



THE CONSTITUTIONAL COURT OF THE REPUBLIC OF LATVIA

JUDGEMENT

on Behalf of the Republic of Latvia

in Case No. 2013-05-01

Riga, 12 February 2014

The Constitutional Court of the Republic of Latvia, comprised of: Chairperson of the court sitting Gunārs Kūtris, Justices Kaspars Balodis, Aija Branta, Kristīne Krūma, Uldis Ķinis and Sanita Osipova,

with secretaries of the court sitting Alla Spale and Elīna Kursiša,

with the participation of Andrejs Elksniņš, the representative of the Applicant – twenty members of the 11th Saeima [the Parliament]: Andrejs Elksniņš, Jānis Urbanovičs, Irina Cvetkova, Valērijs Agešins, Boriss Cilevičs, Vladimirs Nikonovs, Aleksandrs Jakimovs, Igors Pimenovs, Jeļena Lazareva, Dmitrijs Rodionovs, Sergejs Mirskis, Ivans Ribakovs, Ivars Zariņš, Aleksandrs Sakovskis, Jānis Tutins, Artūrs Rubiks, Vitālijs Orlovs, Andrejs Klementjevs, Ņikita Ņikiforovs and Sergejs Potapkins,

as well as the representatives of the institution, which adopted the contested act – the Saeima, Head of the Legal Bureau of the Saeima Gunārs Kusiņš and senior legal advisor Jānis Pleps,

on the basis of Article 85 of the Satversme of the Republic of Latvia and Para 1 of Section 16 and Para 3 of Section 17(1) of the Constitutional Court Law,

on 8 and 14 January 2014 examined in open hearing the case

“On the Compliance of Section 22(1) (in the wording of the Law of 8 November 2012, which enters into force on 1 January 2015) and of Para 4 and Para 5 of Transitional Provisions of the Law on National Referendums, Legislative Initiatives and European Citizens’ Initiative with Article 1 and Article 2 of the Satversme of the Republic of Latvia.”

The Facts

1. On 31 March 1994 the Saeima adopted “Law on National Referendums and Legislative Initiatives”, the title of which was expressed in new wording with the amendments of 20 September 2012: “Law on National Referendums, Legislative Initiatives and European Citizens’ Initiative” (hereinafter – the Law on National Referendums).

1.1. Section 22 of the Law on National Referendums in the wording, which was changed with the amendments introduced on 8 May 2003 and 6 April 2006, provides: “Not fewer than 10 000 of the citizens of Latvia with the right to vote, upon indicating their name, surname and personal identity number, shall have the right to submit to the Central Election Commission a fully elaborated draft law or draft amendment to the Satversme. Each signature shall be certified by a sworn notary or a local government institution, which engages in notarial activities.”

1.2. With the law of 8 November 2012 “Amendments to “Law on National Referendums, Legislative Initiatives and European Citizens’ Initiative”” (hereinafter– Amendments to the Law on National Referendums), the Saeima significantly changed the procedure according to which electorate could submit a draft law or draft amendments to the Satversme.

Pursuant to the aforementioned amendments on 1 January 2015 Section 22(1) of the Law on National Referendums shall come into force in the following wording: “Not fewer than one-tenth of the electorate, upon indicating their name, surname, personal identity number and the date of signing, shall have the right to submit to the Central Election Commission a fully elaborated draft law or draft amendment to the Satversme within 12 months as of the day when the draft law or the draft amendment to the Satversme has been registered with the Central Election Commission.”

Whereas Para 4 and Para 5 were added to the Transitional Provisions of the Law on National Referendums, providing:

“4. Until 1 January 2015 no fewer than 30 000 voters, upon indicating their name, surname, personal identity number and the date of signing, shall have the right to submit to the Central Election Commission a fully elaborated draft law or draft amendment to the Satversme. The draft law or the draft amendment to the Satversme may be submitted within 12 months as of the day when the draft law or the draft amendment to the Satversme has been registered with the Central Election Commission. Within these 12 months each signature must be certified by a sworn notary or at the custody court, which performs notarial functions. The custody court shall set the fee for certifying the signature in connection with collection of signatures in favour of a draft law or draft amendment to the Satversme, taking into consideration the direct administrative costs of certifying a signature, however, not exceeding half of the sum, which is stipulated by the law, for certifying the authenticity of a signature at a custody court.

5. If until 1 January 2015 no fewer than 30 000 voters, upon indicating their name, surname, personal identity number and the date of signing, submit to the Central Election Commission a fully elaborated draft law or draft amendment to the Satversme, the Central Election Commission shall set a term of 21 day, during which the forms for collecting signatures, which the voters can sign, shall be accessible in places defined by the Council of each republican city or region.”

Para 4 and Para 5 of the Law on National Referendums is in force since 11 December 2012.

2. The applicant – **twenty members of the 11th Saeima** (hereinafter – the Applicant) notes that Section 22(1) of the Law on National Referendums and Para 4 and Para 5 of the Transitional Provisions are incompatible with Article 1 and Article 2 of the Satversme of the Republic of Latvia (hereinafter – the Satversme), as they obviously restrict the rights of people, set out in the Satversme, to participate in legislation.

I.e., in Para 4 and Para 5 of the Law on National Referendums the Saeima has unfoundedly increased the number of electors, who have to sign in favour of the draft

law or draft amendments to the Satversme (hereinafter jointly – a draft law) during the first stage of collecting signatures. The minimum necessary number of electors' signatures has been increased from 10 000 to 30 000. Whereas Section 22(1) of this Law, which will enter into force on 1 January 2015, envisages that the signing in favour of a draft law will have only one stage, during which the initiators of the draft law must collect the signatures of at least one-tenth of electorate.

2.1. Section 22(1) and Para 4 and Para 5 of the Transitional Provisions allegedly infringe upon the constitutive and legislative functions of the totality of citizens. The Saeima, by changing the procedure of legislative initiative, has made the application of the norms of the Satversme practically impossible, i.e., full-fledged implementation of democracy in the Republic of Latvia. Direct democracy is allegedly restricted, since the burden of organising the collection of signatures has been imposed upon voters, decreasing the institutional and financial support by the State. Allegedly the totality of citizens has been deprived of an instrument allowing it to influence the life of the State. However, the right of the minority to initiate debates regarding an issue complies with the essence of democracy.

2.2. Section 22(1) of the Law on National Referendums and Para 4 and Para 5 of the Transitional Provisions allegedly have no legitimate aim. It is alleged that the Saeima has unfoundedly narrowed the rights of Latvian citizens, established in the Satversme, to directly exercise the right to legislative initiative. Whereas decreasing of the State budget expenditure cannot be recognised as a legitimate aim.

The Applicant holds that the requirement to collect signatures of 30 000 voters can be met only by organisations, which are supported by very prosperous people. This will decrease the public trust in the institution of national referendum.

2.3. Considering the previous history of national referendums, the Applicant is of the opinion that the people of Latvia exercise their constitutional right to participate in legislation in a well-considered and weighted way. It is noted in the application that the law of 1994 “On National Referendums and Legislative Initiative” had enshrined a procedure of legislative initiative, which was objectively necessary and sustainable. This law established a sufficiently large number of voters' signatures that was needed to submit a draft law to the Central Election Commission, i.e., 10 000. At the time of adopting this law no doubts had been raised that the minimum number of voters' signatures necessary for submitting a draft law and the two stages in the procedure of

legislative initiative were compatible with the requirements of the rule of law and democracy.

The Applicant holds that the Constitutional Court already in its Judgement of 19 May 2009 in Case No. 2008-40-01 had recognised that the number of initiators of a draft law – 10 000 – ensured that only issues important for society were dealt with by means of national referendums. The Applicant holds that following the adoption of the aforementioned Judgement the circumstances have not changed so essentially as to recognise that the aforementioned number of voters, who have signed, no longer proves public interest in solving a particular issue and the importance of this issue. Moreover, the data of 2011 consensus show that Latvia's population has decreased. In parallel to that the part of Latvian nation, in percentage, who have to sign in order to initiate a law, has increased.

2.4. The restrictions established in Section 22(1) of the Law on National Referendums and Para 4 and Para 5 of the Transitional Provisions allegedly are not necessary, since the collection of signatures can be improved by using other means, less restrictive to a person's rights and legal interests, for example, electronic signature. The Applicant holds that the system of electronic signatures, which can be used to collect signatures in favour of European Citizens' Initiative, could be used also when collecting signatures in favour of draft laws advanced by voters.

2.5. Andrejs Elksniņš, the Applicant's representative, at the court sitting specified the claim. He noted that the Applicant contested: 1) Section 22(1) of the Law on National Referendums, insofar it envisaged that as of 1 January 2015 the voters, in order to submit a draft law, would have to collect in one stage of signing at least the signatures of one tenth of electorate (hereinafter – the contested norm); 2) Para 4 and Para 5 of the Transitional Provisions, insofar they envisage that at least 30 000 voters' signatures must be collected during the first stage of signing (hereinafter – the contested transitional provisions)

At the court sitting the Applicant's representative pointed out a number of deficiencies that the legislator had made in its activities, when drafting and adopting the contested norm and the contested transitional provisions (hereinafter jointly – the contested regulation). For example, the legislator did not substantiate why 30 000 voters' signatures in the first stage of collecting signatures was a more adequate requirement than 10 000 signatures. Likewise, no founded considerations regarding

the expediency of organising the collection of signatures as of 1 January 2015 only in one stage, without financial or organisational participation of the State have been presented. Likewise, the Applicant's representative doubted, whether the State would be able to establish in full the system of electronic signature, accessible to a sufficient number of voters, by 1 January 2015. Whereas the possible incompatibility of the contested regulation with Article 2 of the Satversme should be assessed because the exercise of the principle of people's sovereignty is closely linked with the concept of democracy enshrined in Article 1 of the Satversme.

3. The institution, which adopted the contested act, – **the Saeima** – does not uphold the Applicant's opinion and holds that the contested regulation is compatible with Article 1 and Article 2 of the Satversme.

3.1. The Satversme comprises the idea of representative democracy, pursuant to which the will of the people is implemented by the parliament. The Saeima holds that the contested regulation does not affect the principle of people's sovereignty, since it has no impact upon the possibility for people to elect their representatives – members of the Saeima – at general election. Moreover, Article 2 of the Satversme allegedly does not regulate the way in which the people's sovereignty should be exercised. This is specified by other provisions of the Satversme, which envisage the way in which the people exercise their sovereign power. The electorate's right to legislative initiative and restrictions thereon should be first and foremost assessed within the scope of Articles 65, 78 and 101 of the Satversme. If the voters right to legislative initiative were not established in Article 65 and Article 78 of the Satversme, it would be impossible to exercise them solely on the basis of Article 2 of the Satversme.

The contested regulation allegedly complies with Article 2 of the Satversme, as it does not change the constitutional requirements set in order to exercise the right to legislative initiative. Whereas the establishment of procedure for collecting at least one tenths of voters' signatures in order to initiate a law falls within the legislator's discretion.

3.2. The Saeima notes that Amendments to the Law on National Referendums were adopted as an outcome of prolonged discussions and made the legal regulation clearer. The amendments were introduced for a number of reasons. First of all, they were necessary to improve the regulation on the procedure of legislative initiative,

inter alia, to ensure to the citizens of Latvia due possibility to exercise the right, defined in the Satversme, to submit draft laws. Secondly, the possibility for citizens to participate in the actions of the State had to be ensured. Thirdly, the democratic state order had to be protected, decreasing the possibility to advance unprepared draft laws or proposals threatening the foundations of the State. Fourthly, the legislator had dispelled the concern that the necessary minimum number of submitters of a draft law was too small and it could be possible to advance draft laws only in order to use the second stage in collecting signatures for political purposes.

By abolishing stages in the collection of signatures, the procedure of signing was made simpler and better understandable. Moreover, the possibility to collect signatures electronically and to sign at local government institutions allegedly ensure effectiveness of this procedure.

3.3. The contested regulation allegedly ensures lenient transition to the new procedure for signing. I.e., the contested norm is coming into force on 1 January 2015. Whereas the contested transitional provisions retain until 1 January 2015 the collection of signatures in two stages and provide that no less than 30 000 voters must sign in the first stage. This number of voters' signatures had been defined as the result of political compromise achieved in political consultations. The lenient transition was needed to ensure that the principle of legal certainty is abided by. The choice of date had been harmonised with the possibility to ensure a system of electronic signature accessible to voters.

3.4. The Applicant's statement that the online systems for collecting electronic signatures, similarly as in the case of European citizens' initiatives, could be used already now for collecting signatures for implementing voters' legislative initiative, is said to be unfounded. Higher security requirements are set with regard to collection of signatures in favour of a legislative initiative. Therefore the legislator has entrusted the Cabinet of Ministers to ensure until 1 September 2014 technical and security readiness of the online United Portal of State and Municipal Services for collecting signatures in online regime.

The representatives of the Saeima Gunārs Kusiņš and Jānis Pleps at the court sitting noted that one of the aims of amendments of 8 November 2012 had been to improve the institution of voters' legislative initiative, taking into consideration the way it had been used in practice, technological development, as well as foreign experience. The citizens' right to submit a draft law is not a mandatory requirement of

Article 2 of the Satversme. Moreover, only few countries ensure such right to electors. It is of relevance in the case under review, what kind of procedure for collecting voters' signatures is envisaged by the Satversme. The representatives of the Saeima pointed to the fact that the legislator not only had the discretion to establish the procedure for exercising the voters' right to legislative initiative, but also a constitutional obligation to provide a legal regulation of it, abiding by the framework set out in the Satversme.

The number of electors, who are ready to sign the draft law, should be sufficiently large in order to consider that the draft law submitted to the Saeima pertains to issues that are important for a large part of society.

4. The summoned person – **the Ministry of Justice** – notes that the contested regulation should be examined in interconnection with the reform of the procedure for legislative initiative, which was implemented by Amendments to the Law on National Referendums. The contested regulation complies with Article 1 and Article 2 of the Satversme, if an effective means for collecting voters' signatures is ensured, *inter alia*, the possibility for signing electronically.

4.1. The requirements included in the contested regulation comply with the provisions of the Satversme, since voters can exercise the right to legislative initiative guaranteed in the Satversme.

The requirement set out in the Law on National Referendums that 10 000 voters' signatures are needed in the first stage of collecting signatures had been disproportionately low, in view of the total number of voters. Such a small number of the initial minimal necessary number of signatures does not create the conviction that later it will be possible to collect at least one tenth of voters' signatures. Moreover, it can be used for advancing ideas that threaten the State and public values.

Even though the requirement that the voters themselves have to organise themselves and collect the signatures of one tenth of electorate might be cumbersome, however, it cannot be asserted that this procedure would deny the people their right of a sovereign.

4.2. The State, abiding by reasonable criteria, must ensure to a person the right to participate in taking political decisions of national importance. Moreover, this participation must be fair and it may not be formal.

The Ministry of Justice expresses the opinion that sufficient support by the State for collecting of signatures in the United Portal of State and Municipal Services could compensate for abolishing the stage of public collection of signatures.

The representative of the summoned person – **Deputy State Secretary for Law Policy Matters Laila Medina** – noted at the court sitting that also following the adoption of Amendments to the Law on National Referendum the State would continue providing support to voters, i.e., it was going to maintain the United State and Local Government Services Portal. Though it might be difficult for the initiative group to collect the signatures of one-tenth electorate. However, the legislator has expanded the possibilities for signing, providing, *inter alia*, that starting with 1 January 2015 it will be possible to sign electronically in favour of draft laws. Hence, the legislator has envisaged a compensatory mechanism.

5. The summoned person – the Ministry of Environmental Protection and Regional Development Ministry, represented by Gatis Ozols, the head of Electronic Services Division of the Public Services Department, was heard at the court sitting.

At the court sitting the representative of the Ministry of Environmental Protection and Regional Development noted that a system was being developed in order to ensure the possibility for signing electronically as of 1 January 2015. The funding necessary for developing and maintaining this system has been allocated.

It will be possible to sign in the United Portal of State and Municipal Services or in other online system, meeting the certification requirements established by the State. It will be also possible to sign by using the secure electronic signature. A person can obtain it by receiving an identification card from the Office of Citizenship and Migration Affairs. By using the secure electronic signature a person will allow being identified and will certify that he or she himself or herself is signing in favour of the draft law.

6. The summoned person – the Ombudsman of the Republic of Latvia (hereinafter – the Ombudsman) – notes that the contested regulation is effective and commensurate. Allegedly it is not incompatible with the principles of a democratic and judicial state enshrined in Article 1 and Article 2 of the Satversme.

6.1. The contested regulation establishes additional administrative and financial obligations to the totality of citizens and, essentially, is a restriction on the voters' right to legislative initiative. Therefore its compatibility with Article 1 and Article 2 of the Satversme should be assessed in interconnection with the procedure for exercising the people's right to legislative initiative established in Article 78 of the Satversme.

The Ombudsman holds that the aims for adopting the contested regulation – to prevent the possibility that the voters' right to legislative initiative are exercised contrary to their purpose and ensuring that State budget resources are granted for a national referendum only regarding issues, which are recognised by at least one tenth of voters as sufficiently important and relevant – are legitimate.

The collection of voters' signatures in one stage is to be recognised as the most effective means for reaching the legitimate aim, moreover, the legislator has expanded the circle of institutions that have the right to certify voters' signatures. Beginning with 1 January 2015 signing electronically will also become possible. Thus, further State involvement in the process of collecting signatures is not necessary.

The aim of the contested transitional provisions is to ensure a lenient transition to the new regulation. The requirement to collect 30 000 voters' signatures is adequate for establishing public interest in regulating issues important for it.

6.2. The representative of the summoned person – **advisor to the Ombudsman Artūrs Kučs** – noted during the court sitting that the voters' right to legislative initiative was not absolute. Restrictions can be imposed on it, however, these must be proportional. The minimum necessary number of voters' signatures envisaged in the contested transitional provisions is reasonable. Moreover, it is questionable, whether a smaller number of the necessary number of signatures would have any impact upon exercising the voters' right to legislative initiative.

7. At the court sitting the summoned person was heard – **the President of the State of Latvia** (hereinafter – President of the State), who was represented by **Inese Kahanoviča, senior legal advisor of the Legal Department of the Chancellery of the President of the State**. At the court sitting I. Kahanoviča reminded of the considerations, which the President of the State had noted upon returning the

Amendments to the Law on National Referendums back to the Saeima for repeated examination.

The President of the State had noted in the letter of 28 June 2012 that the additional possibilities for signing, envisaged by the legislator, were only generally outlined, their shape was not clear and, possibly, additional resources from the local government budgets would be needed to implement them. Moreover, postponing for a couple of years the date when the legal regulation enters into force, at the same time not providing aspects of its function that are of principal importance, for example, without envisaging important requirements with regard to the system of collecting electronic signatures, was a poor legislative practice.

Whereas in the letter of 3 August 2012 the President of State drew attention to the fact that collecting signatures in two stages was not a mandatory requirement. The fact, whether the possibilities for signing offered in the law are more favourable for voters, is most important. Whereas the requirement to increase the necessary number of signatures in the first stage of collection signatures up to 50 000 signatures is necessary and the legislator, in re-examining the draft law, should not give it up.

I. Kahanoviča noted during the court sitting that the procedure for implementing the voters' legislative initiative set up in the Law on National referendums was the outcome of the legislator's choice. The President, in promulgating the Amendments to the Law on National Referendums, in a letter to the Speaker of the Saeima noted that he would monitor the implementation of aforementioned amendments, *inter alia*, the contested regulation.

8. The summoned person – **Dr. iur. Inese Nikulceva** – notes that the contested regulation complies with Article 1 and Article 2 of the Satversme.

8.1. Article 1 and Article 2 of the Satversme allegedly do not require that the people should be ensured a possibility to influence decision taking in the State by using institutions of direct democracy. The voters' right to legislative initiative is not an inalienable part of the principle of the people's sovereignty. Since the voters' right to legislative initiative and the procedure for exercising it do not follow from Article 1 and Article 2 of the Satversme, the contested regulation is not incompatible with these Articles of the Satversme and does not restrict the rights that follow from them.

Giving up the second stage in collecting voters' signatures had been useful for the following reasons: 1) the institute of voters' legislative initiative and the institute

of national referendum included in Article 78 of the Satversme did not function effectively; 2) no other European state has envisaged a second stage of signing, where the State undertakes collection of signatures.

By giving up the two-stage procedure, collection of signatures has been turned into a meaningful mechanism, allowing effective exercise of the voters' right established in Article 78 of the Satversme. Hence, the opinion that the procedure set out in the contested norm places disproportional restrictions upon voters' right to legislative initiative is unfounded. The costs of certifying a signature are not large, moreover, voters will have the possibility to sign electronically free of charge.

Since holding a national referendum is mandatory in Latvia, if the Saeima rejects the draft law submitted by voters, the requirement set out by the contested norm to collect the signatures of at least one tenth of voters is founded. Whereas the transitional period envisaged in Transitional Provisions allegedly is too long, in view of the fact that already now electronic collection of signatures regarding a collective application is allowed.

8.2. At the court sitting I. Nikuļceva noted that purpose of the legislative initiative and collecting of signatures was to achieve the inclusion of the particular issue, the regulation of which the initiators of the draft law want to achieve, on the Saeima's agenda.

The contested regulation allegedly significantly improves the regulation included in the Law on National Referendums and eliminates previous shortcomings. One of such shortcomings had been the possibility for a small share of voters to exercise the voters' right to legislative initiatives for initiating such laws, which actually were impossible to implement. Electronic signing should be considered as an important contribution to improving this law.

9. The summoned person – **prof. Dr. h. c., Assessor iur., Dipl.-Pol. Egils Levits** – notes that the principles of democracy, judicial state and sovereignty of people that follow from Article 1 and Article 2 of the Satversme are to be implemented in the framework of representative democracy, direct democracy or a combination of these two types of democracy. Article 1 and Article 2 of the Satversme define neither the priority of representative, nor of direct democracy.

The institute of direct democracy is not mandatory in implementing the principle of people's sovereignty. In many countries it is not envisaged at all or is

envisaged only as an exception. Even if the field of applying direct democracy were narrowed, it would not be a restriction upon voters' rights. I.e., a particular citizen or a totality of citizens has no subjective right to demand that democratic participation were implemented in exactly the procedure of direct democracy. However, it should be assessed whether the procedure envisaged by the law complies with the requirements of the Satversme.

The legislator has the discretion to decide, whether the State becomes involved in collecting of voters' signatures. Whereas solely financial considerations – i.e., refusal to fund procedures of democracy only because they are too expensive – are insufficient. The change of procedure set out by the contested regulation allegedly does not render voters' right ineffective, however, it might hinder citizens' self-initiative, which is important for Latvia.

10. At the court sitting the summoned person a – **Prof., Dr. iur. Aivars Endziņš** was heard, he first of all pointed to the historical development of the contested regulation.

In accordance with the law “On National Referendums and Legislative Initiative”, which the Constitutional Assembly adopted on 30 June 1922, the electors' legislative initiative was implemented in two stages, moreover, at least 1000 electors' signatures had to be collected in the first stage of signing. In 1994, when the aforementioned law was reinstated as the Law on National Referendums, the Saeima provided that at least 10 000 electors' signatures had to be collected during the first stage of signing. At the time almost no one among the members of the Saeima contested the need to increase the number of voters' signatures necessary for submitting a draft law to the Central Election Commission.

Usually voters' legislative initiatives are advanced by political parties. If a small number of voters' signatures is sufficient for advancing a draft law, this fosters a situation, where the initiators of the draft law manipulate the voters.

A. Endziņš also drew attention to the fact that a draft law submitted by one tenth of voters had to be mandatorily put for national referendum, if the Saeima did not approve it without changes to its content. Therefore the draft laws submitted by voters should be of the kind that deals with issues of national and public importance.

The contested regulation allegedly does not contain a restriction upon voters' right. The procedure defined by it does not violate Article 1 and Article 2 of the

Satversme. The legislator has broad discretion to establish the procedure for implementing voters' legislative initiative and to change this procedure. Moreover, the additional possibilities for signing offered by the legislator, *inter alia*, electronic signing could facilitate voters' involvement in advancing legislative initiatives.

11. The summoned person – **Dr. iur. Annija Kārklīņa** – notes that the contested regulation complies with Article 1 and Article 2 of the Satversme.

11.1. Establishing of procedure for organising the collecting of signatures falls within the legislator's competence. The contested regulation allegedly does not affect the regulation of Article 65 and Article 78 of the Satversme, since it retains the provisions of these Articles, i.e., that one tenth of electorate has the right to legislative initiative.

The State must act responsibly when planning its financial resources, likewise – when handling taxpayers' financial resources. Therefore the legitimate aim of the contested regulation – to correlate the initiators' wish to initiate laws with a rational use of the State budget resources – is justifiable.

The procedure for collecting signatures established by the contested regulation is more cumbersome than the previous procedure, however, it cannot be considered a restriction to the voters' right. The new procedure for collecting signatures is feasible and cannot be considered to be declarative.

11.2. A. Kārklīņa holds that there are no grounds for assessing, whether the effectiveness of the mechanism for collecting signatures complies with the Satversme, since this is a law policy issue.

However, the practice of the recent years shows that 10 000 voters' signatures for starting the stage of collecting signatures, ensured by the State, was disproportionately small, and therefore it could be used for political aims.

The Satversme, compared to the regulation that is force in other states, envisages a larger number of voters' signatures needed for initiating a law. However, this difference does not allow concluding that the requirement to collect no less the signatures of at least one tenth of voters is incompatible with the Satversme.

In the recent years the number of procedures that citizens can use to participate in taking decisions of national importance has increased in Latvia; for example, the right to dismiss the Saeima or to submit a collective application. Exercising the right

to legislative initiative is more appropriate for situations, when the Saeima acts contrary to the people's wishes.

12. The summoned person **Dr. sc. pol. Ivars Ijabs** was heard at the court sitting, he noted that the contested regulation did not threaten the quality of democracy. The issue, whether the requirements established by the contested regulations are legitimate, is one of values and politics.

Political parties are used to employing the voters' right to legislative initiate.

I. Ijabs holds that the benefit granted by direct democracy is citizens' participation in political decision taking. However, there is no proof that the national referendums that have taken place in Latvia following the restoration of independence had influenced the quality of democracy or political culture in society.

Essentially, abolishing the two stages in collecting signatures is not an anti-democratic action, however, the motivation for it should be examined. Even in the age of technologies it must be taken into consideration that many people do not, however, use the Internet. Therefore the possibility for these people to effectively participate in exercising the voters' right to legislative initiative should be ensured.

The Findings

13. The application requests recognising the contested regulation as being incompatible with Article 1 and Article 2 of the Satversme.

At the court sitting the Applicant's representative specified the limits of the claim. I.e., the contested norm allegedly is incompatible with Article 1 and Article 2 of the Satversme, because it sets the requirement that at least one tenth of electors, who have signed in one stage of collecting signatures, have the right to submit a draft law. This procedure will enter into force on 1 January 2015.

Whereas the contested transitional provisions allegedly are incompatible with Article 1 and Article 2 of the Satversme, as these envisage that at least 30 000 voters must sign in favour of the draft law during the first stage of collecting signatures.

Thus, in the case under review the Constitutional Court must assess the compatibility of Article 1 and Article 2 of the Satversme with the following:

- 1) the contested norm, which envisages that the voters' right to legislative initiative is exercised in only one stage of collecting signatures, during which no less than one tenth of voters must sign;
- 2) the contested transitional provisions, which envisage increasing the minimum necessary number of voters, who have to sign during the first stage of collecting signatures.

14. At the court sitting the representative of the Saeima requested terminating the legal proceedings in the part regarding the compatibility of the contested regulation with Article 2 of the Satversme, as it did not affect the sovereignty of the people. I.e., Article 2 of the Satversme allegedly does not demand direct democracy. Likewise, it does not set out the number of voters' signatures necessary for submitting a draft law, nor the number of stages in collecting signatures. Neither does the contested regulation affects the people's right to elect the Saeima in general election, nor does it change the procedure for exercising voters' right to legislative initiative envisaged in the Satversme (*see Case Materials, Vol. 4 pp. 152 – 157*).

Section 29(1) of the Constitutional Court Law defines the legal grounds for terminating legal proceedings by a decision of the Constitutional Court prior pronouncement of a judgement.

If arguments have been provided to substantiate terminating legal proceedings in a case, the Constitutional Court must examine them (*see, for example, Judgement of 19 October 2011 by the Constitutional Court in Case No. 2010-71-01, Para 11*).

14.1. Article 2 of the Satversme establishes that the sovereign power of the State of Latvia is vested in the people of Latvia. This norm of the Satversme defines the principle of sovereignty of the people.

In accordance with this principle, the people of Latvia are the only subject of the state sovereign power (*see Dišlers K. Konstitūcija un satversmes vara. Tieslietu ministrijas vēstnesis, 1921, Nr. 1 – 3, pp. 1. – 10*). Therefore the people should be able to influence decision taking in the State, i.e., their will must be the source of state power and be the basis for state power (*see Judgement of 19 May 2009 by the Constitutional Court in Case No. 2008-40-01, Para 11*).

Thus, the people of Latvia are the both the source of power and the bearer of sovereign power.

14.2. Already upon adopting the Satversme, the sovereign will of the people of Latvia was expressed in the introduction to the Satversme: “The people of Latvia, in freely elected Constitutional Assembly, have adopted the following State Constitution.” Thus, the introduction to the Satversme confirms that the people of Latvia have undertaken to exercise their sovereign power only in compliance with the norms of the Satversme and in accordance with the procedure established in it.

Article 2 of the Satversme defines the fundamental principle of the order of the Latvian State, which is defined generally. It does not contain references to a procedure for amending or exercising the principle of the sovereignty of people. This procedure is set out in other Chapters of the Satversme (*see Judgment of 7 April 2009 by the Constitutional Court in Case No. 2008-35-01, Para 15.1*). The legal norms included in Satversme are closely interconnected (*see Judgement of 22 October 2002 by the Constitutional Court in Case No. 2002-04-03, Para 2 of the Findings*).

Hence, the principle of people’s sovereignty enshrined in Article 2 of the Satversme must be examined in interconnection with provisions for exercising it, which are included in other norms of the Satversme.

14.3. The Constitutional Court, in examining pre-requisites for exercising the voters’ legislative initiative, has already recognised that the essence of the concept of democracy is the implementation of the will of the majority in society and is closely linked with the principle of the sovereignty of the people embedded in Article 2 of the Satversme (*see Judgement of 19 May 2009 by the Constitutional Court in Case No. 2008-40-01, Para 11*).

Article 1 of the Satversme provides: “Latvia is an independent democratic republic”. Pursuant to the Satversme, the people of Latvia can exercise their sovereign power only in a democratic state. Since Latvia’s state order is democratic, a legal order that allows the bearer of the sovereign power – the people – to express their will, must be established.

It has been recognised in legal science: “Article 2 of the Satversme has been worded in such a way as to make it fit well with the legal construction of a democratic republic. This formula contains the transfer of sovereign power from one subject to another – from the State to the people” (*Dišlers K. Latvijas valsts suverēnās varas subjekts pēc L. R. Satversmes 2. panta. Jurists, 1930. gada februāris, Nr. 2, p. 34*). Contemporary legal scholars also hold that “Article 2 is primary in the system of Satversme, whereas Article 1 – i.e., independence of the state and democratic order of

the State – is a tool that is needed to ensure the operation of Article 2, i.e., the sovereignty of the people of Latvia and a particular adequate (i.e., democratic) way, in which the people of Latvia express and exercise their will (*Valsts prezidenta Konstitucionālo tiesību komisijas viedoklis „Par Latvijas valsts konstitucionālajiem pamatiem un neaizskaramo Satversmes kodolu”*. Rīga: Latvijas Vēstnesis, 2012, 39. lpp.).

14.4. The Satversme sets out a number of ways for citizens to express their will. In the framework of election procedure the people elect the Saeima (Article 6-9, Article 14 of the Satversme). The people themselves can act as a legislator by submitting draft laws and deciding on them in national referendums (Article 64, Article 65, Articles 78-80 of the Satversme). Likewise, a totality of citizens in a national referendum can decide on the laws or amendments to the Satversme adopted by the Saeima (Articles 72-75, Article 77, Article 79, Article 80 of the Satversme), as well as on other issues put to a national referendum (Article 48, Article 68(3) and Article 68(4) of the Satversme). The Satversme and the respective laws set out a series of requirements both for the procedure of election and of national referendum (*see Judgement of 19 May 2009 by the Constitutional Court in Case No. 2008-40-01, Para 11*).

Pursuant to Article 64 of the Satversme, the right to legislate is vested in the Saeima and also in the people. The Saeima has this right, because it is the representation of the people, elected by the citizens of Latvia, i.e., democratically legitimised body of power – the legislator. The people also have the right to legislate, however, only in accordance with the procedure and in the scope envisaged in the Satversme.

Exercising the people's right to legislative initiative is one of the ways for implementing the will of people. The people, in fulfilling the legislative function, not only exercise their right envisaged in the Satversme, but also abide by the requirements of the Satversme. The people have restricted their own sovereign power with provisions stating that they exercise their right to legislative initiative according to the procedure and within the scope set out in the Satversme. For example, the voters' right to legislative initiative cannot be exercised with regard to draft laws, which, in accordance with Article 73, cannot be put for national referendums.

Pursuant to Section 65 of the Satversme, one tenth of electorate may submit a draft law to the Saeima in cases and in accordance with the procedure envisaged by the Satversme. Legislative initiative is to be understood as submitting to the Saeima a proposal on adopting, amending or revoking a law. The basic regulation on the implementation of voters' legislative initiative is included in Articles 78 – 80 of the Satversme. However, the Satversme, in view of its concise style, does not provide a complete regulation of this issue. It is provided by the legislator in a separate law, i.e., the Law on National Referendums (*see, Judgement of 19 May 2009 by the Constitutional Court in Case No. 2008-40-01, Para 9*).

The voters' right to legislative initiative is a special possibility for the people to exercise their sovereign power, and it exercises this power in the periods between the Saeima elections. Whereas the provisions of the Satversme are binding to the Saeima, in establishing the procedure for exercising the voters' right to legislative initiative.

14.5. The Constitutional Court in its rulings has repeatedly examined the requirements set in the Law on National Referendums regarding exercise of voters' right to legislative initiative (*see Judgement of 19 May 2009 by the Constitutional Court in Case No. 2008-40-01, Decision of 19 December on Terminating Legal Proceedings in Case No. 2012-03-01 and Judgement of 18 December 2013 in Case No. 2013-06-01*). The contested regulation is also part of the Law on National Referendums, which regulates the procedure for implementing the voters' legislative initiative.

At the court sitting the Applicant's representative expressed the opinion that the legislator, in adopting the contested regulations, had not been sufficiently careful and deprived the totality of citizens of an instrument, which allowed them to influence the life of the State. Thus, essentially, the Applicant holds that the legislator in the contested regulation has narrowed the possibilities for exercising the sovereign power of the people.

The contested regulation envisages changes in the procedure according to which the voters' right to legislative initiative, defined in the Satversme, is to be exercised. Amendments to the procedure for exercising citizens' constitutional rights *per se* are not indicative of a violation of the principle of people's sovereignty established in Article 2 of the Satversme. And yet, people can exercise their right only within a framework of democratic procedure. Thus, a procedure for exercising voters'

right to legislative initiative, which were incompatible with the order of a democratic state, would not comply with the principle of the people's sovereignty. Thus, a procedure denying voters the possibility to exercise the right to legislative initiative set out in the Satversme would be incompatible with Article 2 of the Satversme.

Exercise of the people's sovereign power is closely linked with the democratic state order enshrined in Article 1 of the Satversme. Hence, the procedure for exercising the voters' right to legislative initiative established by the contested regulation must first and foremost comply with Article 1 of the Satversme, enshrining the existence of a democratic state order in Latvia. Upon establishing compliance of the contested regulation with Article 1 of the Satversme, it will be possible to conclude that the legislator has abided by the principle of the sovereignty of people enshrined in Article 2 of the Satversme.

Thus, legal proceedings in the case must be continued.

15. It follows from Article 1 of the Satversme that judicial, democratic order exists in Latvia, which recognises the principles of a democratic and judicial state (*see Judgement of 19 May 2009 by the Constitutional Court in Case No. 2008-40-01, Para 11*). Thus, the Satversme recognises only a democratic state order.

The concept "democratic republic" comprises a number of principles of a judicial state, *inter alia*, principles of division of power and reciprocal supervision, the supremacy of law (subjection of public power to law), legality, proportionality and legal certainty [*see, for example, Judgement of 24 March 2000 by the Constitutional Court in Case No. 07-07(99) Para 3 of the Findings*].

At the court sitting the Applicant's representative expressed the opinion that the aforementioned concept comprised also participation of society in public decision taking (*see Case Materials, Vol. 1 p.7 and Vol. 4 pp. 5 – 7*).

The will of the majority of people is implemented in a democratic order, however; also the minority is ensured effective possibility to express its opinion. The people of Latvia, abiding by the provisions of the Satversme, have the right to participate in deciding on issues of national importance. However, they can exercise this right only within the framework of such democratic procedure that respects the opinion of the minority and implements the will of the majority.

Citizens must trust the legitimacy of the constitution and the fact that the constitution is implemented in a democratic procedure. Procedure must be established

for adopting legally binding decisions regarding proposals of political character. Issues of interest to society must be decided also if there is a lack of consensus, however, decisions must always be taken in a procedure that allows considering them as being legitimate. A reasonable decision taking procedure is a pre-requisite for the legitimacy of the majority's power. The existence of such a procedure does not always guarantee impeccable results; however, it allows presuming that the decision has been taken correctly (*see Habermas J. Reply to Symposium Participants, Benjamin N. Cardozo School of Law. Cardozo Law Review, 1995 – 1996, p. 1492 – 1494*).

The Constitutional Court has recognised that the requirement to fulfil the State's functions in compliance with the principles of a democratic and judicial state follows from the principle of democracy enshrined in Article 1 of the Satversme (*see Judgement of 10 May 2007 by the Constitutional Court in Case No. 2006-29-0103, Para 18*). Therefore the legislator has the obligation to ensure that the people's right to legislative initiative is exercised in compliance with the principles enshrined in Article 1 of the Satversme, *inter alia*, the principle of democracy. If the law regulates the procedure, in which the electors exercise their right to legislative initiative enshrined in the Satversme, then the legislator's task is to adopt regulation ensuring that the principle of democracy is complied with.

Thus, in the case under review the Constitutional Court must examine, whether the requirements, set by the contested regulation for the exercise of the voters' right to legislative initiative, are not incompatible with the principle of democracy.

16. The Constitutional Court, having examined the requirements for exercising the voters' right to legislative initiative, has noted that the right of a totality of citizens to participate in the process of legislation is to be considered a right that belongs to the institutional field of constitutional order. The purpose of this right is to ensure direct, democratic participation by the people in the legislative process (*see Judgement of 19 May 2009 by the Constitutional Court in Case No. 2008-40-01, Para 12, and Decision of 19 December 2012 on Terminating Legal Proceedings in Case No. 2012-03-01, Para 17*). Thus, the procedure for implementing the voters' legislative initiative envisaged by law may not be of the kind that makes the voters' right to submit draft laws formal.

The Constitutional Court has concluded in its rulings that the constitutional obligation of the Saeima to provide a clear regulating on exercising the electors' right to legislative initiative and the procedure of a national referendum follows from Article 1 and Article 78 of the Satversme (*see Judgement of 19 May 2009 by the Constitutional Court in Case No. 2008-40-01, Para 9, and Decision of 19 December 2012 on Terminating Legal Proceedings in Case No. 2012-03-01, Para 17*). The case contains no dispute regarding the fact that the Saeima in the contested regulation has specified the right of the subject referred to in Article 78 of the Satversme – one tenth of electorate.

Moreover, the Constitutional Court has already recognised that the Saeima, in defining the procedure for exercising the voters' right to legislative initiative and national referendum, enjoys discretion, insofar it is not limited by the provisions of the Satversme (*see Decision of 19 December 2012 by the Constitutional Court on Terminating Legal Proceedings in Case No. 2012-03-01, Para 16*). Thus, the Constitutional Court has the discretion to establish the procedure for exercising the voters' right to legislative initiative.

17. Verification, whether the legislator, in making the procedure for exercising the people's right envisaged in Article 78 of the Satversme more exact and detailed, has not overstepped the limits of its discretion, falls within the jurisdiction of the Constitutional Court (*see Decisions of 19 December 2012 by the Constitutional Court on Terminating Legal Proceedings in Case No. 2012-03-01, Para 15*).

The Saeima, in adopting the contested regulation, first and foremost had to abide by the provisions on exercising the people's right to legislative initiative included Article 65 and Article 78 of the Satversme. Pursuant to the aforementioned articles of the Satversme, no less than one tenth of the electors have the right to submit a draft law. Thus, the legislator, in adopting the contested regulation, has not violated this provision of the Satversme. Moreover, the Satversme does not regulate the number of stages or the way the collection of voters' signatures should be organised.

However, the Saeima, in establishing the procedure for exercising the voters' right to legislative initiative, may not use its discretion arbitrarily. Therefore the legislator needs well-founded reasons to amend the procedure for exercising the electors' right to legislative initiative. Moreover, this procedure should be of the kind

allowing voters to exercise their right to legislative initiative, established in the Satversme, effectively.

To verify, whether the Saeima has not overstepped the limits of its discretion by providing in the contested norm that the voters' right to legislative initiative is to be exercised only in one stage of collecting signatures, during which the signatures of no less than one tenth of electors must be collected, and by increasing in the transitional provisions to 30 000 the number of those voters, who have to sign in favour of the draft law during the first stage of collecting signatures, the Constitutional Court must establish, whether:

- 1) well-founded reasons existed for adopting the contested regulation;
- 2) the contested regulation ensures effective exercising of the voters' right of legislative initiative.

18. The Constitutional Court shall first of all examine, whether well-founded reasons existed for the legislator, in amending the procedure for exercising the voters' right to legislative initiative, to establish the requirements included in the contested regulation.

18.1. The Saeima has referred to a number of reasons, why the legislator adopted the Amendments to the Law on National Referendums, *inter alia*, the contested regulation.

Firstly, the new regulation included in the Law on National Referendums, must eliminate the shortcomings of this law and establish a clear and understandable procedure for implementing the electors' legislative initiatives. Secondly, more expedient use of the State budget and private resources should be ensured. Thirdly, the citizens' involvement in the work of the State by using the possibilities offered by contemporary technology should to be promoted, i.e., the possibility of using electronic signatures. Fourthly, the new regulation was adopted to decrease the possibility for advancing unprepared draft laws. Fifthly, public interests had to be protected, eliminating the possibility of using the voters' legislative initiative and the national referendum contrary to their purposes.

The opinion expressed by the Saeima and the summoned persons – that the Amendments to the Law on National Referendum can be recognised as a significant reform of the institute of national referendum – can be upheld (*see Case Materials*,

Vol. 1, pp. 29 – 31, Vol. 2 pp. 162 – 163, pp. 175 – 176 and Vol. 4, pp. 37 – 38, 65 – 67). The contested regulation is only a part in the Amendments to the Law on National Referendums, which were necessary as a whole to update the Law on National Referendums in compliance with the contemporary legal and social reality, characterised by extensive use of technologies and possibilities of communication. These amendments simplify the procedure for exercising the electors' right to legislative initiative. Likewise, they make the exercising of this right more accessible for the electors, for example, by introducing additional opportunities to sign in favour of draft laws. The contested regulation, *inter alia*, expands the possibilities for Latvian citizens residing abroad to participate in the electors' legislative initiatives by signing in favour of draft laws.

Moreover, the Constitutional Court has recognised: “[..] if draft laws of poor quality or unconstitutional draft laws were regularly submitted to national referendums, it would level out the very idea of electors' legislative initiative and over time the civic activity of electors might decrease.” (*Judgement of 18 December 2013 by the Constitutional Court in Case No. 2013-06-01, Para 13.2*). Thus, the legislator must ensure that the civic activity of electors is not decreasing only because unprepared draft laws are advanced in the form of electors' legal initiative.

The opinion expressed by the Applicant and the summoned persons that solely the decrease of State budget expenditure cannot be regarded as a well-founded reason for significantly amending the procedure for exercising the people's right to legislative initiative can be upheld (*see Case Materials, Vol.1 p.9, Vol. 3 p. 130 and Vol. 4 p. 69, p. 76*). The possibilities for exercising the electors' right envisaged in the Satversme should not be influenced by the fact that the legislator, possibly, wants to decrease the financial support provided for the particular procedure or to cease financing it altogether. However, the Saeima, in regulating the procedure, in which the electors exercise their right to legislative initiative, has the right to consider, whether this procedure ensures rational use of the invested financial resources.

18.2. It follows from the case materials that in the course of drafting the contested regulation extensive discussions took place in the Saeima about ways of establishing in the Law on National Referendums such procedure that would not restrict the electors' right to legislative initiative. It was emphasized at the meetings of the Saeima Legal Affairs Committee that the contested regulation should ensure exercise of this right (*see Case Materials, Vol. 1, pp. 67 – 71, 124 – 129 and Appendix to Vol. 3 – audio recordings of the meetings of the Saeima Legal Affairs Committee*). The experience of other countries and the experts' opinions expressed at the meetings

of the Saeima Legal Affairs Committee had been taken into consideration in elaborating the Amendments to the Law on National Referendums (*see, Case Materials, Vol. 1 pp. 58 – 60, Vol. 3, pp. 110 – 118 and Appendix to Vol. 3 – audio recordings of the meetings of the Saeima Legal Affairs Committee*).

At the court sitting the representatives of the Saeima and the summoned persons noted that the electors' legislative initiatives and the national referendums implemented according to the procedure established in Article 78 of the Satversme were indicative of deficiencies in the procedure that had existed thus far. For example, the requirement that the minimum necessary number of signatures to be collected in the first stage of collecting signatures should be 10 000 had been disproportionately low. This had caused doubts regarding the necessity of the draft law and the public interest in its further advancement (*see Case Materials, Vol. 4, pp. 83 – 85*). Also during the meetings of the Saeima Legal Affairs Committee, when the contested regulation was examined, an opinion had been expressed that the existing procedure for implementing the electors' legislative had facilitated collection of signatures and organising of national referendums about issues, which a large part of society did not consider to be significant (*see Case Materials, Vol. 1, pp. 67 – 74 and Vol. 2 pp. 149 – 15*).

Some of the summoned persons at the court sitting emphasized that the electors' legislative initiative not infrequently served not for advancing important draft laws, but for carrying out the campaigns of political parties (*see Case Materials, Vol. 4 pp. 102 – 103, 134 – 136*). The Constitutional Court also notes that pursuant to Section 23(2) of the Law on National Referendums a political party, an alliance of political parties or an association can be the initiative group for collecting signatures in favour of a draft law. A draft law can be important for a significant part of electors also in the case if the electors' legislative initiative had been launched by a political party.

18.3. Already the Constitutional Assembly, in drafting the provisions of the Satversme regarding the electors' right to legislative initiatives, emphasized "national referendums are admissible, but they can take place only if life has made it necessary, on very significant issues." Likewise, an opinion that "the national referendum, in which people have to participate fully prepared and with clear conviction, clear insight that such acts should occur only in case of serious need, and therefore the number, which gives the right to citizens to propose and achieve implementation of

people's initiative and a referendum, has been established such that in case a serious need requires it, then the number will be achieved and it will be possible to hold the national referendum" [*Latvijas Satversmes sapulces stenogrammu izvilums (1920 – 1922). Rīga: Tiesu namu aģentūra, 2006, 5., 129. lpp.*].

The Constitutional Court, having examined the requirement in the Law on National Referendums that the elector has the obligation to certify his or her signature at a certified notary's office or a local government institution, which engages in notarial activities, has recognised that the procedure for collecting electors' signatures must ensure that important draft laws, elaborated in the interests of a significant part of populations are advanced in the form of electors' legislative initiative (*see Judgement of 19 May 2009 by the Constitutional Court in Case No. 2008-40-01, Para 15.3*). This finding can be applied also to the case under review. The requirement included in the contested regulation to collect the signatures of a sufficiently significant part of electorate creates conviction that the issues dealt with in the draft law will be important enough for the electors to sign and for the legislative initiative to bring results.

Moreover, in accordance with the procedure established in the Rules of Procedure of the Saeima at least 10 000 citizens of Latvia have the right to submit a collective application to the Saeima. This procedure is effective as of 2 February 2010². Thus, at the time when the contested regulation was adopted, i.e., on 8 November 2012, the citizens already had the right to submit a collective application. Not only the electors' legislative initiative, but also the collective applications gives to the citizens the possibility to achieve that a legislative procedure regarding an issue that is important for them is initiated in the Saeima.

Thus, the Constitutional Court has obtained confirmation that the reasons due to which the legislator introduced amendments to the procedure for exercising the electors' right to legislative initiative by the contested regulation were well-founded.

19. The legislator's task in establishing a procedure for exercising the electors' right to legislative initiative is to create a legal mechanism allowing effective exercise of this right.

19.1. The Constitutional Court finds that as of 1 January 2015 the Law on National Referendums is envisaging the possibility to sign in favour of a draft law in a number of sites. I.e., pursuant to Section 22(1) of the Law on National Referendums every elector's signature must be certified by a notary public in the local government, where the declared place of residence is located, at a custody court, which engages in notarial activities, or in the region by the head of a parish or municipality. The legislator has also envisaged the possibility, as of the date when the contested norm enters into force, to collect signatures in favour of draft laws electronically in the United Portal of State and Municipal Services or in another online system.

At the court sitting the Applicant's representative expressed doubts, whether the State would be able to ensure the possibility to electors to sign electronically in the United Portal of State and Municipal Services as of 1 January 2015 (*see Case Materials, Vol. 4 pp. 2 – 3, 142 – 144*). Pursuant to the information, which was provided at the court sitting by the representative of the Ministry of Environment Protection and Regional Development and the representatives of the Saeima, sufficient State budget resources have been allocated to meet the provisions of the Law on National Referendums – to develop and maintain appropriate system for signing in the United Portal of State and Municipal Services (*see Case Materials, Vol. 4 pp. 119 – 120, 154 – 155*). The Constitutional Court has no grounds to doubt that the Cabinet will be able to ensure that a system allowing electors to sign in the aforementioned portal in favour of a draft law is established. The accessible means of electronic communication and the level of development of contemporary technologies allow electors to exercise their right to legislative initiative established in the Satversme in a sufficient fast and convenient way.

Thus, the possibilities for signing established by the Saeima is a solution that is favourable for the electors and ensures exercising the right to legislative initiative.

19.2. Pursuant to Section 22(1) of the Law on National Referendums electors may submit a draft law within 12 months as of the date, when it is registered with the Central Election Committee. Thus, no less than one tenth of electorate have the right to sign in favour of the draft law within a year. This term for signing is to be recognised as being reasonable and sufficient, allowing electors to express their will and the initiators of the draft law to collect the signatures of no less than one tenth of electorate.

Moreover, in accordance with the previous procedure, every signature of at least 10 000 electors collected during the first stage of collecting signatures was valid for 12 months, whereas the other electors had to make their choice regarding signing in the second stage within 30 days. Whereas the legislator has set a longer term in the contested norm, during which no less than one tenth of electorate can sign in favour of a draft law. The Constitutional Court concludes that the new procedure allows electors to consider and express properly their attitude towards the draft law.

19.3. The Applicant doubts, whether it will be possible to exercise the right to legislative initiative on its merits, since starting with 1 January 2015 the collection of signatures will be held only in one stage, during which no less than one tenth of the electors will have to sign. The aforementioned requirement allegedly restricts also the minority rights, typical of democracy.

The Constitutional Court already found that the contested regulation facilitates advancing in the procedure of electors' legislative initiative only draft laws that are important for electors. The opinion expressed by a number of summoned persons that the support of a sufficiently large part of electors can be achieved by initiating the adoption of laws, which are, indeed, important for electors (*see Case Materials, Vol. 4 pp. 75 – 77, 83 – 84, 98 – 100*). Thus, the electors will engage in implementing the legislative initiative more actively if the issues dealt with by the draft law are important to them.

The Saeima, in establishing the procedure for implementing the electors' legislative initiative, must ensure the balance between the majority's interests and the minority's rights, necessary in democracy. However, the constitutional legislator has already defined this minority numerically in the Satversme, envisaging that no less than one tenth of electors can submit a draft law. As concluded in Para 17 of this Judgement, the legislator had abided by this provision of the Satversme in adopting the contested norm. Thus, the contested norm ensures to the minority of electors the right to express their will by submitting draft laws.

The procedure established by the contested norm allows electors to exercise effectively their right to legislative initiative established by the Satversme.

20. The Applicant holds that the legislator has increased the minimum number of electors, who have to sign in favour of a draft law during the first stage of collecting signatures, from 10 000 to 30 000 unfoundedly. The Constitutional Court must examine the impact of the changed number of electors upon the possibilities for exercising the electors' right to legislative initiative.

20.1. Pursuant to the law adopted in 1922 "On National Referendums and Legislative Initiative", no less than one thousand electors' signatures had to be collected during the first stage of collecting signatures in order to submit the draft law to the Central Election Committee. As E.Endziņš noted during the court sitting, one thousand was a substantiated number, in view of the possibilities for circulating information at the time – which were very limited compared to the present. Whereas in the Law on National Referendums, adopted by the 5th Saeima on 31 March 1994, the minimum necessary number of electors' signatures during the first stage of collecting signatures was increased to 10 000, since the situation had changed (*see Case Materials, Vol. 4, pp. 134 – 135*). At the Saeima session of 31 March 1994 it was emphasized that increasing the minimum necessary number of electors' signatures would make the electors exercise the right to legal initiative in a more responsible way. Moreover, it should be taken into consideration that the State incurs substantial expenses in ensuring the second stage of collecting signatures and organising the national referendum (*see the transcript of the session of 31 March 1994 of the 5th Saeima of the Republic of Latvia*).

20.2. The Constitutional Court Law defines the limits of the jurisdiction of the Constitutional Court, and it does not grant to the Constitutional Court the right to assess the political expediency of actions taken by other constitutional institutions of state power (*see Judgement of 11 November 2005 by the Constitutional Court in Case No. 2005-08-01, Para 9 and Judgement of 29 November 2007 in Case No. 2007-10-0102, Para 36.4*). The Constitutional Court examines an issue falling within its jurisdiction, insofar legal arguments, differentiated from law policy arguments, can be applied to it. Issues to be dealt with politically must be decided on by democratically legitimised political bodies of the State, first of all – the legislator (*see Decision of 19 December 2012 by the Constitutional Court on Terminating Legal Proceedings in Case No. 2012-03-01, Para 13.4*).

The choice of the most effective means to ensure exercising the electors' right to legislative initiative first and foremost is an issue of political choice made by the

legislator. However, examining, whether the legislator has chosen such means that ensure to citizens the possibility to exercise their constitutional rights effectively, falls within the jurisdiction of the Constitutional Court.

In drafting the contested transitional provisions, the Saeima Legal Affairs Committee discussed the minimum necessary number of electors during the first stage of signing, initially envisaging increasing it to 70 000 (*see Case Materials, Vol. 1, pp. 84 – 87*). Whereas the Saeima, in the extraordinary sitting of 26 July 2012, decided that the minimum necessary number of electors' signatures during the first stage of signing should be 50 000.

I. Kahanoviča, the representative of the President of the State, confirmed at the court sitting that the President of the State had supported increasing the minimum necessary number of electors' signatures to 50 000, moreover, in the letter of 3 August 2012 to the Speaker of the Saeima had emphasized that this number in the first stage of collecting signatures should be retained also after repeated examination of the law (*see Case Materials, Vol. 1, pp. 130 – 131, Vol. 2 p. 127 and Vol. 4 p. 128*).

20.3. It follows from the case materials that the transitional provisions were elaborated to ensure transition to the new regulation set out on Section 22 of the National Referendums Law, which envisages the possibility of collecting signatures also electronically (*see Case Materials, Vol. 1, pp. 84 – 87*). The Cabinet must ensure that the United Portal of State and Municipal Services is technically ready and secure for collecting signatures in online regime by 1 September 2014. Thus, the legislator had to envisage a transitional period, during which it would be possible to prepare the aforementioned portal, so the electors could start signing electronically in favour of a draft law as of 1 January 2015.

Even though the Applicant contests the substantiation of the minimum number of electors envisaged in the transitional provisions, it must be taken into consideration that 30 000 constitutes only two per cent of the totality of citizens with the right to vote. Therefore the requirement to collect 30 000 electors' signatures is justifiable and does not prohibit the electors to exercise their right to legislative initiative, established in the Satversme, effectively. A number of summoned persons expressed such considerations (*see Case Materials, Vol. 1 p. 28 and Vol. 2 pp. 169, 176 – 177*).

Thus, the legislator in the contested transitional provisions has defined a reasonable and gradual transition to the legal regulation that will enter into effect on 1 January 2015 and will envisage collecting of electors' signatures in one stage, during

which the initiators of the draft law themselves will have to collect the signatures of no less than one tenth of electorate.

Thus, the procedure envisaged by the contested transitional provisions allows the electors to exercise their right to legislative initiative, established in the Satversme, effectively.

21. The Constitutional Court already recognised that the legislator had well-founded reasons for adopting the procedure established by the contested regulation, allowing the electors to exercise their right to legislative initiative, established in the Satversme, effectively. In the Law on National Referendums the legislator has significantly expanded the electors' possibilities to sign in favour of draft laws as of 1 January 2015 and, *inter alia*, has envisaged also electronic signing. Moreover, it will be possible to collect the signatures of no less than one tenth of electorate for a sufficiently long period of time – 12 months. The changes introduced by the contested transitional provisions in the procedure for implementing electors' legislative initiative envisage gradual transition to the procedure established by the contested norm. Thus, there are no grounds to consider that the Saeima, in adopting the contested regulation, exceeded the limits of its discretion. Thus, the requirements set out in the contested regulation comply with the principle of democracy included in Article 1 of the Satversme.

In Para 14.5 of this Judgement the Constitutional Court already concluded that the sovereignty of people can be exercised only within the framework of democracy and the contested regulation would comply with Article 2 of the Satversme, if the principle of democracy enshrined in Article 1 of the Satversme had been abided by. The legislator did not violate Article 1 of the Satversme, hence, the contested regulation is not incompatible with the principle of the people' sovereignty enshrined in Article 2 of the Satversme.

At the same time the Constitutional Court reminds that the legislator, abiding by the fundamental principles of a judicial state enshrined in Article 1 of the Satversme, has the obligation to consider regularly, whether the legal regulation continues to be effective and whether it should not be improved in any way (*see, for example, Judgement of 11 November 2005 by the Constitutional Court in Case No. 2005-08-01, Para 9.5 and Judgement of 2 June 2008 in Case No.2007-22-01, Para*

18.3). Thus, the legislator both during the transitional period and after 1 January 2015 must follow, whether the procedure envisaged by the contested regulation can be implemented and whether electors are able to exercise their right to legislative initiative effectively.

The legislator, in adopting the contested regulation, has not exceeded the limits of its discretion and the contested regulation complies with Article 1 and Article 2 of the Satversme.

The Substantive Part

Pursuant to Section 30 – 32 of the Constitutional Court Law the Constitutional Court

held:

To recognise Section 22(1) (in the wording of the Law of 8 November 2012, which enters into force on 1 January 2015) and of Para 4 and Para 5 of Transitional Provisions of the Law on National Referendums, Legislative Initiatives and European Citizens' Initiative as being compatible with Article 1 and Article 2 of the Satversme of the Republic of Latvia.

The Judgement is final and not subject to appeal.

The Judgement comes into force as of the day of its pronouncement.

Chairperson of the court sitting G. Kūtris