https://doi.org/10.22364/jull.10.07

Clashes of Opinion at the Time of Drafting the *Satversme* of the Republic of Latvia

Dr. iur. **Jānis Lazdiņš**
Faculty of Law, University of Latvia
Professor at the Department of Legal Theory and History
E-mail: *Janis.Lazdins@lu.lv*

The article is dedicated to the 95th anniversary of the *Satversme* of the Republic of Latvia (hereinafter – the *Satversme* or basic law), adopted on 15 February 1922. According to constant jurisprudence of the Constitutional Court of the Republic of Latvia and Latvian legal doctrine, the *Satversme* must be interpreted as a basic law void of internal contradictions or as "a coherent whole". This does not apply to the procedure of drafting and adopting the *Satversme*. Adoption of a number of Articles caused noteworthy debates and clashes of opposite opinions at the Constitutional Assembly (*Satversmes Sapulce*). In particular, these were Articles on the procedure for electing the President, guarantees for independence of the judicial power, as well as the freedom to strike. This research focuses upon analysis of these issues.

Keywords: *Satversme* of the Republic of Latvia, President of the State, judicial power, independence of judges, freedom to strike.

Content

Introduction

February 15 of this year was the 95th anniversary of the adoption of the *Satversme* of the Republic of Latvia (hereinafter – the *Satversme*).[1] The author believes that no one has surpassed the description of the importance of the basic

[1] Latvijas Republikas Satversme [*Satversme* [Constitution] of the Republic of Latvia] (15.02.1922). *Valdības Vēstnesis*. 1922, No. 141, pp. 1–2.

law in the history of any nation by Prof. Immanuel Kant. I. Kant held that the constitution (*Verfassung*) was "[…] an act of general will, by which a crowd turns into a nation"[2]. Thus, constitution is the foundation for legal relations of society.[3] As the foundation of social relations, the *Satversme*, pursuant to the principle of unity of the constitution[4] "[…] is a coherent whole, and norms that it comprises require systemic interpretation"[5]. "Understanding of the *Satversme* as a coherent whole also means that no contradictions exist between norms of the *Satversme* and that all norms of the *Satversme* can be arranged in a harmonious and internal system".[6] "The principle of the *Satversme*'s unity prohibits interpreting some constitutional norms in isolation from other norms of the *Satversme*, because the *Satversme* as a united document influences the scope and the content of each particular norm".[7]

Democracy governed by the rule of law is inconceivable without a person's right to freedom of speech. However, in human relationships the freedom of speech often means as many opinions as there are persons. Thus, the truth can be born only in dispute, as Socrates, the philosopher of Athens (469–399),[8] fairly noted already in Ancient Greece. Although the valid *Satversme* must be examined as "a coherent whole", that did not mean that adoption of the *Satversme* at the Constitutional Assembly proceeded in mute unanimity. On the contrary, a significant number of articles of the *Satversme* at the time of their adoption by the Constitutional Assembly caused significant discussions and clashes of opposite opinions. On the one hand, this was a proof that the *Satversme* was adopted in a democratic procedure, on the other hand, it pointed to "weaknesses" in the *Satversme*. Identification of the "the weaknesses" leads to a better understanding of possible solutions for improving the basic law. Thus, "eternal return" to analysing issues in adoption of the *Satversme* has not lost its relevance almost 100 years after the basic law entered into force.

The author's goal in the current article is to analyse clashes during "the brainstorm" of the members of the Constitutional Assembly at the time of adopting some articles of the *Satversme*. In view of the limited scope of this paper, analysis of the drafting of the *Satversme* will be limited to three aspects, i.e.:

1) the institution of the President of the State;
2) the judicial power;
3) the freedom to strike.

---

2 *Kant, I.* Zum ewigen Frieden. Ein philosophischer Entwurf. Herausgegeben von Rudolf Malter. Stuttgart: Philipp Reclam jun., 2010, p. 13.

3 *Kant, I.* Die Metaphysik der Sitten. Mit einer Einleitung herausgegeben von Hans Ebeling. Stuttgart: Philipp Reclam jun., 2011, p. 167, § 43.

4 *Pleps, J.* Satversmes vienotības princips [Principle of the Unity of the *Satversme*]. *Jurista Vārds*, 2007, No. 4(457). Available at http://www.juristavards.lv/doc/151838-bsatversmes-vienotibas-principsb/ [last viewed 07.02.2017].

5 Latvijas Republika Satversmes tiesas [Constitutional Court of the Republic of Latvia] (hereinafter – LRST) 2002. gada 22. oktobra spriedums lietā [Judgement of 22 October 2020 in case No. 2002-04-03], secinājuma daļas 2. pkt. [para. 2 of the Findings]. Available at http://www.satv.tiesa.gov.lv/wp-content/uploads/2016/02/2002-04-03_Spriedums.pdf [last viewed 07.02.2017].

6 *Pleps, J.* Satversmes vienotības princips, p. 3.

7 LRST 2006. gada 16. oktobra spriedums lietā [Judgement of 16 October 2006 in case No.] Nr. 2006-05-01, 16. pkt. [para. 16]. Available at http://likumi.lv/doc.php?id=146217 [last viewed 07.02.2017].

8 *Böckenförde, E.–W.* Geschichte der Rechts- und Staatsphilosophie. Antike und Mittelalter. 2., überarbeitete und erweiterte Auflage. Tübingen: Mohr Siebeck, 2006, pp. 63–64.

1. On the Institution of the President of the State

When the institution of the President was discussed, "swords were crossed" over two matters. Firstly, whether the State of Latvia needed the institute of the President; and, secondly, if it was necessary, who should have the right to elect the President.

1. Social democrats and other representatives of the left-wing politics (hereinafter – the Leftists) were convinced that a discrete institution of the President was redundant in Latvia. They held that the Speaker of the *Saeima* [the Parliament] could perform also the President's duties. Although it might seem peculiar, the Leftists saw in the President, elected by the people and vested with the sole right to dissolve the *Saeima*, continuity of public administration based on the principle of monarchy.[9] This assumption, indisputably, was erroneous. However, there is a certain explanation for it. Fear of a person's sole right to dismiss the legislator was rooted in the recently experienced reorganisation of public administration in the Russian Empire and the Leftists' fight against it. Although on 23 April 1906 "Supremely Approved Basic State Laws"[10] or the Constitution of the Russian Empire were promulgated, from 1906 to 1917 Nicholas II Romanov[11] dismissed four convocations of the State Council (the lower house of the Parliament) without an obvious reason.

The Leftists' conviction was reinforced by Prof. Kārlis Dišlers, the most prominent scholar of state law of the inter-war period. He saw in the institution of the President, elected by the people, which was envisaged in the draft *Satversme*,[12] "an illogical and dangerous" model of separation of the State powers,[13] highlighting incompatibility of the principle of monarchy with that of the people's sovereignty in a democratic state.[14]

At the Constitutional Assembly this opinion was represented by the Leftists' "staff spokesman" Fēlikss Cielēns. In his opinion, a President elected by the people:

1) will be only "[a]s a surrogate of the second [upper] house", who will only impede the process of legislation and reinforce the position of the executive power in case of a conflict with the parliament;[15]
2) will not be responsible before any class or a political party representing the President. Thus, if the President is unable to express the people's will,

---

[9] *Šilde, Ā.* Latvijas vēsture [The History of Latvia], 1914–1940. Valsts tapšana un suverēnā valsts [Formation of the State and the Sovereign State]. Stockholma: Daugava, 1976, p. 354.

[10] Vysochajshe utverzhdennye osnovnye gosudarstvennye zakony [Supremely Approved Basic State Laws]. In: Hrestomatija po istorii otechestvennogo gosudarstva i prava (X vek – 1917 god). Sostavitel': doktor juridicheskih nauk, professor V. A. Tomsinov. [Reader on the History of the Home State and Law (X century – 1917. Compiled by doctor of law, professor V. A.Tomsinov], Moskva: Zercalo-M, 2004, p. 317.

[11] Nikolaj II Aleksandrovich Romanov, 1868–1918, period of rule: 1894–1917.

[12] The commission for drafting the *Satversme* had worded Article 35 of the *Satversme*, as follows: *"The President shall be elected by the people for the term of five years in general, equal, direct and secret vote."* See: Latwijas Satwersmes Sapulces stenogrammas. Satwersmes Sapulzes isdewums. [Transcripts of the Latvian Constitutional Assembly. Publication of the Constitutional Assembly] Rigā. (hereinafter – LSSS), 1921, 18. burtnīca [Part] (hereafter – burtn.), p. 1703.

[13] *Dišlers, K.* Dažas piezīmes pie LR Satversmes projekta. Raksti par LR Satversmi [Some Comments to the Draft *Satversme* of the Republic of Latvia. Articles on the *Satversme* of the Republic of Latvia]. Rīga: Tiesu namu aģentūra, 1998, 25, pp. 27–29.

[14] *Dišlers, K.* Konstituzija un satwersmes wara [Consitution and Constitutional Power]. Teesleetu Ministrijas Wehstnesis, 1921, No. 1–3, p. 6.

[15] LSSS, 1921, 15. burtn., p. 1387.

a concern was expressed as to the possible inclination of the President to usurp the state power.[16]

Social democrat (Menshevik) Andrējs Petrevics, another representative of the Leftists, "chimed in with" F. Cielēns:

> "[…] *compared to the American President, our President, the President of Latvia, will be a minor and insignificant person. I underscore – a very minor and insignificant person in terms of rights.* [and raised a rhetoric question] *In order to perform representative functions, is a President elected by the people necessary, is there a need to set into motion the huge machinery of election in the nation for that purpose?*"[17]

Although the Leftists could refer to "historical experience" and enjoyed certain support by scholars, their proposal – "The Speaker of the *Saeima* shall perform the tasks of the President" – was rejected at the Constitutional Assembly with a noteworthy majority of votes.[18]

2. Contrary to the Leftists, the Rightists saw a constitutional value in the institution of the President elected by the people:
   1) the President elected by the people can prevent parliamentary dictatorship, simultaneously protecting the *Saeima* against arbitrariness of the executive power (Arveds Bergs, non-party group);[19]
   2) the President elected by the people will be "[...] a political symbol of unanimity of the Latvian national state" (Jānis Purgals, Union of Christian Democrats);[20]
   3) the President elected by the people would better sense the people's sentiments and will be able to take a decisive step – dismiss the *Saeima*. A President elected by the *Saeima,* on the contrary, will hardly decide to dismiss the *Saeima*, since "can a servant drive the master out of the house" (Jānis Goldmanis, Farmers' Union);[21]
   4) will be able to guard democracy against radicals in the *Saeima*. "[…] the right of the Head of the State in such a case to intervene and dismiss the Parliament, by this he is also given the right to guard the principle of democratism" (Oto Nonācs, non-affiliated deputy).[22]

The proposal made by the Rightists – "The President shall be elected by the people for the term of five years in general, equal, direct and secret election"[23] – similarly to the proposal of the Leftists did not gain support of the majority of

[16] LSSS, 1921, 14. burtn., p. 1329.
[17] LSSS, 1921, 18. burtn., pp. 1709–1710.
[18] Voting on the proposal by the Left in the third reading of the draft *Satversme*: "for" 55 votes, "against" 85 votes. See: 1921, 18. burtn., p. 1720.
[19] LSSS, 1921, 15. burtn., p. 1371.
[20] LSSS, 1921, 15. burtn., p. 1426.
[21] LSSS, 1921, 15. burtn., p. 1360.
[22] LSSS, 1921, 14. burtn., p. 1350.
[23] LSSS, 1922, 4. burtn., p. 367.

the *Satversmes Sapulce* (Constitutional Assembly) members.[24] As opposed to the Leftists, the Rightists lacked only two votes needed to have the people elect the Head of State in Latvia.[25]

In a situation, where none of the dominant political forces held the majority, compromise determined everything.[26] A compromise proposal, strange as it may sound, was "brought to the table" by the same O. Nonācs, who had defended the idea of a President elected by the people a short while ago. Thus, the following wording became historical in the second reading of the draft *Satversme* – "The *Saeima* shall elect the President for a term of three years".[27] The current Article 35 of the *Satversme* has the same wording, the only difference being that today the President's term in office has been extended to four years.[28]

A certain theoretical substantiation for the rights of the *Saeima* to elect the President was also found. The same O. Nonācs proposed a thesis regarding the ease of subjecting the people to fraudulent statements, "[t]o the contrary, if the President is elected by the *Saeima*, then demagogy and dark propaganda will have no place in presidential election".[29]

For a long period after the independence of the State of Latvia was restored *de facto*, this O. Nonācs' claim was quite powerful. It could be used as an excuse for endowing the *Saeima* and not the people with the duty to elect the President. However, there is only one truth – O. Nonācs' thesis lacks proof. Until now, no one has studied, whether the *Saeima* or the people are more susceptible toward demagogy. Since the institution of a President elected by the people was rejected, the President elected by the *Saeima* was not given the sole right to dismiss the legislator. Again, upon O. Nonācs'proposal, the President's right to initiate dismissal of the *Saeima* in a referendum was supported.[30]

---

[24] The proposal by the Right in many ways was consistent with the status of the President in the so-called "Constitution of Weimar Republic" of Germany (Weimarer Reichsverfassung / Die Verfassung des Deutschen Reiches). See: *Laufs, A.* Rechtsentwicklungen in Deutschland. 6., überarbeitete und erweiterte Auflage. Berlin: De Gruyter Recht, 2006, pp. 354–355; *Frotscher W., Pieroth B.* Verfassungsgeschichte. 11, überarbeitete Auflage. München: Verlag C.H. Beck, 2012, pp. 264–265 or Die Verfassung des Deutschen Reiches ("Weimarer Reichsverfassung"). Available at http://www.verfassungen.de/de/de19-33/verf19.htm [last viewed 24.02.2017].

[25] Voting in the third reading of the draft *Satversme* for the proposal made by the Right's representatives J. Goldmanis and A. Bergs: "for" 67 votes, "against" 70 votes. See: LSSS, 1922, 4. burtn., p. 379.
A proposal similar to the one made by J. Goldmanis and A. Bergs was submitted by Dr. G. Reinhards and K. Irbe – "The President shall be elected: for the first time by the *Saeima*, but subsequently by the people in general, equal, direct and secret election for the term of five years. The proposal was rejected by 64 votes "for" and 70 votes "against". See: LSSS, 1922, 4. burtn., p. 379.

[26] *Lazdiņš, J.* Rechtsoilitische Besonderheiten bei der Entstehung des lettischen Staates und seiner Verfassung. *Journal Of The University Of Latvia. Law*, 2014, No. 7, p. 14.

[27] 72 votes "for" and 67 votes "against". See: LSSS, 1921, 18. burtn., p. 1707.

[28] In contrast with the original wording, the President's term in office has been extended by one year, i.e.: the President is elected for the term of four years. See: Latvijas Republikas Satversme [*Satversme* of the Republic of Latvia] (15.02.1922.). Available at http://likumi.lv/doc.php?id=57980 [last viewed 27.01.2017].

[29] LSSS, 1921, 18. burtn., p. 1707.

[30] LSSS, 1921, 19. burtn., pp. 1750., 1757–1758; LSSS, 1922, 4. burtn., pp. 427–432.

2. On the Judicial Power

"The State is a legal order".[31] The legislator has "the first say" in establishing law; however, "the final word" rests with the judicial power.[32] Therefore, a democracy governed by the rule of law is inconceivable without independent judicial power. However, only honest and competent judges are able to consolidate the foundations of a state governed by the rule of law. Regretfully, not all the judges appointed to the office are like that. When Chapter VI of the draft *Satversme* – The Court – was discussed, the first sentence of Article 84 of the *Satversme* "Judicial appointments shall be confirmed by the *Saeima* and they shall be irrevocable" – caused noteworthy debates.[33]

The Leftists were categorically against this wording. Thus, social democrat Kārlis Dzelzītis saw in the appointment of judges for life a contradiction with the principle of a democratic state, because "[…] the principle of democracy in general is elected courts".[34] He held that judges should be elected only for a fixed period – six years. That would allow getting rid of incompetent or otherwise unfit members of the judicial power. Good judges could anyway be re-elected into the office for the whole of their lives.[35] Therefore, on behalf of social democrats, Menshevik A. Petrevics persistently asked the *Satversmes Sapulce* (Constitutional Assembly) to give up the idea of including the principle of judges' irrevocability in the *Satversme*.[36]

Representative of the Christian national union Jānis Purgalvs provided counter-arguments to this opinion:

> "*We need an independent court. Therefore we must introduce such procedure for appointing judges that would guarantee this independence.* […] *In those few cities and regions in Russia where judges of magistrate's courts were elected, it*

---

[31] "Der Staat ist eine Rechtsordnung". See: *Kelsen, H.* Reine Rechtslehre. Studienausgabe der 1. Auflage 1934. Herausgegeben von Matthias Jestaedt. Tübingen: Mohr Siebeck, p. 118.

[32] *Rüthers, B.* Das Ungerechte an der Gerechtigkeit. Fehldeutung eines Begriffs. 3., überarbeitete und ergänzte Auflage. Tübingen: Mohr Siebeck, p. 116.

[33] Other articles related to the judicial power were adopted in great unanimity. Articles of the *Satversme* with the following content were adopted unanimously: "Likuma un tiesas priekšā visi pilsoņi ir vienlīdzīgi" [All citizens shall be equal before law and court], "Tiesu var spriest tikai tie orgāni, kuriem šīs tiesības piešķir likums, un tikai likumā paredzētā kārtībā" [Decisions in court proceedings may be made only by bodies upon which jurisdiction regarding such has been conferred by law, and only in accordance with the procedures provided for by law] and "Tiesneši ir neatkarīgi un vienīgi likumam padoti" ["Judges shall be independent and subject only to law"]. See: LSSS, 1921, 20. burtn., p. 1875. The original wording of Article 85 of the *Satversme* was also adopted unanimously – "Latvijā pastāv zvērināto tiesas uz sevišķa likuma pamata" [Jurors' courts shall exist in Latvia on the basis of a special law]. This is the only Article of the *Satversme* that was drafted and adopted, but not implemented. Jurors' courts were not introduced in Latvia. See more: *Kalve, L.* Zvērināto, šefenu un tīrās valsts tiesas. [Jurors' Courts, Courts of Lay Assessors and Pure State Courts]. *Tieslietu Ministrijas Vēstnesis*, 1938, pp. 662.–683; *Lazdiņš, J.* Continuity of the Juricial Power in the Republic of Latvia. Preconditions and Necessity. *Journal Of The University Of Latvia. Law*, 2014, No. 9, pp. 66–70. or *Lazdiņš, J.* Tiesu varas pēctecība kā viens no valsts kontinuitātes pamatiem [Succession of the Juridical System as a Cornerstone of Latvia's Continuity]. The 5th International Scientific Conference of the University of Latvia Dedicated to the 95th Anniversary of the Faculty of the University of Latvia. Jurisprudence and Culture: Past Lessons and Future Challenges. Riga 10–11 November, 2014. Rīga: LU Akadēmiskais apgāds, 2014, pp. 637–642.

[34] LSSS, 1921, 20. burtn., p. 1876.

[35] LSSS, 1921, 20. burtn., p. 1876.

[36] LSSS, 1921, 20. burtn., p. 1875.

> *was observed that the judges always depended upon the group of voters electing them*".[37]

Readings of the draft *Satversme* show that the view on appointment of a judge into office for life was not unequivocal. Thus, for example, F. Cielēns and A. Petrevics, on behalf of the Leftists, submitted a proposal at the third (last) reading of the draft *Satversme* to elect judges for a set term of six years. The proposal was rejected by 49 votes "for", 45 "against" and 8 "abstaining" votes (votes "against" and "abstaining" made up 53 votes in total).[38] Consequently, appointment of judges to office for life or for a term set in law was decided by the majority of four votes in favour of electing judges for life. Luckily, the Leftists ended as minority.[39] This laid down solid foundations for independence of the judicial power in the *Satversme*. "The most effective measure to be integrated into the order of the State to ensure firm, fair and objective enforcement of law is irrevocability of judges, insofar as their behaviour is impeccable. This is the greatest barrier against violations and arbitrariness by representatives elected by the people."[40]

On 4 May 1990, the Republic of Latvia restored its independence *de facto*.[41] On 6 July 1993, the *Satversme* entered into force in full scope.[42] This ensured continuity of the basic principles in functioning of the judicial power. After giving up the "legacy" of the Soviet rule, independent judicial power was restored in Latvia. On 15 December 1992, on the basis of fundamental principles established by the *Satversme*, judicial system that existed prior to the occupation[43] and international standards,[44] the law "On Judicial Power" was drafted.[45] The first Section of this Law provides – "And independent judicial power exists in the Republic of Latvia, alongside the legislative and the executive power". The significance of independence of the judicial power is clearly characterised by Gvido Zemrībo, the first Chief Justice of the Supreme Court of the Republic of Latvia, which had restored its independence:

> "*In the absence of an independent judicial power, existing alongside the legislative and the executive power, existence of a democratic state governed by the role of law is inconceivable. Therefore Section 1 of the Law [On Judicial Power] underscores that independent judicial power exists in Latvia alongside the legislative and the executive power.*"[46]

---

37 LSSS, 1921, 20. burtn., pp. 1876–1877.

38 LSSS, 1922, 4. burtn., p. 462.

39 LSSS, 1921, 20. burtn., pp. 1877–1879; LSSS, 1922, 4. burtn., pp. 461–463.

40 *Pleps, J., Pastars, E., Plakane, I.* Konstitucionālās tiesības. Papildināts un pārstrādāts izdevums [Constitutional Law. Expanded and Revised Edition]. Rīga: *Latvijas Vēstnesis*, 2014, p. 394.

41 Par Latvijas Republikas neatkarības atjaunošanu [On the Restoration of Independence of the Republic of Latvia] (04.05.1990). Available at https://likumi.lv/doc.php?id=75539 [last viewed 28.01.2017].

42 The first sitting of the 5th convocation of the *Saeima* of the Republic of Latvia. Available at http://www.saeima.lv/steno/st_93/060793.html [last viewed 27.02.2017].

43 *Lazdiņš, J., Kučs, A., Pleps, J. Kusiņš, G.* Latvijas valsts tiesību avoti. Dibināšana – neatkarības atjaunošana [The Sources of Latvian State Law. Establishment of the State – Restoration of Independence]. Rīga: Tiesu Namu Aģentūra, 2015, pp. 299–301.

44 *Zemribo, G., Guļevska, L.* Darbs dara cilvēku [Work Makes a Man]. Rīga: Jumava, 2015, pp. 124–127.

45 Par tiesu varu [On Judicial Power] (15.12.1992.). Available at https://likumi.lv/doc.php?id=62847 [last viewed 01.03.2017].

46 Intervija ar Gvido Zemrībo. *Jāņa Lazdiņa personiskā arhīva materiāli* [Interview with Gvido Zemrībo. Materials from Jānis Lazdiņš' personal archive].

After independence of the state was restored, electability of judges for life and, thus, independence of the judicial power have not been contested.

3. On the Freedom to Strike

Similarly to the range of issues examined above, the issue of the freedom to strike caused clashes between the opinions of the Leftists and the Rightists.

The Leftists supported the freedom to strike as workers' tool in fighting employers. They, however, were not satisfied with the narrow scope of the freedom to strike established in the *Satversme* – "Strike is a legal means of economic fight".[47] Social democrat Ansis Rudēvics, referring to equality of all citizens before law, asked the *Satversmes Sapulce* (Constitutional Assembly):

> "[…] *does our law aim to implement the principle that private owners and entrepreneurs are granted a total right to exploit a worker to their hearts content, but a worker has been deprived of all rights to defend himself* [?]"[48]

To prevent this, A. Rudēvics, on behalf of the social democrats' faction, proposed the following wording of Article 104 of the *Satversme*: "Strike is a legal means of fight".[49] This would mean that strike would be a legal means of economic and political fight. It was supported by the independent workers' representative Vilis Dermanis. "[…] in a modern state, be it as democratic as it will, the state power, through its executive power, time and again takes the side of employers, not that of workers, and therefore laws, which are democratic, are often interpreted not to the advantage of workers, but for something else."[50]

The Rightists, s opposed to the Leftsts, had a negative attitude towards enshrining the freedom to strike in the *Satversme*. Farmers' parties showed a particularly strong resistance.[51] In author's opinion, the most original view on this matter was expressed by Francis Trasuns from Latgale Union of Christian Farmers:

> "*We already have the freedom to work and the freedom not to work.* […] *It is incomprehensible that we want to introduce it into our constitution, so that we could force, on the basis of law, not to work those wishing to work* […] *What is, in fact, a strike?* […] *Let's take as an example a political strike. On one fine day they, civil servants of this State, take into their minds to declare a strike for 2 to 3 weeks. What then? That would be a collapse of the State.*"[52]

J. Purgals revealed the true antipathies of the Rightists towards the right to freedom of strike: "All these freedoms, rights, all political demands to a large extent are borrowed from the German Constitution. [And yet] there is nothing in the German Constitution about the freedom to strike having been recognised in Germany."[53] Why? Because in Germany communists, helped by independent socialists, organised an impressive number of strikes in the name of economic demands, but with the aim of seizing political power. The leader of social democrats President Friedrich Ebert and Prime Minister Philipp Scheidemann had to turn to workers and ask them not to strike to prevent "the Reds" from coming into power.

[47] LSSS, 1922, 2. burtn., p. 95.
[48] LSSS, 1922, 2. burtn., p. 97.
[49] LSSS, 1922, 2. burtn., p. 97.
[50] LSSS, 1922, 2. burtn., p. 99.
[51] *Šilde, A.* Latvijas vēsture, p. 362.
[52] LSSS, 1922, 2. burtn., pp. 97–98.
[53] LSSS, 1922, 2. burtn., p. 123.

Thus, "[…] a strike is needed only by those, who organise strikes pretending to aim at improving economic conditions, but in fact intend to take political dictatorship in their own hands."[54] Communists' true intentions are seen in the Soviet Russia. "There the communist government has put all workers under the conditions of slaves."[55]

Understanding that the majority of the Constitutional Assembly did not want to support the idea of freedom to strike, part of the Leftists mitigated their position and no longer demanded a strike as a political means of fight.[56] In this stance they were supported also by some politicians of the Rightist parties. In order not to give up the freedom of strike as a basic human right,[57] A. Bergs proposed a compromise of "utmost necessity":

> *"A strike is a legal means of economic fight. The freedom to strike may be restricted on the basis of a special law. A strike in enterprises of public necessity shall be punishable".*[58]

A. Bergs' proposal, regrettably, was not supported.[59] "The spectre of communism" had done its job. The majority of deputies voted against anything that could be even seemingly linked to communism.[60] It can be assumed that the negative vote was "reinforced" also by A. Purgals' conclusion that "[…] it is extremely difficult to draw a line between an economic and a political strike"[61] and the statement made by Mārtiņš Antons from labour party that "[…] the best economic conditions cannot be attained by a political strike, but by parliamentary government, parliamentary majority, and legislation."[62]

During the years of totalitarian Soviet power, the right to strike was not relevant. The situation changed after *de facto* restoration of the state's independence. After Declaration of Independence of 4 May 1990 was proclaimed, a large number of laws guaranteeing human rights were adopted, for example, "Law on Religious Organizations", "Law on the Press and Other Mass Media", the constitutional law "Rights and Duties of People and Citizens", etc.[63] On 15 October 1998, significant amendments were introduced also to the *Satversme*.[64] Such rights as the right to peaceful assemblies, street processions and pickets, as well as the freedom to strike were included in the Chapter on fundamental human rights.[65]

---

54 LSSS, 1922, 2. burtn., p. 123.
55 LSSS, 1922, 2. burtn., p. 124.
56 LSSS, 1922, 8. burtn., p. 1193.
57 *Kučs, A.* Protection of Fundamental Rights in the Constitution of the Republic of Latvia during the Interwar Period and after the Restoration of Independence. Journal of the University of Latvia. Law, 2014, No. 7, pp. 54–60.
58 LSSS, 1922, 8. burtn., p. 1195.
59 Par A. Berga priekšlikumu tika nodotas tikai 23 balsis "par". [Only 23 votes "for" were cast for A. Bergs' proposal.] LSSS, 1922, 8. burtn., p. 1196.
60 See: LSSS, 1922, 2. burtn., p. 124; LSSS, 1922, 8. burtn., p. 1195.
61 LSSS, 1922, 8. burtn., p. 1195.
62 LSSS, 1922, 2. burtn., p. 122.
63 See more: *Balodis, R., Kārkliņa, A., Danovskis, E.* The Development of Constitutional and Administrative Law in Latvia after the Restoration of Independence. *Journal of the University of Latvia. Law*, 2013, No. 5, pp. 64–70.
64 Grozījumi Latvijas Republikas Satversmē [Amendments to the *Satversme* of the Republic of Latvia] (15.10.1998.). Available at https://likumi.lv/ta/id/50292-grozijumi-latvijas-republikas-satversme [last viewed 01.03.2017].
65 See: Article 103 and Article 108 of the *Satversme* of the Republic of Latvia.

Summary

1. The right of the *Saeima* to elect the President, enshrined in the *Satversme*, is a political compromise, ensured by a small majority of vote. The compromise meant that the institution of the President was included in the *Satversme*; however, the people were denied the right to elect President.
2. Election of judges for life and not for the term of six years was decided by a majority of only four votes in favour of electing judges for life. Although not convincingly, nevertheless, a solid foundation was laid for independence of the judicial power in the Republic of Latvia with a small majority of vote.
3. Negative attitude of the majority of the *Saeima* members toward including the freedom to strike in the original wording of the *Saeima* was politically motivated and not legally substantiated. There were concerns that communists could use the freedom to strike in their own interests with the aim of establishing communist dictatorship.

Sources

Bibliography

1. *Balodis, R., Kārkliņa, A., Danovskis, E.* The Development of Constitutional and Administrative Law in Latvia after the Restoration of Independence. Journal of the University of Latvia. Law, 2013, No. 5, p. 44–119.
2. *Böckenförde, E.–W.* Geschichte der Rechts- und Staatsphilosophie. Antike und Mittelalter. 2., überarbeitete und erweiterte Auflage. Tübingen: Mohr Siebeck, 2006.
3. *Dišlers, K.* Konstituzija un satwersmes wara [Constitution and Constitutional Power]. Teesleetu Ministrijas Wehstnesis, 1921, Nr. 1–3.
4. *Dišlers, K.* Dažas piezīmes pie LR Satversmes projekta. Raksti par LR Satversmi [Some Comments to the Draft *Satversme* of the Republic of Latvia. Articles on the *Satversme* of the Republic of Latvia]. Rīga: Tiesu namu aģentūra, 1998.
5. *Frotscher W., Pieroth B.* Verfassungsgeschichte. 11., überarbeitete Auflage. München: Verlag C.H. Beck, 2012.
6. *Kalve, L.* Zvērināto, šefenu un tīrās valsts tiesas. [Jurors'Courts, Courts of Lay Assessors and Pure State Courts] Tieslietu Ministrijas Vēstnesis, 1938, pp. 662.–683.
7. *Kant, I.* Zum ewigen Frieden. Ein philosophischer Entwurf. Herausgegeben von Rudolf Malter. Stuttgart: Philipp Reclam jun., 2010.
8. *Kant, I.* Die Metaphysik der Sitten. Mit einer Einleitung herausgegeben von Hans Ebeling. Stuttgart: Philipp Reclam jun., 2011.
9. *Kelsen, H.* Reine Rechtslehre. Studienausgabe der 1. Auflage 1934. Herausgegeben von Matthias Jestaedt. Tübingen: Mohr Siebeck, 2008.
10. *Kučs, A.* Protection of Fundamental Rights in the Constitution of the Republic of Latvia during the Interwar Period and after the Restoration of Independence. *Journal of the University of Latvia. Law,* 2014, No. 7, pp. 54–62.
11. *Laufs, A.* Rechtsentwicklungen in Deutschland. 6., überarbeitete und erweiterte Auflage. Berlin: De Gruyter Recht, 2006.
12. *Lazdiņš, J.* Tiesu varas pēctecība kā viens no valsts kontinuitātes pamatiem / Succession of the Juridical System as a Cornerstone of Latvia's Continuity, at: The 5th International Scientific Conference of the University of Latvia Dedicated to the 95th Anniversary of the Faculty of Law of the University of Latvia. Jurisprudence and Culture: Past Lessons and Future Challenges. Riga 10–11 November, 2014. Rīga: LU Akadēmiskais apgāds, 2014, pp. 633–652.
13. *Lazdiņš, J.* Rechtsoilitische Besonderheiten bei der Entstehung des lettischen Staates und seiner Verfassung. Journal of the University of Latvia. Law, 2014, No. 7, pp. 9–20.
14. *Lazdiņš, J.* Continuity of the Juridical Power in the Republic of Latvia. Preconditions and Necessity. Journal of the University of Latvia. Law, 2014, No. 9, pp. 58–77.
15. *Lazdiņš, J., Kučs, A., Pleps, J. Kusiņš, G.* Latvijas valsts tiesību avoti. Dibināšana – neatkarības atjaunošana [The Sources of Latvian State Law. Establishment of the State – Restoration of Independence]. Rīga: Tiesu Namu Aģentūra, 2015.

16. *Pleps, J.* Satversmes vienotības princips [Principle of the Unity of the *Satversme*]. Jurista Vārds, 2007, Nr. 4(457). Available at http://www.juristavards.lv/doc/151838-bsatversmes-vienotibas-principsb/ [last viewed 07.02.2017].
17. *Pleps, J., Pastars, E., Plakane, I.* Konstitucionālās tiesības. Papildināts un pārstrādāts izdevums [Constitutional Law. Expanded and Revised Edition]. *Latvijas Vēstnesis*, 2014.
18. *Rüthers, B.* Das Ungerechte an der Gerechtigkeit. Fehldeutung eines Begriffs. 3., überarbeitete und ergänzte Auflage. Tübingen: Mohr Siebeck, 2009.
19. *Šilde Ā.* Latvijas Vēsture [The History of Latvia]. 1914–1940. Valsts tapšana un suverēnā valsts [Formation of the State and the Sovereign State]. Stockholma: Daugava, 1976.
20. *Zemribo, G., Guļevska, L.* Darbs dara cilvēku [Work Makes a Man]. Rīga: Jumava, 2015.

Normative Acts

1. Die Verfassung des Deutschen Reiches ("Weimarer Reichsverfassung"). Available at http://www.verfassungen.de/de/de19-33/verf19.htm [last viewed 24.02.2017].
2. Par Latvijas Republikas neatkarības atjaunošanu [On the Restoration of Independence of the Republic of Latvia] (04.05.1990.). Available at https://likumi.lv/doc.php?id=75539 [last viewed 28.01.2017].
3. Latvijas Republikas Satversme [The *Satversme* of the Republic of Latvia] (15.02.1922). *Valdības Vēstnesis*, 1922, Nr. 141, 1.–2. lpp.
4. Latvijas Republikas Satversme [The *Satversme* of the Republic of Latvia] (15.02.1922). Available at http://likumi.lv/doc.php?id=57980 [last viewed 27.01.2017].
5. Grozījumi Latvijas Republikas Satversmē [Amendments to the *Satversme* of the Republic of Latvia] (15.10.1998.). Available at https://likumi.lv/ta/id/50292-grozijumi-latvijas-republikas-satversme [last viewed 01.03.2017].
6. Par tiesu varu [On Judicial Power] (15.12.1992). Available at https://likumi.lv/doc.php?id=62847 [last viewed 01.03.2017].
7. Vysochajshe utverzhdennye osnovnye gosudarstvennye zakony [Supremely Approved Basic State Laws] (23.04.1906.). In: Hrestomatija po istorii otechestvennogo gosudarstva i prava (X vek – 1917 god). Sostavitel': doktor juridicheskih nauk, professor V. A. Tomsinov [Reader on the History of the Home State and Law (X century – 1917. Compiled by doctor of law, professor V. A. Tomsinov] Moskva: Zercalo-M, 2004.

Transcripts of the Latvian Constitutional Assembly [***Satversmes Sapulces stenogrammas***] (hereafter – LSSS)

1. LSSS, 1921, 14. burtn. [Part] (hereafter – burtn.)
2. LSSS, 1921, 15. burtn.
3. LSSS, 1921, 18. burtn.
4. LSSS, 1921, 19. burtn.
5. LSSS, 1921, 20. burtn.
6. LSSS, 1922, 2. burtn.
7. LSSS, 1922, 4. burtn.
8. LSSS, 1922, 8. burtn.

Constant Jurisprudence

1. Constitutional Court of the Republic of Latvia (hereafter – LRST) Judgement of 22 October 2002 in case No. 2002-04-03, para. 2 of the Findings. Available at http://www.satv.tiesa.gov.lv/wp-content/uploads/2016/02/2002-04-03_Spriedums.pdf [last viewed 07.02.2017].
2. LRST Judgement of 16 October 2006 in case No. 2006-05-01, para. 16. Available at http://likumi.lv/doc.php?id=146217 [last viewed 07.02.2017].

Other Sources

1. The first sitting of the 5th convocation of the *Saeima* of the Republic of Latvia. Available at http://www.saeima.lv/steno/st_93/060793.html [last viewed 27.02.2017].
2. Interview with Gvido Zemrībo. *Materials from Jānis Lazdiņš' personal archive.*