling about the efforts of the patriots and officials of Latvia representing various centuries, and giving evidence to their success, as well as mistakes.

Thereby it can even be emphasized that a separate word has been introduced to the Latvian language to denote the constitution or the basic law, which is characteristic of the Latvian language only. In 1869, social worker of the Neo-Latvian movement Kronvaldu Atis suggested to use neologism *satversme* for denoting constitution. He formed this word from the verb *tvert* (*to hold*), because “people have therefore adopted the laws, so that they had something to hold on to when

K. Latvijas Republikas Satversmes attīstība (Development of the Constitution of the Republic of Latvia). Book: Latvija desmit gados (Latvia within Ten Years). Latvijas valsts nodibināšanas un viņas pirmo 10 gadu darbības vēsture (The Founding of the Country of Latvia and the History of its First 10 years of Existence). Ārons M. (ed.) Rīga: Anniversary Committee edition, 1928, p. 73.

² Latvijas Republikas Satversme (Constitution of the Republic of Latvia). Valdības Vēstnesis, No. 141, 30 June 1922.

³ Karulis K. Latvian Dictionary of Etymology. Volume II. Rīga: Avots, 1992, p. 159.

The plans of the Neo-Latvian movement included neither the awareness for the necessity of an independent state of Latvia, nor concrete action plans for achieving such goal. But the meaning and the necessity of the name of the constitution was already clear.

Later the ideas about the statehood of Latvia and its constitution intertwined into a common destiny. At the beginning of the last century a member of the New Stream movement Miķelis Valters saw the opportunities of saving the nation of Latvia in its independence from Russia.⁴ And another member of the New Stream – the poet Jānis Pliekšāns (Rainis) admitted that “the meaning of Constitution – it is the main source, from which all the art and cleverness of the constitution erupts as if on its own.”⁵

After the Fight for Freedom on 17 and 18 April 1920, the nation of Latvia elected its representatives – the Constitutional Assembly of Latvia – for the first time. The task of the Constitutional Assembly was to develop and adopt the constitution of the new state. As the President of the Constitutional Assembly Jānis Čakste has emphasized, “The Constitutional Assembly was elected without any limitations, its powers include the entire life of the country of Latvia, it is responsible for the task of establishing and founding our country forever and ever. We cannot confuse the Constitutional Assembly with the parliament, because the Constitution sets limits for it. The Constitutional Assembly has no limits at all. It can execute all the tasks that it finds necessary or important to the country.”⁶

The adoption and coming into force of the Constitution meant new challenges for the statehood of Latvia. During the interwar period in Europe the initial constitutional romanticism was quickly replaced by parliamentarism crisis and the search for new ways of governing the country. Also in Latvia the cause for all troubles was found in the Constitution. This period in the constitutional law of Latvia is most vividly characterized in the title of the introductory article by Arveds Bergs – “Bet viņa neiet!” (*But she Remains!*)⁷ Not even two months had passed since the

Constitution came into force, when one of its authors already suggested significant changes to the constitutional system.

During the Revolution of 15 May 1934, the act of the Constitution was terminated; Kārlis Ulmanis founded the authoritarian regime and also promised a reform of the Constitution. Instead of the Constitution reform the democratic republic was replaced by an authoritarian country. But in the summer of 1940 the U.S.S.R. occupied Latvia, unlawfully terminating the *de facto* statehood of Latvia.

Often enough after revolutions and constitution suspension they lose their political meaning and legal character and take the honourable place in the shelves of the historical and cultural heritage. But the case with the Constitution was quite the opposite. During the authoritarian regime and what is even more significant – in conditions of the Soviet occupation, the Constitution became a symbol of an independent and democratic state.

Protesting against the unlawful character of the U.S.S.R.'s actions, the envoy of Latvia in London Kārlis Zariņš on 23 July 1940 in the memorandum submitted to the Ministry of Foreign Affairs of Great Britain provided *inter alia* that joining of Latvia to the U.S.S.R. has taken place in breach of Article 1 of the Constitution, “The nation of Latvia has heavily and bravely fought for its independence, also against the army of the Soviet Russia. The spirit of the Fight for Freedom is still alive, and any unbiased observer would admit impossible the fact that Latvians by their free will would like to sacrifice their independence, which they fought for so hard and which they cherished so high.”⁸

Also the national resistance movement to the soviet and fascist regime was organised on the basis of the Constitution. The Latvian Central Council and the political forces it represented based their actions on the regulations of the Constitution. Already later the exiled senators of the Latvian highest court institution – the Latvian Senate – by a special resolution acknowledged the Constitution as being in force and as an applicable constitution, hence,

4 Šilde Ā. Miķelis Valters kā tiesībnieks un valstsvīrs (Miķelis Valters as a lawyer and state politician). Book: Šilde Ā. Trimdinieka raksti (Exile Stories). 1944 – 1990. Munster: Publishing House Latvija, 1991, pp. 270-271.

5 Rainis J. Kas ir satversme (What is Constitution). Book: Rainis J. Kopotie raksti (Collected Works). Volume XVIII Rīga: Zinātne, 1983, p. 380.

6 Čakste J. Address at the Official Session of the Constitutional Assembly on 1 May 1921. Book: Čakste J. Taisnība uzvarēs vienmēr. (The Truth will Always Win) Atziņas. Runas. Dokumenti. Raksti. Vēstules. (Cognitions. Documents, Articles, Letters.) The second, supplemented and improved edition. Rīga: Publishing House Jumava, 2009, pp. 60–61.

7 Bergs A. Bet viņa neiet! (But she Remains) Latvian, 23 December 1922.

8 Note of K. Zarins, Latvian Envoy in London, Protesting against the Incorporation of Latvia into U.S.S.R. as being Unconstitutional and Illegal. Book: Latvian – Russian Relations. Documents. Second printing. Lincoln: Augstums Printing Service, Inc., 1978, pp. 209–210.

“the necessary basic element of any modern state, but especially – democratic republic – is its legal structure, which is determined by its constitutional, respectively, basic laws and which characterize it in the international field as a corresponding law subject. These constitutional laws adopted by the freely elected Constitutional Assembly, on the basis of which Latvia throughout all its years of independence has existed as a sovereign and equal in rights state in the international life, are the Declaration of 27 May 1920 about the country of Latvia and the Constitution of the Republic of Latvia of 15 February 1922.”⁹

These ideas were even more simplified in a newspaper published in exile, “During the existence of the Constitution it has neither been annulled, nor reformed. Our most significant statesmen and politicians have always emphasized that the only thing we have left and around which everyone should unite, is our flag and our Constitution of 1922. [...] The Constitution of the democratic Republic of Latvia is still in force, it should be cherished as the most sacred treasure and only the nation itself shall have the right to amend the Constitution in a liberate, free Latvia.”¹⁰

Thus it is understandable, why after the restoration of the independence also the act of Constitution was restored. If the declaration of 4 May 1990 “On the Restoration of the Independence of the Republic of Latvia” still provided development of a new constitution, then the Constitutional Law of 21 August 1991 “On the National Content of the Republic of Latvia” clearly defines that the national content of the Republic of Latvia is stipulated by the Constitution.

III

The Constitutional Assembly of Latvia established a separate commission – Constitutional Committee – for the development of the Constitution project. Fēlikss Cielēns, one of the leading deputies of the Constitutional Committee describes in his memories the conditions of forming it, “To provide the opportunity for all parties and directions to

involve in the development of the Constitution, quite many members were elected to the Constitutional Committee – 26 in total. By acclamation the Chairman of the Committee was elected Mārgers Skujenieks, who had obtained general recognition for his articles about the national issue of Latvia. Already at the beginning of work it was apparent that such large number of members would not provide rational work, and therefore it was divided into two Sub-Committees with separate duties. The first Sub-Committee had to develop the project of the state political system, but the other – Declaration of Civil Liberties and Rights that would compose a separate part of the Constitution. Both Sub-Committees and the Joint Constitutional Committee worked a lot and thoroughly. All projects were discussed in three readings in Sub-Committees and afterwards in three readings in the Joint Committee. During the first reading general debates took place and during the other two – discussions by paragraphs.”¹¹

According to the intention of the Constitutional Committee the Constitution should have consisted of two parts, hence, the Constitutional Committee prepared a project about organisation of the state authority and Declaration of Civil Rights and Duties.

Project of the state political system was prepared by the 1st Sub-Committee of the Constitutional Committee under the guidance of Fēlikss Cielēns. The principal theses of the project were prepared by Mārgers Skujenieks and Fēlikss Cielēns, who represented the Latvian Social Democratic Workers’ Party. Fēlikss Cielēns remembered, “The Constitution of Latvia is a collective product, the main work in which has been executed by M. Skujenieks and me, but F. Menders, A. Bergs and to some extent also A. Petrevics, J. Purgals and A. Simanis have taken active part in defining the chapters of the Constitution. Social democrats are the main authors of the Constitution of Latvia. But it holds nothing really socialistic. Instead it holds the principles of the Western civil democracy.”¹²

The 2nd Sub-Committee of the Constitution lead by its Chairman Andrejs Kuršinskis prepared the Declaration of Civil Rights and Duties.

⁹ Resolution of the Latvian Senate on the validity of the Constitution of Latvia and the powers of the Saeima under the conditions of the occupation. *Latvju Ziņas*, 17 April 1948.

¹⁰ See: Vonogsalits A. *Latvijas satversmes 25 gadu atcerei (For Remembrance of the 25th Anniversary of the Constitution of Latvia)*. *Latgola*, 1947, No. 40, pp. 1–3.

¹¹ Cielēns F. *Laikmetu maiņā (Changing Centuries)*. *Atmiņas un atziņas (Memories and Cognitions)*. Book 3. Stockholm: Publishing House Memento, 1998, p. 107.

¹² Cielēns F. *Laikmetu maiņā (Changing Centuries)*. *Atmiņas un atziņas (Memories and Cognitions)*. Book 3. Stockholm: Publishing House Memento, 1998, p. 111.

This Sub-Committee used the Constitution of Germany of 11 August 1919 (hereinafter the Weimar Constitution) as the basis for the second part of the Constitution. Professor Kārlis Dišlers clearly denoted the Weimar Constitution as the source of inspiration for the second part of the Constitution.¹³ Also Fēlikss Cielēns in respect to the second part of the Constitution clearly denoted that this project “is based on the corresponding parts of the new Weimar Constitution.”¹⁴

In the juridical literature opinion is held that in general the Constitution is based on the regulations of the Weimar Constitution. Of course, at the time of developing the Constitution, Weimar Constitution was considered the most modern in Europe and “the last word of the constitutional legislation”. Its regulations were carefully studied and analysed, but it was only one of the samples, which the Constitutional Committee got acquainted with.¹⁵

Analysing the transcripts of the Constitutional Assembly, Professor Valdis Blūzma concluded that the deputies of the Constitutional Assembly of Latvia had referred to a wide range of countries to substantiate their opinions. Most attention was devoted to the U.S. (30 times), England (29 times), Switzerland (25 times), Germany (25 times) and France (22 times). Deputies also often referred to Estonia (12 times), the tsarist Russia (9 times), Czechoslovakia (6 times), Poland (3 times), Finland (3 times), Austria (2 times), Hungary (2 times), Sweden (2 times) and Japan (2 times). Some references have been documented in the transcripts about Argentina, Belgium, Denmark, Yugoslavia, Holland, Italy, Lithuania, Mexico, Norway, Persia, Peru, Spain and Turkey. The deputies also referred to the constitutional regulations of the states of Germany and Switzerland of that time.¹⁶

Of course, these countries mentioned at the debates of the Constitutional Assembly of Latvia do not automatically prove that the constitutional regulations have been taken into consideration and have been reflected in the text of the Constitution. But it proves that the aspect on the Constitution

as the localization of the Weimar Constitution would be too simplified. The Constitutional Committee processed voluminous information about the constitutional regulations of the countries of that time and was able to create a unique document.

In his memories Fēlikss Cielēns indicates that “the principles of Western parliamentary democracies of England and France were laid on the basis of the political system of our country.”¹⁷ But the modern studies emphasize that the Constitution is based on synthesis between the Weimar Constitution and Westminster model (the Constitutionalism of the United Kingdom).¹⁸ The Constitution holds all those concepts of the constitutionalism that were topical in Europe of that time and that were reflected in other constitutions adopted after World War I (in the constitutions of Germany, England, Finland, Greece, Estonia and Lithuania).¹⁹

Assessing the work of the Constitutional Assembly of Latvia, it should be pointed out that due to various reasons the Constitutional Assembly of Latvia rejected the project of the second part of the Constitution “Basic Regulations on Civil Rights and Duties”. Although initially it was planned that the Constitution will include a catalogue of the basic rights, the Constitutional Assembly of Latvia considered that the constitutional regulations of organising state authority are sufficient and that the consolidation of the basic rights within the Constitution is not an obligatory duty of the constitutional legislator.²⁰

IV

Probably when reviewing the text of the Constitution one will at first notice the laconism of the Constitution, even the lack of textual volume. It should be emphasized that the laconism of the Constitution has been deliberately chosen and is an approved decision of the Constitutional Assembly of Latvia. Margers Skujenieks, Chairman of the Constitutional Assembly has especially emphasized that “each abstract definition and each extended meaningless formula may arise admonitions, it may be

13 Dišlers K. Demokrātiskas valsts iekārtas pamati (Basis of Democratic State). Rīga: A. Gulbis, 1931, p. 179.

14 Cielēns F. Laikmetu maiņā (Changing Centuries). Atmiņas un atziņas (Memories and Cognitions). Book 3. Stockholm: Publishing House Memento, 1998, p. 107.

15 Šilde Ā. Latvijas vēsture (History of Latvia). 1914-1940. Stockholm: Publishing House Daugava, 1976, p. 363.

16 Blūzma V. The impact of the Western constitutional rights on the development of the Constitution of the Republic of Latvia (1920-1922). Book: Latvijas valstiskumam – 90. Latvijas valsts neatkarība: (The 90th Anniversary of the Statehood of Latvia. Independence of Latvia: Idea and Implementation). Rīga: Publishing House of the Latvian Institute of History, pp. 136-137.

17 Cielēns F. Laikmetu maiņā (Changing Centuries). Atmiņas un atziņas (Memories and Cognitions). Book 3. Stockholm: Publishing House Memento, 1998, p. 113.

18 Taube C. Constitutionalism in Estonia, Latvia and Lithuania. A study in comparative constitutional law. Upsala: Justus Förlag, 2001, p. 112.

19 Žilys J. Latvijas Republikos Konstitūcija (Satversme) (The Constitution of the Republic of Latvia). Book: Konstitūcinio reguliavimo avairovė. Vilnius: Mykolo Romerio Universitetas, 2006, p. 212.

20 Šilde Ā. Latvijas vēsture (History of Latvia). 1914-1940. Stockholm: Publishing House Daugava, 1976, pp. 361-363.

considered deficient, and objections may be raised against separate phrases. To avoid such miscomprehensions and to avoid claims, the Constitutional Committee agreed on the fact that the Constitutional law will declare definite ideas in separate chapters in a very definite manner.”²¹

Taking into consideration the laconism of the Constitution, in the constitutional practice it is the spirit and not the letter of the Constitution that holds significant meaning in reflecting the ideas and values of constitutionalism. It is the laconic means of expression that allows the translation of its regulations in respect to the spectre and requirements of the century, focusing on the juridical cognitions of modern democratic system of rights.²² The theory of the constitutional rights of Latvia admits that “there is no reason to believe that the concept of democracy included in Article 1 of the Constitution should be translated independently from the understanding, which the majority of other democratic states have about it. Quite the contrary – it should be interpreted according to the content, which has been ascertained by the experience of democratic states.”²³

Therefore similarly to the majority of countries, where “old constitutions” are in force, for correct and appropriate adaptation of the Constitution the knowledge of its content alone is insufficient. Also the practice of applying the Constitution, the constitutional traditions and especially the interpretation of the Constitution regulations provided by the Constitutional Court should be taken into consideration. Being aware of the complicated translation of the Constitution, the Constitutional Court has especially emphasized that “by its essence the Constitution is a short, laconic, but complicated document.”²⁴

The Constitution has been amended for several times, while it has been in force, so that its regulations would reflect also the challenges of the constitutional rights of the last century – the protection of the national identity and the basic law, membership in the European Union, as well as the development of a separate constitutional court. But during these ninety years the Constitution has not become strange or unknown to its authors.

Many fundamental issues of organising state authority that provide the interrelations between the *Saeima*, the State President and the Cabinet of Ministers function the same way as it was once intended by the Constitutional Assembly of Latvia. By supplementing the Constitution with the catalogue of basic rights, to the possible extent the *Saeima* took into consideration also the solutions and formulations chosen by the Constitutional Committee in the second part project of the Constitution “Basic Regulations of Civil Rights and Duties”. Even by their abstractness of expression and formulation, regulations of the Constitution still hold the historical style and charm of the Constitution.

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²¹ Transcript of the Constitutional Assembly of Latvia Session IV of 20 February 1921.

Book: Latvijas Satversmes sapulces stenogrammas (Transcripts of the Constitutional Assembly of Latvia). 1921. Issue No. 14. Riga: Publication of the Constitutional Assembly, 1921, pp. 1308-1309.

²² Levits E. Principle of proportionality in the public rights – *jus commune europaeum* and the rank principle included in the Constitution. *Likums un Tiesības*, 2000, No. 9(13), p. 266.

²³ The separate opinions of Constitutional Court judges Aivars Endziņš, Juris Jelāgins and Anita Ušacka in Case No. 2000-03-01 “On the conformity of Section 5, Paragraphs five and six of the Saeima Election Law and Section 9, Paragraphs five and six of the Civil Parish Council Election Law to Articles 89 and 101 of the Constitution of the Republic of Latvia, to Article 14 of the European Convention of Civil Rights and Basic Liberties Protection and to Article 25 of the International Covenant on Civil and Political Rights.” Book: Latvijas Republikas Satversmes tiesas spriedumi (Verdicts of the Republic of Latvia Constitutional Court). 1999 – 2000. Riga: Courthouse Agency, 2002, pp. 113–118, Points 1 and 5.

²⁴ About the conformity of the Cabinet of Ministers Regulation No. 17 of 11 January 2005 “Amendments to the Law On the Compulsory Alienation of Real Estate for State or Public Needs” and the Law of 9 June 2005 “Amendments to the Law On Compulsory Alienation of Real Estate for State of Public Needs” to Articles 1 and 105 of the Constitution of the Republic of Latvia: Verdict of the Constitutional Court of 16 December 2005 in Case No. 2005-12-0103. *Latvijas Vēstnesis*, 20 December 2005, No. 203, Point 17.