

Role of the Latvian Central Council's Practice in Interpretation of the Constitution of Latvia

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During the Soviet and Nazi occupation, the Constitution of Latvia of 15th February, 1922 (*Satversme*) grew into a symbol of an independent and democratic state. The national resistance movement against the Soviet and Nazi regime was organised on the grounds of the *Satversme*. The Central Council of Latvia, where the representatives of the five largest political parties of Latvia joined to collaborate, emphasized the validity of *Satversme* and the necessity to resume the state authorities of Latvia on the terms of the *Satversme*.

The Speaker of the 4th *Saeima*, Dr. Pauls Kalniņš (1872–1945) and his Deputy, bishop Jāzepts Rancāns (1886–1969), in accordance with regulation of the *Satversme*, had assumed the position of Acting President of the State under the conditions when the Republic of Latvia was occupied.

Keywords: *Satversme*, Latvian Central Council, the doctrine of continuity, an Acting President, a Commander-in-Chief.

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Introduction

The 5th *Saeima* (Parliament) of the Republic of Latvia commenced its work on 6 July 1993 with the proclamation that the Constitution of the Republic of Latvia

adopted on 15 February 1922¹ (hereinafter – *Satversme*) had taken a full effect.² This legislator's decision meant the restoration of a constitution, the effect of which was *de facto* suspended more than fifty years ago – during the *coup d'état* of 15 May, 1934. The uninterruptedness of the effect of the *Satversme* and the constitutional continuity in case of Latvia was not a symbolic or declarative move, but rather a fundamental determination of legal policy forming the legal reality. No similar constitutional experiment has been performed in any other country.³

The restoration of the effect of the *Satversme* also meant the uninterruptedness in the practice applying the *Satversme*. The interwar period cognitions of the legal doctrine, the parliamentary practice and the interpretation offered by the Senate of Latvia still are significant sources of adequate understanding of the *Satversme*, which ensured a successful rebirth of the *Satversme* in legal reality.⁴ Currently, in the legal doctrine and in practice, the practical application of the *Satversme* from the time it took effect on 7 November 1922 until the *coup d'état* on 15 May 1934 has been examined and studied. At the same time, until today much less attention has been dedicated to the application of the *Satversme* during the occupation, when the *Satversme* became the legal basis of the national resistance movement and the symbol of national statehood.⁵

One of the most significant organisations of national resistance movement – the Latvian Central Council – recognised the validity of the *Satversme* and based its operations therein.⁶ The objective of this article is to analyse the importance of practice of the Latvian Central Council in the interpretation of the *Satversme*.

To achieve this aim, the author of the article will first describe the Latvian Central Council and the role of the *Satversme* in its operations. Subsequently, the cases of application of the *Satversme* in the operations of the Latvian Central Council and the possibility of using these will be considered.

The article employs the analytical and historical scientific research method in order to draw conclusions regarding the cases of application of the *Satversme* in the operations of the Latvian Central Council within the context of legal sources, the practice of their application, and the historical and political circumstances of the era.

¹ Latvijas Republikas Satversme [The Constitution of the Republic of Latvia]. *Valdības Vēstnesis*, 30 June 1922. No. 141. Text of the Constitution in English available: <http://saeima.lv/en/legislation/constitution> [last viewed 20.02.2016].

² Latvijas Republikas 5. Saeimas pirmās sēdes stenogramma 1993. gada 6. jūlijā [The transcript of first session of the 5th Saeima of the Republic of Latvia]. Available: http://saeima.lv/steno/st_93/060793.html [last viewed 20.02.2016].

³ See more: Pleps, J. The renewal of the Constitutions in the Baltic states. *Konstitucinė Jurisprudencija. Lietuvos Respublikos Konstitucinio Teismobiuletenis*, 2015. No. 3(39), Liepa – Rugsėjis, ISSN 1822-4520, pp. 133–142.

⁴ See more: Pleps, J., Pastars, E., Plakane, I. Konstitucionālās tiesības [Constitutional Law]. Rīga: Latvijas Vēstnesis, 2004, ISBN 9984-731-39-1, pp. 19–24.

⁵ See more: Pleps, J. Constitution as a National Symbol: example of Latvia. *Research papers "Societal Innovations for Global Growth"*, 2014. No. 1(3), ISSN 2335-2450, pp. 162–174.

⁶ Latvijas Centrālās Padomes politiskā platforma [The Political Platform of the Latvian Central Council]. In: Andersons, E., Siliņš, L. et al. Latvijas Centrālā Padome – LCP. Latviešu nacionālā pretestības kustība. 1943–1945 [Latvian Central Council. Latvian National Resistance Movement. 1943–1945]. Uppsala: LCP, 1994, pp. 56–57.

1. Latvian Central Council

Violating the fundamental national legal norms and international legal norms, the Republic of Latvia was occupied in the summer of 1940. It was turned into a Soviet Socialist Republic and annexed to the USSR. As concluded by the Constitutional Court of the Republic of Latvia, “the USSR in 1940 committed an act of aggression against the Republic of Latvia (and a subsequent unlawful occupation of the Republic of Latvia), unlawfully intervened in the internal affairs of the Republic of Latvia, as well as unlawfully annexed the Republic of Latvia, ignoring the rules of international law and fundamental rules of domestic law of Latvia.”⁷

A national resistance movement formed in the territory of the Republic of Latvia immediately after the occupation by USSR. Although it was fragmented and without a central organization, nevertheless, those involved set a goal to topple the Soviet power and to restore the independent state of Latvia.⁸ Following the occupation by Nazi Germany, the national resistance movement continued fighting for the restoration of independence of the Republic of Latvia, growing into an ever more organised entity.⁹

The Latvian Central Council plays a special role in the national resistance movement; it was established in 1943 on the basis of political parties having won the majority in the 4th *Saeima* – Latvian Social Democratic Workers’ Party, Latvian Farmers’ Union, Latgale Christian Farmers’ Party, Latvian New Farmers’ Party, and the Democratic Centre Union. Representatives of various political parties of the

⁷ Par likuma “Par pilnvarojumu Ministru kabinetam parakstīt 1997. gada 7. augustā parafēto Latvijas Republikas un Krievijas Federācijas līguma projektu par Latvijas un Krievijas valsts robežu” un likuma “Par Latvijas Republikas un Krievijas Federācijas līgumu par Latvijas un Krievijas valsts robežu” 1. panta vārdu “ievērojot Eiropas Drošības un sadarbības organizācijas pieņemto robežu nemainības principu” atbilstību Latvijas PSR Augstākās padomes 1990. gada 4. maija deklarācijas “Par Latvijas Republikas neatkarības atjaunošanu” preambulai un 9. punktam un 2007. gada 27. martā parakstītā Latvijas Republikas un Krievijas Federācijas līguma par Latvijas un Krievijas valsts robežu un likuma “Par Latvijas Republikas un Krievijas Federācijas līgumu par Latvijas un Krievijas valsts robežu” atbilstību Latvijas Republikas Satversmes 3. pantam: Satversmes tiesas 2007. gada 29. novembra spriedums lietā Nr. 2007-10-0102 [On Compliance to the Law “On Authorisation to the Cabinet of Ministers to Sign the Draft Agreement between the Republic of Latvia and the Russian Federation on the State Border between Latvia and Russia Initialled on August 7, 1997” and the words “Observing the Principle of Inviolability of Borders Adopted by the Organization of Security and Cooperation in Europe” in Article 1 of the Law “On the Republic of Latvia and the Russian Federation Treaty on the State Border of Latvia and Russia” with the Preamble and Para 9 of the Declaration of May 4, 1990 of The Supreme Council of the Latvian SSR “On Restoration of Independence of the Republic of Latvia” and Compliance of the Treaty of March 27, 2007 of the Republic of Latvia and the Russian Federation of the State Border of Latvia and Russia with Article 3 of the Constitution of the Republic of Latvia: judgement of the Constitutional Court of the Republic of Latvia, 29 November 2007, Case No.2007-10-0102]. *Latvijas Vēstnesis*, 30 November 2007. No. 193. The text of judgement in English is available: http://www.satv.tiesas.gov.lv/wp-content/uploads/2007/04/2007-10-0102_Spriedums_ENG.pdf [last viewed 20.02.2016].

⁸ More extensively, see: *Viļums, J.* Latvijas valstiskās neatkarības idejas uzturēšana pirmajā padomju okupācijas gadā (1940–1941) [The protection of the idea of Latvian national independence in the first year of Soviet occupation (1940–1941)]. In: Latvijas valstiskumam 90. Latvijas valsts neatkarība: ideja un realizācija [The 90th anniversary of Latvian statehood. Independence of Latvian state: Idea and implementation]. Rīga: Latvijas vēstures institūta apgāds, 2010, ISBN 978-9984-824-18-5, pp. 240–250.

⁹ See more: *Ērglis, Dz.* Nacionālā pretošanās kustība vācu okupācijas periodā [National resistance movement in the period of German occupation]. In: Latvieši un Latvija. Akadēmiski raksti [Latvians and Latvia. Academic papers]. Vol. II. Valstiskums Latvijā un Latvijas valsts – izcīnītā un zaudētā [Statehood in Latvia and the state of Latvia – fought for and lost]. Chief editor J. Stradiņš. Rīga: Latvijas Zinātņu akadēmija, 2013, ISBN 978-9934-8373-3-3, pp. 405–422.

parliamentary period of the Republic of Latvia were actively involved in the work of the Latvian Central Council.¹⁰ The Latvian Central Council tried to organise a national resistance movement against both occupying powers to achieve the restoration of independence of the Republic of Latvia with the support of Western democracies. To achieve this goal, information exchange was organised, documents regarding the political objectives and a strategy of the Latvian Central Council drafted, and the co-operation with Latvian military units developed.¹¹

The *Satversme* served as the legal grounds of operations by the Latvian Central Council, even though it did not deny the need to introduce improvements in the *Satversme*.¹² Another noteworthy aspect was the formation of the Latvian Central Council on the basis of political parties that had gained majority in the elections of the 4th *Saeima*. Ensuring of legitimacy was important to the Latvian Central Council, and it was perceived in the continuation of functioning of the 4th *Saeima*. Namely, according to Article 12 of the *Satversme*, the mandate of the *Saeima* ends as the newly elected *Saeima* assembles for its first session. Since following the *coup d'état* of 15 May 1934 a free parliamentary election had not taken place, the 4th *Saeima* was still a legitimate outlet of the will of the people of Latvia. This basis of legitimacy of the Latvian Central Council was also confirmed by senators of the Senate of Latvia: "There is an express principle included in the *Satversme* in order to avoid an interruption during the mandate of a *Saeima* between the previous and the newly elected convocation, and to avoid a situation that the State of Latvia temporarily remains without a valid legislative body – the *Saeima*. Therefore, it must be admitted that in all cases the *Saeima* mandate ends only once the newly elected *Saeima* has assembled. [...] The mandate of the [4th] *Saeima* has not ended."¹³ To consolidate the link with the 4th convocation, the leadership of the Latvian Central Council included the Speaker of the 4th *Saeima* Dr. Pauls Kalniņš (1872–1945) and his Deputies Kārlis Pauļuks (1870–1945) and Bishop Jāzeps Rancāns (1886–1969). "It attributed a state-like authority to the Latvian Central Council and a relation to the former legal state power of Latvia."¹⁴

On 8 September 1944, the leadership of the Latvian Central Council adopted a Declaration on the restoration of the State of Latvia.¹⁵ The adoption of the Declaration was an attempt to restore *de facto* independence of the Republic of Latvia, in hopes of international support and by taking advantage of the interval between changes of occupying powers. The Declaration prescribed that the *Satversme* is the fundamental law of the restored Republic of Latvia, and provided

¹⁰ See more: *Andersons, E.* Latvijas Centrālā padome – LCP [Latvian Central Council – LCC]. In: *Andersons, E., Siliņš, L. et al.* Latvijas Centrālā padome – LCP ..., pp. 10–122.

¹¹ See more: *Neiburgs, U.* Latvijas Centrālā padome (1943–1945): darbība un nerealizētās ieceres [Latvian Central Council (1943–1945): actions and unrealised plans]. *Latvijas Vēsture. Jaunie un Jaunākie Laiki*, 2013. No. 3(91), ISSN 1407-0022, pp. 104–113; 2014, No. 1/2(92/93), ISSN 1407-0022, pp. 38–47.

¹² *Latvijas Centrālās Padomes politiskā platforma* ..., pp. 56–57.

¹³ *Senatoru atzinums [Conclusions of the Senators]. Latvju Ziņas*, 17 April 1948. No. 29.

¹⁴ *Andersons, E.* Latvijas Centrālā padome – LCP ..., pp. 40.

¹⁵ Deklarācija par Latvijas valsts atjaunošanu [Declaration on the Restoration of the State of Latvia]. *Latvijas Vēstures Institūta Žurnāls*, 2014. No. 3(92), ISSN 1025-8906, p. 138. See more: *Neiburgs, U.* Latvijas Republikas Saeimas priekšsēža Paula Kalniņa 1944. gada 8. septembra deklarācija par Latvijas valsts atjaunošanu un valdības izveidošanu [Declaration on the Renewal of the Statehood of Latvia and Formation of Government Made by the Chairman of the Saeima (Parliament) of the Republic of Latvia Pauls Kalniņš on 8 September 1944]. *Latvijas Vēstures Institūta Žurnāls*, 2014. No. 3(92), ISSN 1025-8906, pp. 132–142.

for establishment of a Cabinet of Ministers that would organise the restoration of the State of Latvia. While in exile, the Latvian Central Council tried to establish an actually functioning government in exile, when J. Rancāns was deemed the acting President of State with a separate ordinance of 26 April 1947.¹⁶

Even though the efforts of the Latvian Central Council did not result in restoring *de facto* independence of the Republic of Latvia, it proved that the nation of Latvia does not recognise the occupation regimes and are fighting against them. The Latvian Central Council, besides other groups of national resistance movement, strengthened the unwavering will of the Latvian nation to regain freedom on the grounds of continuity of statehood.¹⁷

2. Application of the Constitution

2.1. Acting President of State

At the time of organising the Latvian Central Council, the matter of its leader was of a paramount importance, namely, who would be entitled to assume the leadership of the national resistance movement. It was particularly important in the context of legitimacy of the Latvian Central Council, i.e., its leadership had to symbolise the continuity of the authority of the Republic of Latvia.

One of the candidates to perform these duties was the former President of the State (1930–1936) Alberts Kviesis (1881–1944). However, there were objections against the candidacy of A. Kviesis because of his co-operation with the German occupying power.¹⁸ Likewise, the authority of the President of the State was time-restricted in the *Satversme*, without providing for an obligation to continue the work until the election of a new President of the State. The second term of A. Kviesis had ended on 11 April 1936.¹⁹ By alluding to his health condition, A. Kviesis did not get involved in the work of the Latvian Central Council.²⁰

Ever since the formation of the Latvian Central Council, its legitimacy was ensured with the link to the 4th *Saeima*. Since the mandate of the *Saeima* remained valid until the assembly of the newly elected *Saeima* (Article 12 of the *Satversme*), the mandate of the Presidium of the *Saeima* also remained valid (Article 16 of the *Satversme*). With the vacant position of the President of the State, his post was assumed by the Speaker of the *Saeima* (Article 52 of the *Satversme*). This interpretation was also approved by the senators of the Senate of Latvia: “The Speaker of the *Saeima*, namely, their deputy, who has the duty to continuously function throughout the mandate of the *Saeima* (Art. 16) and, in addition, to open the first session of the newly elected *Saeima* (Art. 17). Seeing as, pursuant to the aforementioned, the mandate of the *Saeima* elected in 1931 was still in force, it must be concluded that the Speaker of the *Saeima* or their deputy’s authority is valid until the fulfilment of the obligation prescribed in Art. 17.”²¹

¹⁶ Paziņojums par biskapa J. Rancāna funkcijām [Announcement of Bishop J. Rancāns’ Functions]. *Latvju Ziņas*, 4 June 1947. No. 42.

¹⁷ Comp.: Grozījums Latvijas Republikas Satversmē [Amendment to the Constitution of the Republic of Latvia]. *Latvijas Vēstnesis*, 8 July 2014. No.131.

¹⁸ *Andersons, E.* Latvijas Centrālā padome – LCP ..., pp. 31–32.

¹⁹ Likums par Valsts prezidenta amata izpildīšanu [Law on the Execution of the Duties of the President of the State]. *Valdības Vēstnesis*, 19 March 1936. No. 65.

²⁰ *Andersons, E.* Latvijas Centrālā padome – LCP ..., p. 32.

²¹ Senatoru atzinums ...

Ever since its establishment, the Latvian Central Council viewed P. Kalniņš as the legitimate top office holder of the Republic of Latvia, being the Speaker of the 4th *Saeima*, followed in ranks by both of his deputies – K. Pauļuks and J. Rancāns.²² For example, the memorandum of 17 March 1944 prepared by the Latvian Central Council for the Inspector General of the Latvian Legion Rūdolfs Bangerskis (1878–1958) were first signed by P. Kalniņš, K. Pauļuks, and J. Rancāns.²³ The claim that A. Kviesis as the former President of the State could proclaim the Declaration on the restoration of the State of Latvia must be viewed critically.²⁴ The practice of the Latvian Central Council suggests that such declaration could be proclaimed not by the former President of the State, whose authority had ended, pursuant to the *Satversme*, but the senior ranking member of the Presidium of the 4th *Saeima*, whose mandate, according to the *Satversme*, had still not been terminated.

On 8 September 1944, the Declaration on the restoration of the State of Latvia was signed by P. Kalniņš as the Chairman of the 4th Parliament, thus simultaneously assuming the duties of the office of the President of the State.²⁵ Taking into account the interpretation of the *Satversme* by the Latvian Central Council as regards the authority of the 4th *Saeima* and its Presidium, P. Kalniņš, pursuant to Article 52 of the *Satversme*, could be fully justified to assume the duties of the office of the President of the State.

After the death of P. Kalniņš on 26 August 1945 in exile, the matter of the next acting President of the State became urgent. The leadership of the Latvian Central Council was assumed by J. Rancāns as the Deputy Speaker of the 4th *Saeima*, however, the question remained, whether he is entitled to assume the duties of the office of the President of the State.

On 26 April 1947, in Esslingen (Germany), leaders of the five political parties forming the Latvian Central Council signed an act on the acting President of the State. The act stated that “pursuant to Article 16 and 52 of the *Satversme* of Latvia, the functions of the Speaker of the Parliament and of the President of the State have been transferred to the second Deputy Speaker of the *Saeima*, Bishop Jāzeps Rancāns.”²⁶ The rights and obligations of J. Rancāns to fulfil the duties pertaining to the office of the President of the State were also confirmed by the Latvian Parliamentary Conference of 19–20 August 1947, where twenty of the former Parliamentarians were present. J. Rancāns started to fulfil the duties of the office of the President of the State on 20 August 1947.²⁷

Since not everybody in exile recognised the rights of J. Rancāns to assume the position of the President of the State, he addressed the senators of the Senate of

²² *Andersons, E.* Latvijas Centrālā padome – LCP ..., p. 40.

²³ *Kvāle, I.* Ar parakstu par Latviju. Latvijas Centrālās padomes memoranda parakstītāju biogrāfijas. Biogrāfiskā vārdnīca [Signature for Latvia. The biographies of the signatories of the Memorandum of the Latvian Central Council. Biographical dictionary]. Rīga: Latvijas kara muzejs, 2014, ISBN 978-9934-8270-5-1, p. 13.

²⁴ *Kangeris, K.* Kurelieši: “Mirt par Latviju uz Latvijas zemes”. Vācu varas iestāžu attieksme pret ģenerāli Kureli [“To die for Latvia on Latvian land”. The attitude of the German state institutions to general Kurelis]. In: *Virzība uz demokrātisko Eiropu 2. pasaules kara laikā.* Latvijas Centrālā padome un “kurelieši” [Towards a more democratic Europe during World War 2. Latvian Central Council and “kurelieši”]. Rīga: LU Akadēmiskais apgāds, 2010, ISBN 978-9984-45-235-7, p. 93.

²⁵ See more: *Neiburgs, U.* Latvijas Centrālā padome (1943–1945): darbība un nerealizētās ieceres ..., 2014, 1/2(92/93), ISSN 1407-0022, pp. 43–44.

²⁶ Paziņojums par biskapa J. Rancāna funkcijām ...

²⁷ *Vanags, K.* Latvijas valsts Satversme [The Constitution of the State of Latvia]. [B.v.]: L. Rumaka apgāds Valkā, 1948, pp. 25–26.

Latvia asking to provide answers as to “whether the 1922 *Satversme* of Latvia is valid and, if so, which constitutional institutions envisaged in the *Satversme* of Latvia are still legally and factually existing”.²⁸ The opinion of 13 March / 3 April 1948, the senators of the Senate of Latvia confirmed that a Deputy Speaker of the *Saeima* may assume the duties of the office of the President of the State if the Speaker of the *Saeima* has died. They pointed out: “The duties of the office of the President of the State should be assumed by the Speaker of the *Saeima*, however, since he is dead, then this is passed on to his deputy (comp. Art. 21 of the *Satversme* and Para. 23 of the Rules of Procedure of the *Saeima*), until the time when the *Saeima* elects a new President of the State or the current Deputy Speaker of the *Saeima* is replaced by a newly elected Speaker of the *Saeima*.”²⁹

After fully restoring the effect of the *Satversme*, there has been no need to decide upon the rights of the Deputy Speaker of the *Saeima* to fulfil the duties of the President of the State, if the Speaker of the *Saeima* has died or been delayed in fulfilment of duties of the President of the State. Nevertheless, in practice, on a number of occasions, the matter of the rights of the Deputy Speaker of the *Saeima* to fulfil the duties of the office of the President of the State, if the President of State and the Speaker of the *Saeima* are simultaneously abroad, has been discussed. The Legal Service of the *Saeima* has expressly rejected such rights of the Deputy Speaker of the *Saeima*: “Neither Article 52 of the *Satversme*, nor other articles of the *Satversme* provide for the possibility of another official, apart from the Speaker of the *Saeima*, to fulfil the duties of the President of the State. [...] The Speaker of the *Saeima* [...] cannot sub-delegate the fulfilment of duties of the President of the State to any of their deputies.”³⁰ The first President of the Constitutional Court of the Republic of Latvia (1996–2007) Aivars Endziņš (born 1940) has voiced a similar opinion, stating that the *Satversme* does not allow the Speaker of the *Saeima* to authorise any of their deputies to fulfil the duties of the President of the State, whereas the Rules of Procedure of the *Saeima*³¹ cannot govern the fulfilment of duties of the President of the State, because they prescribe the internal procedures of work of the *Saeima*.³²

Despite this interpretation of Article 52 of the *Satversme*, on a number of occasions, Deputies of the Speaker of the *Saeima* have fulfilled by duties of the President of the State, by proclaiming laws. In 1997, the Deputy Speaker of the 6th *Saeima* Andris Ameriks (1961) proclaimed ten laws in the position of the acting President of the State.³³ Similarly, in 2000, the duties of the President of the State

²⁸ Senatoru atzinums ...

²⁹ Ibid.

³⁰ Par Valsts prezidenta vietas izpildīšanas kārtību. Saeimas Juridiskā biroja 1994. gada 18. maija slēdziens [On the execution of the duties of the President. Conclusion of the Legal Service of the *Saeima*, 18 May, 1994]. In: Saeimas Juridiskā biroja dokumenti. 1993–2013. Juridisku secinājumu kopojums atzinumos un vēstulēs [Saeima Legal Office documents. 1993–2013. Collection of legal conclusions in opinions and letters]. Rīga: Latvijas Vēstnesis, 2013, ISBN 978-9984-840-28-4, p. 39.

³¹ Saeimas kārtības rullis [The Rules of Procedure of the *Saeima*]. *Latvijas Vēstnesis*, 18 August 1994. No. 96. Text of the Rules of procedure in English available: <http://saeima.lv/en/legislation/rules-of-procedure> [last viewed 20.02.2016].

³² Latvijas Radio 1 2004. gada 23. augusta raidījums “Aktuālā intervija”. See more: *Pleps, J.* Bīskaps Rancāns un Satversme. Valsts prezidenta vietas izpildīšana [Bishop Rancāns and the Constitution. The Acting President of State]. *Jurista Vārds*, 3 March 2009. No. 9(552), ISSN 1691-2462, pp. 26–27.

³³ Par valsts sociālo apdrošināšanu [On State Social Insurance]. *Latvijas Vēstnesis*, 21 October 1997. No. 274/276; Grozījumi likumā “Par valsts civildienestu” [Amendments to the law “On State Civil Service”]. *Latvijas Vēstnesis*, 21 October 1997. No. 274/276; Grozījumi Zvejniecības likumā [Amendments to the Fisheries Law]. *Latvijas Vēstnesis*, 21 October 1997. No. 274/276; Ceļu satiksmes likums [Law on Road Traffic]. *Latvijas Vēstnesis*, 21 October 1997. No. 274/276; Grozījumi likumā

were assumed by the Deputy Speaker of the 7th Saeima Gundars Bojārs (1967) by proclaiming one law.³⁴

2.2. Scope of authority of the acting President of the State

Within the context of Article 52 of the *Satversme*, the matter on the scope of authority of the acting President of the State is of importance. The practice of the Latvian Central Council offers certain points of reference in this respect.

P. Kalniņš, in his capacity of the acting President of the State, proclaimed the restoration of the State of Latvia.³⁵ Likewise, P. Kalniņš, pursuant to Article 56 of the *Satversme*, asked senator Mintauts Čakste (1893–1962) to form the Cabinet of Ministers.³⁶ Furthermore, within the framework of the job duties, he had granted a new authority to the envoy of Latvia in London Kārlis Zariņš (1879–1963) and the envoy of Latvia in Washington Alfrēds Bilmanis (1887–1948).³⁷ In addition, the Latvian Central Council considered the possibility of assigning General Jānis Kurelis (1882–1954) as the Commander-in-Chief, which could be executed by the acting President of the State.³⁸

P. Kalniņš, in capacity of the acting President of the State, widely exercised the rights of a President of the State envisaged in the *Satversme*. Furthermore, the senators of the Senate of Latvia admitted that “all of the rights of the President envisaged in the *Satversme* are to be admitted in the case of the acting President of the State.”³⁹ In the matter of the scope of authority of the acting President of the State, the senators of the Senate of Latvia applied the *raison d'état* as the criterion of interpretation.⁴⁰ The senators pointed out that, in case of occupation of the Republic of Latvia, its officials have the obligation to defend the interests of Latvia.⁴¹ In the case of P. Kalniņš and J. Rancāns, the assuming of office of the President

“Par autoceļiem” [Amendments to the law “On Roads”]. *Latvijas Vēstnesis*, 21 October 1997. No. 274/276; Grozījumi likumā “Par nodarbinātību” [Amendments to the law “On Employment”]. *Latvijas Vēstnesis*, 21 October 1997. No. 274/276; Rēzeknes speciālās ekonomiskās zonas likums [Law on the Rēzekne Special Economic Zone]. *Latvijas Vēstnesis*, 21 October 1997. No. 274/276; Grozījumi Latvijas Administratīvo pārkāpumu kodeksā [Amendments to the Latvian Administrative Violations Code]. *Latvijas Vēstnesis*, 22 October 1997. No. 277/278; Par Latvijas Republikas un Eiropas Investīciju bankas pamatlīgumu [On European Investment Bank Framework Agreement Between the Republic of Latvia and European Investment Bank]. *Latvijas Vēstnesis*, 22 October 1997. No. 277/278; Grozījumi likumā “Par pašvaldību finansu izlīdzināšanu 1997. gadā” (pielikumi) [Amendments to the law “On Financial Equation of Self-governments in 1997” (annexes)]. *Latvijas Vēstnesis*, 24 October 1997. No. 280.

³⁴ Grozījumi Enerģētikas likumā [Amendments to the Energy Law]. *Latvijas Vēstnesis*, 1 September 2000. No. 307/309.

³⁵ Deklarācija par Latvijas valsts atjaunošanu ..., p. 138.

³⁶ Deklarācija par valdības izveidošanu [Declaration on the Formation of Government]. *Latvijas Vēstures Institūta Žurnāls*, 2014. No. 3(92), ISSN 1025-8906, p. 139.

³⁷ See more in: *Neiburgs, U.* Latvijas Centrālā padome nacistu okupētajā Latvijā (1943–1945): izpētes aktualitātes un rezultāti [The Latvian Central Council in Nazi-Occupied Latvia (1943–1945): Current Issues and Results of Research]. In: Latvijas vēsturnieku komisijas raksti [Writings of Latvian Commission of Historians]. Vol. 25. Okupācijas režīmi Baltijas valstīs. 1940–1991 [Occupation Regimes in the Baltic states. 1940–1991]. Rīga: Latvijas vēstures institūta apgāds, 2009, ISBN 978-9984-824-15-4, pp. 268–271.

³⁸ LCP telegrammas sūtītas no ārzemēm uz Latviju [Telegrams of the Latvian Central Council from abroad to Latvia]. In: *Andersons, E., Siliņš, L. et al.* Latvijas Centrālā padome – LCP ..., p. 292.

³⁹ Senatoru atzinums ...

⁴⁰ Comp.: *Levits, E.* Valsts prezidenta aizvietošana. Satversmes 52. pants [Substitution of the President of the State. Article 52 of the Constitution]. *Jurista Vārds*, 2 February 2016. No. 5(908), ISSN 1691-2462, p. 13.

⁴¹ Senatoru atzinums ...

of the State is to be viewed in the context of Article 44 of the *Satversme*, which imposes the obligation on the President of the State to take the necessary military defence measures to prevent external threats to the existence of the State. Under circumstances of occupation of the Republic of Latvia, the acting President of the State had the obligation to exercise all rights granted to a President of the State to restore the national independence and normal functioning of the State.

After the restoration of full effect of the *Satversme*, the legal doctrine and constitutional practice recognise that the fulfilment of duties of the President of the State does not imply the rights to fulfil all rights of the President of the State. The acting President on the basis of the Article 52 of the *Satversme* can fulfil only those obligations of the President of the State which are mandatory. These obligations include the proclamation of laws (Article 69 of the *Satversme*), the proclamation of war on the grounds of a decision by the Saeima (Article 42 of the *Satversme*) and the duty to suspend the publishing of a law, if that is called for by one third of members of the Saeima (Article 72 of the *Satversme*).⁴² The last time such interpretation of the Article 52 of the *Satversme* was declared by Speaker of the 12th Saeima Ināra Mūrniece (born 1970) during the illness of the President of the State Raimonds Vējonis (born 1966).⁴³

2.3. Commander-in-Chief

The second sentence of Article 42 of the *Satversme* prescribes the President's rights to appoint a Commander-in-Chief for a wartime. In the fall of 1944, the Latvian Central Council considered the possibility of appointing general J. Kurelis as the Commander-in-Chief to enable him to declare the restoration of national independence and to take over the military and civil power until the establishment of a provisional government.⁴⁴ The implementation of this idea, however, was no longer feasible.⁴⁵

In laws of the Republic of Latvia, the Commander-in-Chief is envisaged as the commander of all the united armed terrestrial and marine forces intended for the warfare and active service, to whom the entire warfare region, in which a state of war has been proclaimed along with mobilisation is subordinated.⁴⁶ The

⁴² See more in: *Zalāna, L.* Valsts prezidenta tiesības nosūtīt likumu otrreizējai caurlūkošanai [The right of the President of the State to require reconsideration of the law]. *Jurista Vārds*, 3 June 2003. No. 21(279), ISSN 1691-2462, p. 9; *Kārklīņa, A.* Valsts galvas aizstāšanas institūts Latvijā un citās ES valstīs [Substitution for the Head of State in Latvia and other EU Countries]. In: *Tiesību harmonizācija Baltijas jūras reģionā pēc ES paplašināšanās* [Harmonization of law in the Baltic Sea region after EU enlargement]. Rīga: Latvijas Universitāte, 2012, ISBN 978-9984-45-531-0, p. 131; *Pleps, J., Pastars, E., Plakane, I.* Konstitucionālās tiesības. Papildināts un pārstrādāts izdevums [Constitutional Law. Revised edition]. Rīga: Latvijas Vēstnesis, 2014, ISBN 978-9984-840-29-1, pp. 217–218; Valsts prezidenta vietas izpildīšana un informācija par viņa veselību: tiesiskie aspekti [The substitution of the President of the state and the information about his health: legal aspects]. *Jurista Vārds*, 26 January 2016. No. 4(907), ISSN 1691-2462, pp. 6–9.

⁴³ Mūrniece vēl Valsts prezidentam drīzu izveseļošanas un apliecina, ka tiek risināti valstī aktuālie jautājumi [Mūrniece wished a speedy recovery to the President of the State and confirms that the current issues in the state are being solved]. Available: <http://saeima.lv/lv/aktualitates/saeimas-zinas/24320-murniece-vel-valsts-prezidentam-drizu-izveselosanos-un-apliecina-ka-tiek-risinati-valsti-aktualie-ja> [last viewed 20.02.2016].

⁴⁴ LCP telegrammas sūtītas no ārzemēm uz Latviju [Telegrams of the Latvian Central Council from abroad to Latvia]. In: *Andersons, E., Siliņš, L. et al.* Latvijas Centrālā padome – LCP ..., p. 292.

⁴⁵ *Kangeris, K.* Kurelieši: "Mirt par Latviju uz Latvijas zemes" ..., p. 94.

⁴⁶ Likums par bruņoto spēku virsvadību [Law on Supreme Commanding of the Armed Forces]. *Valdības Vēstnesis*, 30 December 1932. No. 295.

Latvian Central Council, however, saw an additional potential for the status of a Commander-in-Chief by granting also political authority for the restoration of national independence.

The approach of the Latvian Central Council should be taken into consideration, because the second sentence of Article 42 of the *Satversme* opens up the possibility for the President of the State to appoint an authoritative and experienced individual to the position of the Commander-in-Chief. This individual must be capable of ensuring the protection of the State of Latvia in extraordinary circumstances against external threats and to restore a state of peace, when all constitutional institutions envisaged in the *Satversme* could reinstate their functioning. A Commander-in-Chief appointed during the wartime by the President of the State is a constitutionally legitimate authority, whose key function would be to ensure the prevention of external threats to the independence of the Republic of Latvia and to restore unhindered functioning of governmental bodies envisaged in the *Satversme*.

After fully restoring the effect of the *Satversme*, the return to the military authority of a Commander-in-Chief is envisaged, by prescribing that they are in charge of military defence of the State.⁴⁷ Right now, however, the National Security Law has been amended by granting not so much military as political power during wartime to a Commander-in-Chief.⁴⁸

Conclusions

1. The practice of the Latvian Central Council confirms the potential of the Constitution (*Satversme*) to function under the circumstances of extraordinary threat to the State. The state authority bodies envisaged in the *Satversme* and competences delegated to them are sufficient to ensure the functioning of the State authority under circumstances of threats to the State.
2. Under the circumstances of extraordinary threats to the State, the next after the Speaker of the Saeima to fulfil the duties of the President of the State are the Deputies of the Speaker of the Saeima. Under such circumstances, the duty of the acting President of the State to fulfil Article 44 of the *Satversme* can be established, namely, to take every step to prevent any threat to the State and to restore a normal functioning of the state system.
3. P. Kalniņš in capacity of the Speaker of the 4th *Saeima*, and J. Rancāns as the Deputy Speaker of the 4th *Saeima* have fulfilled the duties of the President of the State, and are to be regarded as full-fledged Heads of State of the Republic of Latvia.
4. The second sentence of Article 42 of the *Satversme* permits using the Commander-in-Chief envisaged therein as another constitutionally legitimate body of state authority to ensure the functioning of the authority under the circumstances of external threat.

⁴⁷ Nacionālās drošības likums [Law on National Security]. *Latvijas Vēstnesis*, 29 December 2000. No. 473/476.

⁴⁸ Grozījumi Nacionālās drošības likumā [Amendments to the Law on National Security]. *Latvijas Vēstnesis*, 9 March 2016. No. 48. More extensively, see: Valsts prezidenta 2015. gada 2. novembra raksts Nr. 265 [The President's of the State letter No. 265, 2 November 2015]. Available: <http://www.president.lv/images/modules/items/PDF/nacionalas-drosibas-likums.PDF> [last viewed 20.02.2016].

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