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POPULAR INITIATIVE IN LATVIA

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Abstract. Article 78 of the Latvian Constitution provides for the popular initiative, i.e., the right of not less than one tenth of the electorate to submit a fully elaborated draft law for consideration of the parliament. If the parliament does not adopt it without change as to its content, a referendum is held. Such regulation was characteristic in Europe at 1922, when the Latvian Constitution was adopted, but it is distinctive today, as in other European states submission of a draft law signed by the voters to the parliament usually does not create an obligation of the parliament to adopt the law or to hold a referendum. Since 2012, at least 10 000 Latvian citizens have the right to hand in a collective submission to the Latvian parliament. The collective submission is a form of direct democracy in the broadest sense, however, it is different from the popular initiative. It is up-to-date and simpler mechanism than popular initiative and subsequent referendum provided for in Article 78 of the Latvian Constitution, and it gives a small number of Latvian citizens opportunity to put a significant for them topic in the agenda of the parliament.

Key words: direct democracy; popular initiative; referendum; collective submission; Latvian Constitution (Satversme); Latvian parliament (Saeima).

Introduction. The Latvian Constitution is among the ten oldest valid constitutions in Europe (Balodis, Pleps 2023, p. 85) and the oldest in Eastern and Central Europe still in force. It was adopted by the Constitutional Assembly of Latvia on 15 February 1922. After the 1934 *coup d'état* the Constitution was suspended. On 17 June 1940 the Soviet Union occupied Latvia. The Constitution of 1922 was reintroduced after the restoration of independence partly on 4 May 1990 (the Supreme Soviet of LSSR declaration On the Restoration of Independence of the Republic of Latvia, 1990) and fully on 21 August 1991 (Law On the Statehood of the Republic of Latvia 1991).

Thus the Latvian Constitution mainly contains regulation characteristic for Europe in 1922, and after the restoration of independence it was supplemented by new up-to-date regulation.

The goal of the research. The purpose of this article is to analyse regulation of the popular initiative in Latvia and its implementation and to compare it with the popular initiative in a number of other European states, and on this basis draw conclusions on positive sides and shortcomings of the Latvian regulation. The Article analyses whether the collective submission to the parliament can be considered a form of popular initiative, and compares the collective submission and the popular initiative. The purpose is also to evaluate the results and effectiveness of the use of relatively new regulation on collective submission in Latvian practice.

Literature review. In the Latvian constitutional theory, main findings on regulation of popular initiative and referendums of the Latvian Constitution (Satversme) of 1922 were made already by Kārlis Dišlers (Dišlers 1921, 1923, 1929, 1930, 1933, 2004). Afterwards, provisions of the Latvian Constitution on popular initiative and referendums were analysed by commentaries to the Constitution (Balodis, R. (ed), 2023), and by a number of articles (Pastars, Pleps, 2004, 2007), including those of the author of this article (Nikuļceva 2009, 2010, 2012, 2013, 2024). The collective submission to the Latvian parliament is never analysed from the legal viewpoint.

Research methods. The methodological basis of the article is theoretical, analysis, synthesis, comparison, generalization and provisions that reveal conceptual approaches to the researched issues.

1. Notions of popular initiative and referendum

The popular initiative and the referendum are two forms of modern direct democracy, which is an integral part of the legal systems of European states. The referendum is a mechanism for submitting an issue, a decision, or a law that is being considered or passed by a governmental body to the people for a vote (Suksi 1993, p. 6; Butler, Ranney 1994, p. 1; Nikuļceva 2013, p. 24). The popular initiative is a request by a certain number of voters to a governmental body to adopt, amend or repeal a law or implement a certain action (Dišlers 1930, p. 111; Suksi 1993, p. 8). In a referendum, the people decide on an issue put to the vote, so the purpose of a referendum is to make a decision on an issue that a public body is examining, or to correct a decision already made by such body. The purpose of a popular initiative is to indicate a matter on which it is necessary to adopt a law or implement another action of a public body, that is, a popular initiative points to inaction of a public body (Nikuļceva 2013, p. 5).

Unlike representative democracy, a popular initiative and a referendum are characterized by an extremely wide variety of forms. In Europe, there are no two states with exactly the same regulation of direct democracy, each state has its own, different system (Nikuļceva 2010). How effective direct democracy is, depends on both the legal framework and the political environment in a state.

The Latvian Constitution provides for a popular initiative and seven different types of referendums: in Article 72 – optional veto referendum; in Article 77 – mandatory constitutional referendum on Articles 1, 2, 3, 4, 6, and 77 of the Constitution; in Article 68 – mandatory referendum on the European Union membership and optional referendum on substantial changes in terms of Latvian membership in the European Union; in Article 78 – popular initiative and “automatic” referendum; in Articles 14 and 48 of the Constitution – referendum on dissolution of the parliament (Balodis 2023, p. 259, 260). Institutes of direct democracy of the Latvian Constitution, including those provided for in Article 78, are inspired by the Constitution of the German Reich (1919), called also the Weimar Constitution (Šilde 1976, p. 363).

2. Popular initiative provided by Article 78 of the Latvian Constitution

According to Article 64 of the Constitution of Latvia “The Saeima [the parliament], and also the people, have the right to legislate, in accordance with the procedures, and to the extent, provided for by this Constitution.” Article 65 of the Constitution names subjects, who have the right of legislative initiative, and one of such subjects is the electorate: “Draft laws may be submitted to the Saeima by the President, the Cabinet (the government) or committees of the Saeima, by not less than five members of the Saeima, or, in accordance with the procedures and in the cases provided for in this Constitution, by one-tenth of the electorate.”

Article 78 of the Constitution establishes the procedure for implementation of the popular initiative: „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 the Saeima. If the Saeima does not adopt it without change as to its content, it shall then be submitted to national referendum”.

Thus, Article 78 of the Latvian Constitution contains two legal institutes: the popular initiative and the following referendum if the draft law submitted by the electorate has not been adopted by the parliament without amendments. This type of referendum in the Latvian constitutional theory is described as “automatic referendum” (Dišlers 1930, p. 112).

Prof. Kārlis Dišlers explains that in the case provided for in Article 78 of the Constitution, the popular vote takes place or does not take place depending on whether the parliament accepts or does not accept the law proposed by the people without changes in terms of content. In this case, the people’s vote may not take place at all, so we are not dealing with a mandatory referendum here; but if the people’s vote takes place, it is not at the people’s own initiative, so it is not an optional referendum. Since the popular vote in this case is set depending on the parliament’s approval or disapproval of the law proposed by the people, and takes place automatically, this type of referendum could be called

an automatic referendum (Dišlers 1930, p. 112). However, similar type of referendum in Switzerland is considered being a mandatory referendum (Nikuļceva 2013, p. 122).

Article 79 of the Latvian Constitution provides for the number of required votes depending on whether a referendum takes place on a draft amendment to the Constitution or on a draft law. With regard to draft amendments to the Constitution, no participation quorum is specified, but at least half of the electorate must vote in favour (approval quorum). A draft law is adopted at the referendum if the number of voters is at least half of the number of voters as participated in the previous parliamentary election and if the majority has voted in favour of the draft law.

Alongside with the Constitution, the popular initiative and the referendums are regulated by the law “On National Referendums, Legislative Initiatives and European Citizens' Initiative” (before 20 September 2012 the name of the law was “On Referendum and Popular Initiative”). The procedure of collecting voters' signatures were substantially changed by amendments of 8 November 2012 to this law. Before, for “steps” could be identified in the process of the popular initiative and following “automatic” referendum:

- 1) not less than 10 000 citizens of Latvia entitled to vote, whose signatures have been certified by a public notary, must submit a fully elaborated draft law to the Central Election Commission;
- 2) the Central Election Commission organizes the collection of voters' signatures. If at least one-tenth of voters' signatures have been collected, the draft law is submitted to the parliament;
- 3) the parliament adopts the draft law without amendments according to the content (step 4 does not follow) or does not adopt the draft law without amendments according to the content;
- 4) a referendum on the draft law is held.

On 2012, the amendments to the Law “On National Referendums, Legislative Initiatives and European Citizens' Initiative” has been adopted, changing this procedure. For the collection of voters' signatures on a draft law or a draft amendment to the Constitution an initiative group shall be created, which can be a political party or an association of political parties or an association of not less than ten voters. A draft law or a draft amendment to the Constitution for which signatures are to be collected must be registered with the Central Election Commission. The signatures of voters can be certified not only by public notaries, but also by municipal authorities, and signatures can also be collected electronically. If the initiative group collects all necessary one-tenth of all voters' signatures, the draft law is submitted to the parliament, and steps 3 and 4 follow.

3. Popular initiative in Europe

In Austria, Hungary, Lithuania, Poland, Romania, Slovenia, Spain, and some other European states a certain number of citizens have the right to submit a draft law to the parliament (Nikuļceva, I., 2013: 137-140). Such right exists also in Finland, Estonia, in a number of states of the USA, as well as provided at the level of the European Union (Balodis 2023, p. 283). However, usually dismissal of a popular initiative by the parliament is not followed by a referendum. In most European states submission of a draft law signed by the voters to the parliament does not create an obligation of the parliament to adopt the law or to hold a referendum (Nikuļceva 2009). The parliament is under the obligation to consider the draft law submitted by the electorate, but it is entitled at own discretion to adopt it, to reject it, or to adopt a law on the same matter but with different content.

Only in Switzerland, at the national level, it is provided that if the parliament (the Federal Assembly) does not accept the amendments to the Constitution submitted by the voters without significant changes (Federal Constitution of the Swiss Confederation, 1999: Article 139) referendum will be held, however, the regulation is much more flexible than in Latvia, as the voters may vote both on the draft amendments to the Constitution submitted by the voters and on the alternative law (counter-proposal) adopted by the parliament. If the parliament has adopted an alternative law, voters vote in a popular vote on both draft amendments to the Constitution, as well as on which of the two laws should enter into force if both are supported (Federal Constitution of the Swiss Confederation, 1999: Article 139b).

A similar system as in Latvia exists in Germany at the level of several states (Länder), that is, if the state parliament does not accept a popular initiative submitted by the voters, a referendum must be held, however, in German states, similarly to Switzerland, the state parliament (Landtag) has the right to submit an alternative law to the referendum (Kaufmann, Waters 2024, p. 64).

4. Popular initiatives and “automatic” referendums held in Latvia

On 30 March 2000, 12 337 Latvian citizens submitted to the Central Election Commission the draft law “Amendments to the Energy Law”. The draft law was aimed at keeping a national energy supply company in the state ownership. The Central Election Commission organised collection of voters’ signatures. In fact, 307 330 voters or 22,9 % of the number of the eligible voters supported the draft law, thus it was submitted to the parliament. The parliament adopted this draft law submitted by the voters without changes in content (Information of the Central Election Commission, 2000).

The necessary number of signatures of at least one-tenth of the voters was also collected for the draft laws “Amendments to the Constitution of the Republic of Latvia” and “Amendments to the law “On state pensions””. The first law was directed to include in the Constitution the right of citizens to initiate dissolution of the parliament. The second draft law provided for increase of old age pensions. Since the parliament did not adopt these laws without changes in content, on 2 August 2008 and 23 August 2008, respectively, referendums were held. In both cases, the required number of votes was not reached (Information of the Central Election Commission, 2008). Although 608 847 voters on 2 August 2008 voted “for”, the draft law “Amendments to the Constitution of the Republic of Latvia” was not adopted in the popular vote. In order amendments to the Constitution be adopted by a referendum, at least 757 468 voters, or half of all eligible citizens, had to vote “for” in accordance with Article 79 of the Constitution (Information of the Central Election Commission, 2008).

On 9 September 2011, the draft law “Amendments to the Constitution of the Republic of Latvia” signed by 12 533 voters was submitted to the Central Election Commission. The draft law provided for the amendment of Articles 4, 18, 21, 101, and 104 of the Constitution, including the provision on the Russian language as the second state language along with the Latvian language. The Central Election Commission organised collection of signatures, and 187 378 voters or 12,14% of the number of all voters signed the draft law. On 22 December 2011, the parliament rejected these amendments to the Constitution. Therefore, the draft law “Amendments to the Constitution of the Republic of Latvia” was put to the referendum, which took place on 18 February 2012. 1 098 921 voters or 71,13% of all eligible voters took part in the referendum. 24,88% of the voters voted “for”, while 74,8% voted “against” (53,19% of all voters) (Information of the Central Election Commission 2012). For the adoption of amendments to the Constitution, Article 79 of the Constitution provides for approval (not participation) quorum, that is, at least half of all eligible voters must vote “for”, regardless of how many voters participate. Therefore, this referendum has formally ended without a result. However, more than half of all eligible voters voted “against”, thus voters have actually confirmed that Latvian is the only state language in Latvia. For the first time in the history of Latvia, a specific opinion (even if it was “against”) was expressed by the majority of all voters.

Thus the popular initiative and “automatic” referendum provided for in Article 78 of the Constitution have only given a positive result once, when the parliament adopted the draft law “Amendments to the Energy Law” submitted by the voters in 2000. “Automatic” referendums have never given a positive result, because a quorum requirement has never been reached.

Since the 2012 amendments to the Law “On National Referendums, Legislative Initiatives and European Citizens' Initiative” 29 popular initiatives have been registered by the Central Election Commission, but the required number of signatures – at least one tenth of the electorate – within 12 months has never been collected (Information of the Central Election Commission. Initiatives for which the collection of signatures has ended; Initiatives registered for signature collection).

5. Collective submission to the Latvian parliament- notion and regulation

Since 19 January 2012, Article 131.³ of the Rules of Order of Saeima (Rules of Order of Saeima, 1994) provides the right for not less than 10 000 Latvian citizens who have reached the age of 16 to submit a collective submission to the parliament.

The Rules of Order of Saeima does not mention issues on which a collective submission can be handed in, however, it should be taken into account that the parliament is a legislator, so the collective submission must concern an issue that can be resolved through legislation. The main difference from the popular initiative is that, within the framework of the popular initiative, the voters submit an already prepared draft law, while the collective submission is formulated in a free form and includes an idea about an issue that can be resolved by the law. Collective submission is considered being a “submission”, that is, “a document, which includes a request, complaint, proposal or enquiry within the competence of the institution” (The Latvian Law on Submissions 2007, Article 2). Thus, the collective submission is different from the popular initiative. However, the collective submission may be considered as a form of direct democracy in its broadest sense.

After receiving such a collective submission by the parliament, it is transferred it to the Mandates, Ethics and Submissions Committee of the parliament for initial consideration. At the meeting of the Committee, a representative of the submitters has the right to substantiate the collective submission and participate in the discussion. After evaluating the submission, the Committee prepares a report and a draft decision of the parliament. Next, the parliament can transfer the collective submission to one of the parliament’s committees for consideration, drafting of a law, or it can be rejected.

6. Collective submission in Latvian practice

Since 2012, 155 collective submissions have been submitted to the Latvian parliament, of which 49 collective submissions were made during the current parliament (Saeima information. Collective submissions 2024). Collective submissions concern different topics, such as: registration of cohabiting persons; national military service as voluntary; reduction of the working week to four days; the ban on holding a position in state institutions and running in elections for persons who support Russian aggression; ban on flavoured e-cigarettes; prohibition for a person who does not have a higher education be elected to the parliament; provide that the President of the State is elected by the citizens of Latvia; the right of parents of large families to retire earlier; revision of loan interest rates; 5% value added tax (hereinafter – VAT) rate for agricultural products specific to Latvia; banning the use of personal smart devices in schools. The collective submissions are about a wide variety of topics: constitutional issues, health, social protection, education, and financial issues. In some cases, collective submissions reflect the social and political current events of the time, but in some cases, the parliament is invited to decide on issues that have not being on its agenda.

Of 155 collective submissions, the parliament has accepted 54 by adopting the corresponding law. In other cases, the parliament has rejected a collective submission or it is under consideration. The acceptance of a collective submission does not mean that the law adopted by the parliament includes exactly the kind of regulation that the authors of the submission wanted, however, the issue has been resolved. For example, on 3 November 2023, the parliament received a collective submission for maintaining the existing 5% VAT rate for agricultural products specific to Latvia (Saeima information. Collective submissions, 2024). After examining the issue in the Mandates, Ethics and Submissions Committee and then in the Budget and Finance (Taxes) Committee, a corresponding draft law was prepared, and on 7 December 2023, the parliament adopted amendments to the Value Added Tax Law, determining in 2024 to these agricultural products the reduced VAT rate of 12% (instead of 5%). Thus, the goal of setting a reduced VAT rate for agricultural products was achieved, however, it was not set 5% that the applicants wanted. The matter of the VAT rate for agricultural products was actual at the end of 2023, because in 2023 this rate was 5%, but in 2024 it was planned to return to the general 21% VAT rate.

Conclusions. In modern Europe, direct democracy is often added to representative democracy. Article 78 of the Latvian Constitution includes historical institutes of direct democracy, characteristic for European constitutions in the period of time between the first and the second world wars. Today, in most European states submission to a parliament of a draft law signed by a number of voters does not create an obligation for the parliament to necessarily pass the law or hold a referendum.

Taking into account the complexity of laws nowadays, it is almost impossible for the voters to develop such a draft law or amendments to the Constitution that the parliament could accept without amendments. Today the popular initiative is aimed at instructing the legislator to regulate an issue in a certain way, it is not aimed to require the legislator adopting the exact wording of the law submitted by the voters.

The number of voters required to sign the draft law by Article 78 of the Constitution – at least one-tenth of the electorate – is very high. It is advised that the right to submit a draft law or a constitutional amendment should be given to a number of voters that does not exceed two percent of the total number of voters (Pallinger 2007). High barriers to popular initiative create undue advantages for well-organized groups of society. On the other hand, low requirements for the number of voters' signatures, among other things, promote the integration of minorities in society and ensure diversity, ignore fewer interests and needs, and leave fewer problems unresolved (Pallinger 2007, p. 59, 68). In Latvia, the threshold defined in Article 78 of the Constitution – not less than one-tenth of voters' signatures – is very high. In the entire period of time since the amendments to the law “On National Referendums, Legislative Initiatives and European Citizens' Initiative” on 8 November 2012, which establish that the voters themselves must collect all necessary signatures of at least one-tenth of the electorate, these necessary signatures never has been collected.

The Latvian Constitution provides for a very high quorum requirement. The required quorum is not reached in any of referendums held in accordance with Article 78 of the Constitution. In Latvia, the prevailing opinion is that a small number of voters cannot be provided by the right to overrule the parliament elected by a bigger number of voters. However, today those citizens, who are active, decide. The number of voters in referendums is also usually less than in parliamentary elections. This is true for different countries (Butler, Ranney 1994, p. 17; Kobach 1993, p. 84).

The collective submission to the Latvian parliament is a more up-to-date and simpler mechanism than the popular initiative and the subsequent referendum provided for in Article 78 of the Latvian Constitution. Although the majority of collective submissions have not resulted in a law passed by the parliament, it has given a positive result in about a third of cases. The regulation provided for in Article 78 of the Constitution has given a positive result only once, when the parliament adopted the draft law “Amendments to the Energy Law” submitted by the voters in 2000. Referendums on draft laws submitted by the voters but rejected by the parliament have never given a result, because the quorum requirements had not been reached.

Since the amendments to the law of 8 November 2012, no collection of voters' signatures according to Article 78 of the Latvian Constitution, has been successful. For the collective submission it is necessary to collect only 10,000 signatures, which is easy to reach, and there are many collective submissions handed in to the parliament.

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