13. Latvia

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1. INTRODUCTION

The constitution of Latvia (*Satversme*) sets out a number of ways for citizens to express their will. The people elect the unicameral parliament (*Saeima*) and can also recall it.¹ In addition, they can act as legislator themselves by submitting draft laws and deciding on them in national referendums.² Likewise, citizens can decide in a referendum on the laws or amendments to the *Satversme* adopted by the *Saeima*,³ as well as on other issues put to a national referendum.⁴ While the constitution provides for both citizens' legislative initiatives and referendums, it does not comprehensively regulate them. This has been done by the legislator by means of a separate law, namely, the Law on National Referendums and Initiation of Legislation, which was in force until 2012, and, since then, the Law on National Referendum, Legislative Initiative and European Citizens' Initiative⁵ (Law on Referendums). Finally, the agenda initiative, regulated by the Rules of Procedure of the *Saeima*,⁶ allows 10,000 citizens to place their concerns on the agenda of parliament. While there are no direct-democratic instruments at the local level, new draft legislation that

¹ Art. 6–9, 14 *Satversme* (1922. gada 15. februāra Latvijas Republikas Satversme. 'Latvijas Vēstnesis', 1 July 1993 (No 43)). An English version of the *Satversme* is available on the website likumi.lv which ensures free access to systematised (consolidated) legal acts of the Republic of Latvia: <https://likumi.lv/ta/en/en/id/57980-the-constitution-of-the-republic-of-latvia>, accessed 10 September 2020.

² Art. 64, 65, 78–80 *Satversme*.

³ Art. 72–75, 77, 79, 80 *Satversme*.

⁴ Art. 48, 68(3), 68(4) *Satversme*.

⁵ 1994. gada 31. marta likums Par tautas nobalsošanu un likumu ierosināšanu. 'Latvijas Vēstnesis', 20 April 1994 (No 47). An English version of the Law on Referendums is available on the website likumi.lv: <https://likumi.lv/ta/en/en/id/58065>, accessed 10 September 2020.

⁶ 1994. gada 28. jūlija Saeimas kārtības rullis. Publicēts oficiālajā laikrakstā 'Latvijas Vēstnesis', 18 August 1994 (No 96). An English version of the Rules of Procedure of the Saeima is available on the website of the *Saeima*: <https://www.saeima.lv/en/legislative-process/rules-of-procedure>, accessed 10 September 2020.

would provide for a local referendum is currently working its way through the parliamentary process.⁷

Although a number of instruments of direct democracy are thus foreseen by the *Satversme* and various pieces of legislation, recent public polls indicate that around 80 per cent of Latvians do not feel that they have a real opportunity to influence the decisions made by the government or the parliament.⁸

2. EXISTING DIRECT-DEMOCRATIC INSTRUMENTS

2.1 Mandatory Referendum

2.1.1 Amendment of certain constitutional provisions

According to Article 77 of the *Satversme*, amendments of certain constitutional provisions by the *Saeima* must be submitted to a national referendum. These fundamental provisions determine the following:

- Latvia is an independent democratic republic (Article 1 of the *Satversme*);
- The sovereign power of the State of Latvia is vested in the people of Latvia (Article 2 of the *Satversme*);
- The territory of the State of Latvia, within the borders established by international agreements, consists of Vidzeme, Latgale, Kurzeme and Zemgale (Article 3 of the *Satversme*);
- The Latvian language is the official language in the Republic of Latvia. The national flag of Latvia shall be red with a band of white (Article 4 of the *Satversme*);
- The *Saeima* shall be elected in general, equal and direct elections, and by secret ballot based on proportional representation (Article 6 of the *Satversme*);
- Articles 1 to 4 and 6 are subject to a mandatory referendum (Article 77 of the *Satversme* itself).

Since they are regarded as the basis of the legal and political order of the Latvian state, these provisions of the *Satversme* are especially difficult to

⁷ See database of parliamentary documents (in Latvian): <http://titania.Saeima.lv/LIVS13/Saeimalivs13.nsf/webSasaiste?OpenView&restrictcategory=162/Lp13>, accessed 6 August 2020.

⁸ See Latvijas Sabeidriski Mediji, 'Aptauja: 80% neredz iespējas ietekmēt Saeimas un valdības lēmumus' (Survey: 80% do not see opportunities to influence the decisions of the *Saeima* and the government), <https://www.lsm.lv/raksts/zinas/latvija/aptauja-80-neredz-iespejas-ietekmet-Saeimas-un-valdibas-lemumus.a366282/>, accessed 6 August 2020.

amend. Articles 4 and 77 were added to the list in 1998 – Article 4 in order to cement the fundamental value of the Latvian language after Latvia had regained its independence, Article 77 in order to ensure that parliament cannot circumvent the requirement for a referendum by amending this provision itself.

According to the Constitutional Court, a referendum must also be held if the *Saeima* infringes upon the essence of one of these fundamental constitutional provisions by adding new provisions to the *Satversme* or amending legislative acts.⁹ For instance, there were extensive debates in Latvia on whether or not joining the European Union (EU) would infringe upon the independence and sovereignty of Latvia as guaranteed by Articles 1 and 2 of the *Satversme*. Eventually, it was concluded that Article 77 of the *Satversme* was not triggered.¹⁰ A similar discussion concerned the treaty on the State Border of Latvia and Russia. In 2007 the Constitutional Court confirmed that a mandatory referendum could be triggered not only by an amendment of the text of Article 3 of the *Satversme* but also by amendments of other regulatory acts. Furthermore, the court held that Article 73 of the *Satversme*, stating that agreements with other nations may not be submitted to a national referendum, is not applicable to the mandatory referendum according to Article 77. Therefore, in general such a treaty may trigger the mandatory referendum. However, the Constitutional Court concluded that the specific treaty in question did not infringe upon Article 3, so that a mandatory referendum was not required.¹¹

According to Article 79 of the *Satversme*, an amendment to the constitution submitted for national referendum shall be deemed adopted if at least half of the electorate has voted in favour. In practice, this high threshold makes it very difficult to change the *Satversme*.

So far, the *Saeima* has never amended one of the fundamental articles that would trigger the mandatory referendum. However, a citizens' legislative initiative under Article 78 of the *Satversme* was intended to amend Article 4, according to which the Latvian language is the official language in the Republic of Latvia. The initiative proposed amendments of Articles 4, 18, 21, 101 and 104 of the *Satversme* by introducing Russian as a second official language. Had the initiative been accepted, Latvian and Russian would have become the working languages for self-government institutions and everyone would have had the right to receive official information in Latvian and Russian. However, in the referendum held on 18 February 2012 only 273,347 voters supported the constitutional amendments, while 821,722 voted against

⁹ Judgment of 29 November 2007, case No. 2007-10-0102.

¹⁰ *Satversmes grozījumu izstrādes darba grupa, 'Kādēļ Latvijas konstitūcijā nepieciešami labojumi'* Jurista Vārds, 15 May 2001, No 14(207).

¹¹ Judgment of the Constitutional Court of 29 November 2007, case No. 2007-10-0102.

them. This referendum once again underlined the fundamental value of the Latvian language, sparked discussions on the inviolable core of the *Satversme* and eventually led to the addition of a preamble to the *Satversme* that stresses the constitutional identity of Latvia.

2.1.2 Membership in the European Union

Another mandatory referendum is envisaged by Article 68(3) of the *Satversme*, according to which ‘membership of Latvia in the European Union shall be decided by a national referendum, which is proposed by the *Saeima*.’ Therefore, joining or leaving the EU will trigger a referendum. This form of the mandatory referendum was only introduced once Latvia had received the invitation for accession to the EU. In May 2003, the Parliament of Latvia adopted amendments to the constitution and the Law on National Referendum and Legislative Initiatives. Importantly, the turnout quorum for this type of mandatory referendum was set considerably lower than that according to Article 77 of the *Satversme*: a decision regarding membership of Latvia in the EU is adopted if the number of voters is at least half of the number of electors who participated in the previous *Saeima* election and if the majority of them have voted in favour of the membership of Latvia in the EU.¹² At the time of writing, the required majority is 497,543 votes. In the referendum held on 20 September 2003, Latvians voted in favour of joining the EU by 66.97 per cent (676,700 votes) in favour and 32.26 per cent (325,980 votes) against.¹³

2.1.3 Adoption of a new constitution

The *Satversme* does not explicitly state whether or not there should be a mandatory referendum if a new constitution is adopted. However, the Constitutional Court has noted that, although the *Satversme* divides state power among Latvian citizens and the *Saeima*, it guarantees the former the exclusive right to repeal the constitution or to establish a new constitutional order.¹⁴ Therefore, it is possible that adoption of a new constitution would be subject to a mandatory referendum. However, there is a view that as long as the new constitution does not change the fundamentals of the *Satversme*, that is, the values included in its Article 77, there is no reason to place a threshold of at least half of the votes in favour for such a new constitution to be adopted.¹⁵

¹² Art. 79(2) *Satversme*.

¹³ Results available at: <https://www.cvk.lv/cgi-bin/wdbcgiw/base/sae8dev.aktiv03era.vis>, accessed 6 August 2020.

¹⁴ Judgment of 29 November 2007, case No. 2007-10-0102, para. 31.1.

¹⁵ Inese Ņikulceva, ‘Obligata tautas nobalsosana Latvija – Mandatory referendums in Latvia’, *Juridiskā zinātne* 2010(1), 185, <https://www.journaloftheuniversityto>

2.2 Optional Referendum

2.2.1 Institution-initiated referendum

2.2.1.1 *Parliament-initiated referendum for substantial changes in EU membership*

According to Article 68(4) of the *Satversme*, ‘substantial changes in the terms regarding the membership of Latvia in the European Union shall be decided by a national referendum if such referendum is requested by at least one-half of the members of the *Saeima*’. This referendum allows parliament to trigger a referendum if it has doubts whether a majority of the people would still support membership of the EU despite substantial changes. There is no legal obligation for parliamentarians to trigger it.¹⁶ Only substantial changes regarding integration in the EU, for example substantial changes to the Treaties of the EU, can be submitted to a referendum, but not, for instance, acts adopted by the EU institutions such as directives, regulations, etc. The turnout quorum for this type of referendum is the same as that for the mandatory referendum on membership in the EU according to Article 68(3) of the *Satversme*.¹⁷ No such referendum has been held yet.

2.2.1.2 *Institution/citizens'-initiated referendum to veto a law*

Article 72 of the *Satversme* envisages a mechanism by which the voters may veto a law that has been adopted by the parliament but has not yet been proclaimed (and has thus not yet entered into force):

The President has the right to suspend the proclamation of a law for a period of two months. The President shall suspend the proclamation of a law if so requested by not less than one-third of the members of the *Saeima*. This right may be exercised by the President, or by one-third of the members of the *Saeima*, within ten days of the adoption of the law by the *Saeima*. The law thus suspended shall be put to a national referendum if so requested by not less than one-tenth of the electorate. If no such request is received during the aforementioned two-month period, the law shall then be proclaimed after the expiration of such period. A national referendum shall not take place, however, if the *Saeima* again votes on the law and not less than three-quarters of all members of the *Saeima* vote for the adoption of the law.

flatvialaw.lu.lv/fileadmin/user_upload/lu_portal/projekti/journaloftheuniversityoflatvialaw/No1/I_Nikulceva.pdf, accessed 6 August 2020.

¹⁶ Judgment of the Constitutional Court of 7 April 2009, case No. 2008-35-01, para 19.4.

¹⁷ Art. 79 (2) *Satversme*.

Once a law has been suspended there are thus two scenarios in which the referendum does not take place: first, if the *Saeima* votes again on the law within two months and three-quarters of its members support the law; second, if the required amount of signatures is not collected.

Once the President has suspended the publication of a law, he or she notifies the text of the law and the decision to suspend it.¹⁸ The Central Election Commission (CEC) then informs all election commissions of cities and municipalities that the collection of signatures has started and delivers the signature collection sheets to them.¹⁹ Collection of signatures lasts for 30 days. The CEC then counts the signatures, establishes the result, reports it to the President and publishes it in the official gazette. If the referendum request has been signed by the required number of voters, the CEC proclaims a national referendum within three days.²⁰ According to Article 74 of the *Satversme*, the suspended law shall be repealed if the number of voters in the referendum is at least half of the number of electors who participated in the previous *Saeima* election and if the majority has voted for repeal of the law.

The suspension of a law has been triggered five times, four times upon the request of members of the parliament and once by the President. In three cases a referendum was held.²¹ However, none of them resulted in a repeal of the law, either because the turnout quorum was not reached or due to insufficient support for a repeal of the law.

2.2.2 Citizen-initiated referendum (citizens' legislative initiative)

Article 78 of the *Satversme* stipulates that:

electors, in number comprising not less than one-tenth of the electorate, have the right to submit a fully elaborated draft of an amendment to the Constitution or of a law to the President, who shall present it to the *Saeima*. If the *Saeima* does not adopt it without change as to its content, it shall then be submitted to national referendum.

¹⁸ Art. 6(1) Law of Referendums.

¹⁹ Art. 6(2) Law of Referendums.

²⁰ Art. 10(1) Law of Referendums.

²¹ For an overview of these referendums, see the website of the CEC (in Latvian) <https://www.cvk.lv/lv/tautas-nobalsosanas/tautas-nobalsosanas-latvija>, accessed 10 September 2020.

The proposed norms can be aimed at creating a new legal regime²² or at abolishing the existing one.²³ The citizens' legislative initiative can even be used to amend the fundamental provisions of the *Satversme* that, according to its Article 77, can only be changed by way of a mandatory referendum. The principal aim of Article 77 is to restrict the power of parliament, not of the people.

Although Article 78 of the *Satversme* provides that the electors submit the draft amendment or law to the President, there is an intermediate stage, namely, their submission to the CEC, which reviews and registers the initiative. Upon registration, the initiative group has 12 months to collect the signatures of not less than one-tenth of Latvian citizens.²⁴ Each signature must be certified by an official body.²⁵ Signatures can be collected online via the Single State and Local Government Service Portal *latvija.lv* or another online system chosen by the initiative group.²⁶ Once the required amount of signatures has been collected, the CEC notifies the President of Latvia, who then presents the initiative to the parliament.²⁷ The *Saeima* must consider the draft amendment or law during the session when it was submitted.²⁸ If the *Saeima* does not adopt it or adopts it with changes as to its content, the draft amendment or law must be put to a referendum. The referendum is arranged not earlier than one month and not later than two months after parliament's decision.²⁹

A draft law is adopted if the number of voters is at least half of the number of electors who participated in the previous *Saeima* election and if the majority has voted in favour of the draft law, while a draft amendment to the Constitution is adopted if at least half of the electorate has voted in favour.³⁰ The *Satversme* does not prevent the *Saeima* from amending or invalidating the constitutional amendment or law adopted by the people. However, the prevail-

²² See, for instance, the Draft amendments to the *Satversme* of 7 March 2020, which propose a new way of electing and removing the President, https://www.cvk.lv/uploads/files/Satversmes%20grozijumu%20projekts_Jauna%20Saskana.pdf, accessed 10 August 2020.

²³ See, for instance, the Draft law on repealing the amendments to the Law of Referendums of 31 August 2018, which consists of only one article aiming at repealing the Law entitled Amendments to the Law on National Votes, Law Initiatives and the European Citizens' Initiative of 8 November 2012, https://www.cvk.lv/upload_file/2015/Likumprojekts%20par%20grozijumu%20TN%20likuma%20atcelsanu.pdf, accessed 10 August 2020.

²⁴ Art. 22(1) Law on Referendums.

²⁵ Art. 22(3) Law on Referendums.

²⁶ Art. 22(4) Law on Referendums.

²⁷ Art. 24, 25 Law on Referendums.

²⁸ Art. 25 Law on Referendums.

²⁹ Art. 11(2) Law on Referendums.

³⁰ Art. 79 *Satversme*.

ing opinion in legal doctrine is that only a parliament that has been elected after the referendum can do so.³¹

Since Latvia has regained independence, three citizen-initiated referendums have taken place, all without positive outcome.³² However, initiatives do not go unnoticed. For instance, in 2008 an initiative that proposed giving the people the right to recall the *Saeima* failed to meet the approval quorum of 50 per cent of the electorate. Nevertheless, that initiative still managed to place the issue on the political agenda, and a year later the parliament amended Article 14 of the *Satversme*, introducing the right to initiate a referendum regarding its recall.

2.3 Agenda Initiative

Since 2012, the Rules of Procedure of the *Saeima* provide for a mechanism by which at least 10,000 citizens, who have reached the age of 16 on the day of filing the submission, can place a topic on the agenda of the parliament. Their collective submission must contain a request to the *Saeima* and a brief justification.³³ Signatures can also be collected electronically,³⁴ which is mostly done on the website *manabalss.lv*.

Given that the agenda initiative neither leads to a referendum nor binds the legislature to a certain action, its regulation could have been less restrictive. For instance, non-citizens are not allowed to sign an agenda initiative, which is all the more difficult to understand considering that children who have reached the age of 16 are allowed to do so.³⁵

So far more than 50 agenda initiatives have been submitted to the *Saeima* and many more are pending. At least 12 of them have resulted in direct legislative changes, 18 have been turned down and the majority of them are still in the process of adoption.³⁶

³¹ Inese Ņikulceva, 'Tautas nobalsošana un vēlētāju likumdošanas iniciatīva' (2012) 104 http://dspace.lu.lv/dspace/bitstream/handle/7/5120/22881-Inese_Nikulceva_2013.pdf?sequence=1&isAllowed=y, accessed 10 September 2020.

³² For an overview of these referendums, see the website of the CEC (in Latvian) <https://www.cvk.lv/lv/tautas-nobalsosanas/tautas-nobalsosanas-latvija>, accessed 10 September 2020.

³³ Art. 131³(1) Rules of Procedure of the *Saeima*.

³⁴ Art. 131³(4) Rules of Procedure of the *Saeima*.

³⁵ Art. 131³(1) Rules of Procedure of the *Saeima*.

³⁶ See the website of the Mandate, Ethics and Submissions Committee, <http://mandati.Saeima.lv/kolekt%C4%ABvie-iesniegumi>, accessed 10 August 2020.

3. LEGAL LIMITS ON DIRECT-DEMOCRATIC INSTRUMENTS

3.1 General Substantive Limits

3.1.1 Precluded subjects according to Article 73 of the *Satversme*

Article 73 of the *Satversme* prescribes that ‘the Budget and laws concerning loans, taxes, customs duties, railroad tariffs, military conscription, declaration and commencement of war, peace treaties, declaration of a state of emergency and its termination, mobilisation and demobilisation, as well as agreements with other nations cannot be submitted to national referendum.’

This substantive limit applies to all citizen-initiated and institution-initiated referendums. Initially, there had been a debate about whether it is also applicable to the citizens’ legislative initiative, as Article 73 of the *Satversme* does not explicitly preclude the initiation of laws on the subjects listed. Accordingly, some legal scholars argued that the right to propose such laws was not precluded,³⁷ especially considering that any restriction of this right needed to be interpreted narrowly.³⁸ That would mean that voters had a right to propose a law on the excluded subjects but, if the *Saeima* rejected it, it could not be submitted to a referendum. Other scholars argued that all matters enshrined in Article 73 of the *Satversme* are within the exclusive competence of the *Saeima*.³⁹ In 2014 the Constitutional Court put an end to this debate by noting that ‘the voters’ right to the legislative initiative cannot be exercised with regard to draft laws, which, in accordance with Article 73, cannot be put for national referendums.’⁴⁰ So far this has not been a reason for declining to register an initiative, as the excluded matters have been applied narrowly.⁴¹

The reasons for excluding the matters listed in Article 73 relate to their importance, urgency and complexity. In addition, it is regarded as unlikely that the people would place the overall state interest above their own.⁴² Although some legal scholars had initially expected that some of the limits could be

³⁷ Kārlis Dišlers, *Ievads Latvijas valststiesību zinātnē* (Ansils Gulbis, 1930) 171.

³⁸ Inese Nikuļceva, ‘Tautas nobalsošana un vēlēšanu likumdošanas iniciatīva’ (2012) 94–95.

³⁹ Jānis Pleps and Edagrs Pastars, ‘Vai tauta var Saeimā iesniegt budžeta projektu’, *Jurista Vārds*, 10 September 2002, No 18(251) and 24 September 2002, No 19(252).

⁴⁰ Judgment of 12 February 2014, case No. 2013-05-01, para. 14.4.

⁴¹ See CEC, Decision of 21 April 2017.

⁴² Annija Kārklīņa, Jānis Lazdiņš, Māris Lejnieks, ‘Satversmes 73. panta komentārs’ in Ringolda Balodis (eds), *Latvijas Republikas Satversmes komentāri. V nodaļa. Likumdošana* (Latvijas Vēstnesis 2019) 151–153.

removed gradually as civil consciousness would develop⁴³ and certain limits are today largely devoid of meaning (customs duties, for instance, are nowadays generally regulated at EU level), Article 73 has never been amended.

In practice, Article 73 of the *Satversme* has been interpreted narrowly. For instance, in 2017 the CEC registered an initiative that envisaged removal of property tax in certain occasions, although ‘taxes’ are listed in Article 73.⁴⁴ Similarly, with regard to an initiative that envisaged establishing a minimum amount of old-age pension⁴⁵ it was not clear from the beginning if such an issue can be put to a national referendum as it was closely linked to the state budget.⁴⁶ However, such a wide interpretation of Article 73 would render the right of people to initiate legislation illusory. The Constitutional Assembly, which had drafted the *Satversme*, had emphasised that the legislative initiative should be an instrument that is effective in practice.⁴⁷

3.1.2 The inviolable core of the *Satversme*

The referendum held in 2012 on Russian as the second official language of Latvia (see Section 2.1.1 above) triggered a discussion on whether Article 73 of the *Satversme* should be amended by also precluding referendums on matters that are incompatible with a democratic society or threaten the foundations of Latvia as a national state.⁴⁸ While a respective amendment was not adopted, in September 2012 the President’s Constitutional Rights Commission delivered a legal opinion ‘On the constitutional basis of the State of Latvia and the inviolable core of the *Satversme*’,⁴⁹ explaining that the *Satversme* has an inviolable core which cannot be amended. This core supplements the written text of the constitution by prohibiting any changes to the very essence of the

⁴³ Kārlis Dišlers, *Ievads Latvijas valststiesību zinātnē* (Ansīš Gulbis, 1930) 171.

⁴⁴ Decision of 21 April 2017, <https://www.cvk.lv/lv/tiesibu-akti/lemumi/2017-gads/nr-12-par-partijas-no-sirds-latvijai-iesniegto-likumprojektu-grozijums-likuma-par-nekustama-ipasuma-nodokli>, accessed 13 September 2020.

⁴⁵ Referendum on draft law ‘Amendment to the State Pensions Law’, <https://www.cvk.lv/en/referendums/referendum-for-amendment-to-the-state-pensions-law>.

⁴⁶ ‘Godmanis atturīgs par to, vai referendums par pensijām atbilstu Satversmei’ (Delfi 18 April 2008) <https://www.delfi.lv/news/national/politics/godmanis-atturigs-par-to-vai-referendums-par-pensijam-atbilstu-satversmei-papildinats.d?id=20765603>, accessed 10 September 2020.

⁴⁷ Transcript case materials of IV session of the Constitutional Assembly of Latvia, Vol. 1, p.109 and subsequent.

⁴⁸ See Draft law No. 186/Lp11, submitted on 17 January 2012, <https://titania.saeima.lv/LIVS11/Saeimalivs11.nsf/0/8061B5716A3DEDFEC2257988004670D5?OpenDocument>.

⁴⁹ Constitutional Rights Commission, Opinion of 17 September 2012, ‘Par Latvijas valsts konstitucionālajiem pamatiem un neaizskaramo *Satversmes* kodolu’, http://blogi.lu.lv/tzpi/files/2017/03/17092012_Viedoklis_2.pdf, accessed 10 September 2020.

constitutional identity of Latvia. The core is not identical with the fundamental constitutional provisions listed in Article 77 of the *Satversme*, as these provisions can be amended and not all of them can be said to belong to the very essence of the *Satversme* (the colour of the national flag of Latvia, for instance). Amendments to the provisions listed in Article 77, as well as any other changes to the legal system, cannot be put to a referendum if they collide with the inviolable core of the *Satversme*. What exactly this core encompasses is open to interpretation. However, it is safe to assume that it includes the protection of the Latvian language and the democratic state.⁵⁰

3.1.3 Laws determined to be urgent

According to Article 75 of the *Satversme*, laws that the *Saeima*, by not less than a two-thirds majority vote, determines to be urgent, may not be submitted to a referendum. Resort to urgent laws should be exceptional. The Constitutional Court would most likely regard a routine use of this procedure as contrary to its principles of good legislation.⁵¹

3.2 General Formal Limits

The referendum questions are generally formulated by the CEC. According to Article 14(1) of the Law on Referendums each ballot paper must include the name of the draft amendment or law to be voted on and the words ‘for’ and ‘against’. As a consequence, voters may have to approve a whole draft law, although they disagree with parts of it, or they have to vote ‘against’, although they agree with the other parts of it.

In formulating the referendum question, the CEC also takes into account the purpose of the particular referendum. For instance, in the case of the citizen-initiated referendum, Article 79 of the *Satversme* provides that a constitutional amendment or draft law is considered adopted if the required number of voters have ‘voted in favour’. Therefore usually the formula ‘Are you in favour of [name of the draft law]?’ is used.⁵² In contrast, in the case of the referendum to veto a law according to Article 72 of the *Satversme* the formula ‘Are you in favour of recalling [name of the draft law]?’ is used.⁵³ This

⁵⁰ Ibid.

⁵¹ See Judgment of 6 March 2019, case No. 2018-11-01.

⁵² See, for instance, referendum of 2 August 2008 on Amendments to the *Satversme*, <https://www.cvk.lv/lv/tautas-nobalsosanas/par-grozijumiem-Satversme-2008>, accessed 10 August 2020.

⁵³ See, for instance, referendum of 7 July 2007 on annulment of the laws Amendments to the National Security Act and Amendments to the Law on National Security Institutions, <https://www.cvk.lv/lv/tautas-nobalsosanas/par-grozijumu>

approach has been criticised on the basis that these formulae did not provide sufficient explanation of the subject matter.⁵⁴ However, requiring the CEC to formulate a more elaborate referendum question would put an additional burden of responsibility on it.

The most important exception to the use of this standard formula was the referendum on Russian as the second official language. At first, the CEC had formulated the question as ‘Are you in favour of [Amendments to the *Satversme*]?’⁵⁵ That, however, sparked a discussion on whether the voters were sufficiently able to foresee the consequences of the amendments and thus to express their true will.⁵⁶ Therefore, a week later the CEC reformulated the referendum question as ‘Are you in favour of the adoption of the Draft Law “Amendments to the *Satversme*” that provides for the Russian language the status of the second official language?’⁵⁷

When a referendum is held on Latvia’s membership in the EU or on substantial changes in the terms of Latvia’s membership in the EU, the wording of the question is drafted not by the CEC but the *Saeima*.⁵⁸ This has happened once, for the referendum on joining the EU in 2003, when the question ‘Are you in favour of a membership of Latvia in the European Union?’ was drafted by the Legal Commission and Commission of European Affairs of the *Saeima* and then unanimously adopted at the plenary session without further discussions.⁵⁹

3.3 Additional Limits on the Citizens’ Legislative Initiative

Besides the general content restrictions that are applicable to all direct-democratic instruments that can trigger a referendum, there are additional legal limits on the citizens’ legislative initiative that stem from the requirement of Article 78 of the *Satversme* that initiators must submit ‘a fully elaborated draft of an amendment to the Constitution or of a law’. This requirement stems from the fact that the parliament cannot make changes to the draft without submitting it to referendum and similarly, when it comes to a referendum, the people may

-nacionalas-drosibas-likuma-un-valsts-drosibas-iestazu-likuma-atcelsanu-2007, accessed 10 August 2020.

⁵⁴ See, for instance, Inese Ņikulceva, ‘Tautas nobalsošana un vēlētāju likumdošanas iniciatīva’ (2012).

⁵⁵ See CEC decision of 3 January 2012, No.1.

⁵⁶ Diena, ‘Referenduma jautājumu papildina ar paskaidrojumu par krievu valodu’, 10 January 2012, <https://www.diena.lv/raksts/latvija/zinas/referenduma-jautajumu-papildina-ar-paskaidrojumu-par-krievu-valodu-13924997>, accessed 10 August 2020.

⁵⁷ See CEC decision No. 11, 10 March 2012.

⁵⁸ Article 14(1) Law on Referendums.

⁵⁹ See the transcript of *Saeima*’s session of 5 June 2003, https://www.Saeima.lv/steno/2002_8/st_030605/st0506.htm, accessed 10 August 2020.

only accept or reject the draft, but not modify it. Therefore, the draft must be sufficiently precise and must fit within the Latvian legal system in case it is adopted. If one part of a draft law does not meet this criterion, it is not possible to rectify this deficiency by, for example, just excluding the inappropriate part of the draft law.⁶⁰ The Constitutional Court has noted that '[...] 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.'⁶¹ Moreover, the Supreme Court has observed that if the text, nature or purpose of the draft is incomprehensible, ambiguous or misleading, voters cannot make an objective choice and so the result of the referendum cannot be considered to be legally valid.⁶² Requiring clarity of the text, nature and purpose of the draft ensures the authenticity of the will of the people and reduces the possibility of illegally influencing the legislative process.⁶³ This, in turn, includes requirements as to the form and the substance of the draft amendments or laws.

3.3.1 Additional formal limits

That the draft of an amendment to the Constitution or of a law must be 'fully elaborated' follows from Article 78 of the *Satversme* and Article 79(1) of the *Saeima* Rules of Procedure. Proposals that are logically incoherent, unstructured and so on cannot be recognised as being 'fully elaborated' as to their form.⁶⁴ A draft law should also include a transitional regulation or provisions on its entry into force, if they are necessary due to the nature of the amendments.⁶⁵ Moreover, the legal norms included in the draft must be clear.⁶⁶ That is to say, a legal norm must be worded so as to permit people to foresee its precise field of application and its meaning.⁶⁷ In some instances, even a textually clear legal norm can fall short of this standard. For example, the initiative on introducing a personal financial liability of members of the parliament provided that the exact procedure by which financial liability is applied was to be developed by the Cabinet of Ministers as a separate draft law. The CEC ruled that

⁶⁰ Letter by the *Saeima* Legal Bureau No. 12/13-3-n/36-11/12 to the CEC, published in *Jurista Vārds*, 2 October 2012, No. 40(739), 18.

⁶¹ Judgment of the Constitutional Court of 18 December 2013, Case No. 2013-06-01, para. 13.2.

⁶² Judgment of the Supreme Court of 2 March 2020, Case No. SA-1/2020, para. 15.

⁶³ *Ibid.*, para. 9.

⁶⁴ Decision of the Constitutional Court of 19 December 2012 to terminate judicial proceedings in the Case No. 2012-03-01, para. 18.3.

⁶⁵ Pastars, E. Referendumu nedienas. *Diena*, 03.08.2002.

⁶⁶ Judgment of the Supreme Court of 2 March 2020, case No. SA-1/2020, para. 18.

⁶⁷ Judgment of the Constitutional Court of 30 March 2011, case No 2010-60-01 para. 15.2.

the draft law was not sufficiently clear as to the consequences it entails, since it only provided a general idea without elaborating the principles and practical mechanisms for implementing it.⁶⁸

Essential technical requirements to be observed when drafting regulatory enactments, including drafts by citizens,⁶⁹ are laid down in the Cabinet Regulation on Drafting Normative Acts⁷⁰ and in the Handbook on Drafting Normative Acts.⁷¹ Since it can be challenging for a lay person to draft a law that complies with all the requirements of legal technique, the Supreme Court has noted that only if a draft law is so poorly designed that it cannot be applied should it be regarded as invalid.⁷² This can be the case if formal shortcomings have the effect of making the proposed amendment misleading as to its content. Most recently, the Supreme Court found to be misleading a proposed amendment that failed to clearly define the scope of the legislative change.⁷³ Thus, if a draft substantially violates the principles of legal technique, it most likely will also not meet the standard of being fully elaborated as to its content.

3.3.2 Additional substantive limits

The Constitutional Court has concluded that a citizens' legislative initiative that envisages deciding on issues that are not to be regulated by a law at all cannot be recognised as being 'fully elaborated'.⁷⁴ Similarly, the initiative cannot be used to regulate issues that fall within the exclusive competence of certain state organs. For instance, submitting the draft state budget is the exclusive competence of the Cabinet,⁷⁵ judicial appointments and removal of judges are an exclusive competence of the *Saeima*,⁷⁶ as is electing a President, granting an amnesty⁷⁷ and commencing a war.⁷⁸ Legal scholars have argued that citizens may propose abstract and general legal norms, but not administra-

⁶⁸ CEC Decision No. 4, 19 May 2015; Decision No. 3, 2 April 2015.

⁶⁹ Judgment of the Supreme Court of 2 March 2020, Case No. SA-1/2020, paras. 13–15.

⁷⁰ Cabinet Regulation No. 108, 3 February 2009, <https://likumi.lv/ta/id/187822-normativo-aktu-projektu-sagatavosanas-noteikumi>, accessed 10 August 2020.

⁷¹ Normatīvo aktu projektu izstrādes rokasgrāmata, Rīga: Valsts kanceleja, 2016, <https://tai.mk.gov.lv/book/1/chapter/23>, accessed 10 August 2020.

⁷² Judgment of the Supreme Court of 28 March 2014 in Case No. SA-3/2014, para. 9.

⁷³ Judgment of the Supreme Court of 2 March 2020 in Case No. SA-1/2020, paras. 13–15.

⁷⁴ Decision of the Constitutional Court of 19 December 2012 to terminate judicial proceedings in the Case No. 2012-03-01, para. 18.3.

⁷⁵ Art. 66 *Satversme*.

⁷⁶ Art. 84 *Satversme*.

⁷⁷ Art. 45 *Satversme*.

⁷⁸ Art. 44 *Satversme*.

tive acts.⁷⁹ Also, the authors of the draft should make sure that the obligations of state authorities provided for therein are realistic, both in terms of their nature and the time limits. This refers to practical feasibility, that is, to the ability to comply with the proposal and to achieve the envisaged consequences of the draft.⁸⁰

Moreover, the voters, when exercising their right to submit a legislative initiative, also assume the obligations set for the legislator. As the Constitutional Court has noted, '[...] the principle of legality provides that law and rights are binding on all institutions of state power, including the legislator itself'.⁸¹ The people, in fulfilling the legislative function, thus also have to abide by the requirements of the *Satversme*.⁸² Therefore, a draft law that collides with the norms, principles or values contained in the *Satversme*, including its inviolable core, cannot be recognised as being 'fully elaborated'.⁸³ For example, an initiative, mentioned above, proposing a draft law that would have introduced a personal financial liability of members of the parliament for losses caused by their decisions was also found not to be 'fully elaborated' as it was contrary to Article 28 of the *Satversme*, which provides that members of the parliament cannot be called to account by any judicial, administrative or disciplinary process during the execution of their duties.⁸⁴ Similarly, the CEC found an initiative that proposed a new law that provided for a referendum on the introduction of the euro in Latvia not to be 'fully elaborated': it held that all types of referendums are exhaustively listed in the *Satversme*, so that a new type could only be introduced by amending the *Satversme* and not by adopting a law which is lower in the legal hierarchy.⁸⁵ The norm may not contradict other norms that are hierarchically higher.⁸⁶

The Supreme Court has made it clear that initiatives must also respect Latvia's international commitments. Accordingly, they must also provide for measures to avoid any possible contradiction with Latvia's international obligations before the entry into force of the proposed amendment or law.⁸⁷ For instance, registration was denied to an initiative that provided for the use

⁷⁹ Kārlis Dišlers, 'Nekonstitucionāls ierosinājums', Jaunākās Ziņas, 17 June 1927.

⁸⁰ Letter by the *Saeima* Legal Bureau No. 12/13-3-n/36-11/12 to the CEC, published in *Jurista Vārds*, 2 October 2012, No. 40(739), 18.

⁸¹ Judgment of the Constitutional Court of 1 October 1999, case No.03-05(99).

⁸² Judgment of the Constitutional Court of 12 February 2014, case No. 2013-05-01, para. 14.4.

⁸³ Decision of the Constitutional Court of 19 December 2012 to terminate judicial proceedings in the Case No. 2012-03-01, para. 18.3.

⁸⁴ CEC Decision No. 4, 19 May 2015; Decision No. 3, 2 April 2015.

⁸⁵ CEC Decision No. 5, 31 January 2013.

⁸⁶ Judgment of the Supreme Court of 28 March 2014, case No. SA-3/2014, para.10.

⁸⁷ Judgment of the Supreme Court of 28 March 2014, case No. SA-3/2014.

of the former currency of Latvia as it was found to be in conflict with Latvia's international obligation to introduce the euro.⁸⁸

3.4 Legal Limits on the Agenda Initiative

The Rules of Procedure of the *Saeima* impose a number of substantive limits on the agenda initiative: the request may not be clearly unacceptable in a democratic society or plainly offensive, or undermine values of human dignity, freedom, democracy, equality, the rule of law and human rights.⁸⁹ In contrast, the general substantive limits applicable to those direct-democratic instruments that lead to a referendum, including Article 73 of the *Satversme*, are not applicable to agenda initiatives.

As to the formal limits, agenda initiatives must contain a clear request to the *Saeima* and a brief justification of it, and they must specify the natural person authorised to represent the signatories of the collective submission.⁹⁰

4. INSTITUTIONAL AND PROCEDURAL FRAMEWORK FOR REVIEWING COMPLIANCE WITH THE LIMITS

4.1 Institution-initiated Referendums

The principle of legality provides that the law is binding on all state institutions, including the legislator and the President.⁹¹ Consequently a state institution may not initiate a referendum that is incompatible with the *Satversme* by, for instance, putting a draft law that concerns one of the precluded subject matters of Article 73 of the *Satversme* to a referendum. It falls within the competence of the Constitutional Court to review whether the *Saeima* or the President have violated the principle of legality.⁹² Such a review procedure could be initiated by another state institution (including the President, the *Saeima*, no fewer than 20 deputies of the *Saeima* or the Cabinet) that considers a given referendum

⁸⁸ CEC Decision, 14 May 2013.

⁸⁹ Art. 131³(2) Rules of Procedure of the *Saeima*.

⁹⁰ Art. 131³(1) Rules of Procedure of the *Saeima*.

⁹¹ See, for instance, Judgment of the Constitutional Court of 1 October 1999, case No. 03-05(99).

⁹² Art. 16 Constitutional Court Law (1996. gada 5. jūnija Satversmes tiesas likums. 'Latvijas Vēstnesis', 14 June 1996 (No 103)). An English version of the Constitutional Court Law is available on the website [likumi.lv](https://likumi.lv/ta/en/en/id/63354-constitutional-court-law): <https://likumi.lv/ta/en/en/id/63354-constitutional-court-law>, accessed 10 September 2020.

unconstitutional.⁹³ If a draft law contrary to the *Satversme* was nevertheless put to a referendum and adopted, that law could later be challenged before the Constitutional Court as any other law adopted by the legislature. To my knowledge, there is no notable precedent where an institution-initiated referendum would have been challenged.

However, two of the direct-democratic instruments that are used most often, the citizens' legislative initiative and the agenda initiative, not only have their own specific limits but also a particular institutional and procedural framework for reviewing compliance with these limits.

4.2 Citizens' Legislative Initiative

The *Saeima* has a constitutional obligation, following from Articles 1 and 78 of the *Satversme*, to establish clear regulations for implementing the citizens' legislative initiative, including by setting up a mechanism for verifying whether the requirements of Article 78 of the *Satversme* are met. Even the people, as one of the legislators, have no right to violate the constitution.⁹⁴

To submit a citizens' legislative initiative and start collecting signatures, first of all, an initiative group must be registered. It can be formed by a political party or an alliance of political parties, as well as by an association of at least ten electors.⁹⁵ Once established, the initiative group can register the proposed draft law or draft amendments to the constitution with the CEC, which then reviews the initiative for its compliance with the limits set out above in Section 3.3.

4.2.1 Competence of the CEC

Pursuant to Article 1 of the Law on the Central Election Commission, the CEC is a state institution, established by the *Saeima*, which acts independently. The CEC ensures the implementation of the Law on Referendums⁹⁶ and has the right to examine all issues linked to the preparation and conduct of referendums and citizens' legislative initiatives.⁹⁷ The CEC consists of nine members, eight of which are elected by the *Saeima* and one is elected by the Supreme Court from

⁹³ Art. 17 Constitutional Court Law.

⁹⁴ See Judgment of the Constitutional Court of 18 December 2013, case No. 2013-06-01, para. 12; Judgment of the Constitutional Court of 19 May 2009, case No. 2008-40-01, para 9; Decision of the Constitutional Court of 19 December 2012 on terminating judicial proceedings in case No. 2012-03-01, para. 16, 18.3 and 19.1.

⁹⁵ Art. 23(1) and (2) Law on Referendums.

⁹⁶ Art. 4 Law on the Central Election Commission (1994. gada 13. janvāra likums 'Par Centrālo vēlēšanu komisiju'. 'Latvijas Vēstnesis', 20 January 1994 (No 8)).

⁹⁷ Art. 6 Law on the Central Election Commission.

its pool of judges.⁹⁸ Already since the adoption of the *Satversme*, the CEC has been entrusted with the jurisdiction to verify compliance of initiative proposals with the requirements of Article 78 of the *Satversme*. Historically it has been recognised that the CEC ‘is not an office of technical work or an intermediary institution, which would quite mechanically advance any submitted draft, but is a higher governing institution, which has to see to it strictly that all laws pertaining to the *Saeima* election, legislative initiatives by the people and the national referendums were correctly applied and implemented’.⁹⁹ This jurisdiction follows from Article 78 of the *Satversme*, the Law on Referendums and the Law on the Central Election Commission and has been confirmed by the Supreme Court¹⁰⁰ and the Constitutional Court.¹⁰¹

The Constitutional Court has recognised that the CEC’s jurisdiction comprises an assessment of whether a proposed draft law is ‘fully elaborated’ in the sense of Article 78 of the *Satversme*.¹⁰² The CEC shall refuse registration of a draft law or draft amendment to the constitution if the initiative group does not conform to the legal requirements or the draft is not compatible with the legal limits, that is, is not ‘fully elaborated’ with regard to its form or content.¹⁰³ The legal assessment carried out by the CEC is distinguishable from the assessment concerning the usefulness or political desirability of a draft, which can only be carried out by the legislator – the *Saeima* or the people. Therefore, the CEC does not have the authority to assess whether a proposal is ‘good and desirable’; in this respect, the initiators ‘have complete freedom’.¹⁰⁴

In its decision-making, the CEC abides by the principles of administrative procedure specified in the Administrative Procedure Law.¹⁰⁵ The initiators are invited to the respective meeting and are heard. The CEC also has the right to invite and hear officials of ministries, departments and other state and local

⁹⁸ Art. 2 Law on the Central Election Commission.

⁹⁹ Kārlis Dišlers, ‘Vai Centrālajai vēlēšanu komisijai ir tiesība pārbaudīt iesniegtos likumprojektus’ (Jurists, 1928, No 5) 135–136.

¹⁰⁰ See, for instance, the Judgment of the Supreme Court of 12 February 2014, case No. SA-1/2014 and Judgment of the Supreme Court of 28 March 2014, case No. SA-3/2014.

¹⁰¹ See, for instance, Judgment of the Constitutional Court of 18 December 2013, case No. 2013-06-01.

¹⁰² Decision of the Constitutional Court of 19 December 2012 to terminate judicial proceedings in the Case No. 2012-03-01, para. 18.3.

¹⁰³ Art. 23(5) Law on Referendums.

¹⁰⁴ Judgment of the Supreme Court of 2 March 2020, case No. SA-1/2020, para. 16.

¹⁰⁵ 2001. gada 25. oktobra Administratīvā procesa likums. ‘Latvijas Vēstnesis’, 14 November 2001 (No 164). An English version of the Administrative Procedure Law is available on the website [likumi.lv](https://likumi.lv/ta/en/en/id/55567-administrative-procedure-law): <https://likumi.lv/ta/en/en/id/55567-administrative-procedure-law>, accessed 10 September 2020; Judgment of the Constitutional Court of 18 December 2013, case No. 2013-06-01.

government institutions.¹⁰⁶ It is its common practice to seek the legal opinions of the Ministry of Justice and the Legal Bureau of the Parliament when reviewing an initiative.

If the CEC concludes that a draft is not ‘fully elaborated’, it has to refuse registration of the initiative.¹⁰⁷ The law does not authorise the CEC to declare only parts of an initiative invalid, split it up into different parts or amend its wording. Article 23(4) clause 2 of the Law on Referendums, which allows the CEC to set a time limit for the correction of shortcomings of the submission or the draft, is applicable only in case of obvious errors. It cannot be used to instruct the initiators to modify the text of the draft in such a way as to avoid confusion or non-compliance with higher law. Otherwise, the CEC would substitute itself for the authors of the initiative, which would be incompatible with its competence as well as the initiators’ responsibility to submit, in accordance with their own will, a fully elaborated draft.¹⁰⁸

4.2.2 Competence of the Supreme Court

The Constitutional Court has rejected the view that there was no mechanism for reviewing the legality of decisions concerning the implementation of citizens’ legislative initiatives.¹⁰⁹ With regard to the CEC’s decisions, Article 13 of the Law on the Central Election Commission provides that they, as a general rule, can be appealed in accordance with the procedure set out in the Administrative Procedure Law. Since its amendment in 2012, the Law on Referendums explicitly provides that the initiative group may appeal the decision of the CEC to refuse registration of a draft to the Supreme Court.¹¹⁰

The Supreme Court examines the matter as the court of first instance in a panel of three judges in a procedure with open hearing.¹¹¹ The burden of proof shall lie with the participants in the administrative proceedings.¹¹² The court must adopt a decision within two months at most.¹¹³ Its decision is not subject to appeal.¹¹⁴ There is no norm that would restrict the Supreme Court’s jurisdiction to examining only the procedure, in which the CEC adopted its decision. As explained by the Constitutional Court, the Supreme Court should

¹⁰⁶ Art. 11 Law on the Central Election Commission.

¹⁰⁷ Art. 23(5) Law on Referendums.

¹⁰⁸ Judgment of the Supreme Court of 2 March 2020, case No. SA-1/2020, para. 10.

¹⁰⁹ Decision of 19 December 2012 by the Constitutional Court on terminating judicial proceedings in case No. 2012-03-01, para. 20.

¹¹⁰ Art. 23¹(1) Law on Referendums.

¹¹¹ Art. 23¹(2) Law on Referendums.

¹¹² Art. 23¹(4) Law on Referendums.

¹¹³ Art. 23¹(3) Law on Referendums.

¹¹⁴ Art. 23¹(6) Law on Referendums.

also review the CEC's decision with regard to its substance, that is, whether the draft in question is indeed not 'fully elaborated' and whether the CEC's reasoning meets the requirements.¹¹⁵

4.2.3 Competence of the President

If the CEC concludes that the initiative meets the legal requirements, it passes it on to the President. The prevailing view in legal scholarship used to be that the President is obliged to present the initiative to the parliament without any interference.¹¹⁶ However, in 2012 the Constitutional Court ruled that if the President disagrees with the CEC's decision he or she, 'by employing the lawful means at his [or her] disposal', must see to it that the norms and principles of the *Satversme* are complied with.¹¹⁷ However, the Constitutional Court did not elaborate on what would be the 'lawful means' at the President's disposal. There are no rules that would regulate a situation where the President disagrees with the CEC's assessment, nor have legal scholars come to a conclusive answer with regard to the legally correct way for the President to ensure compliance with the *Satversme*.¹¹⁸ Since there is no deadline for the President to submit a draft to the parliament, he or she could wait until reception of a fully elaborated draft from the CEC. The question has not arisen in practice yet, as never has a President refused to forward a draft to the parliament.

4.2.4 Competence of the Constitutional Court

The Constitutional Court has an exclusive jurisdiction to review legal norms for their compliance with norms of higher legal force and declare them invalid.¹¹⁹ In contrast, it does not have the competence to assess the *application* of legal norms by the institutions of public administration, nor the legality of rulings made by general jurisdiction courts.¹²⁰ Consequently, the Constitutional Court is not directly involved in ensuring that legislative initiatives are compatible with the legal limits; it cannot review decisions taken by the CEC or administrative courts. However, especially when the Law on Referendums has

¹¹⁵ Constitutional Court Judgment of 18 December 2013, case No. 2013-06-01, para 15.4.

¹¹⁶ Kārlis Dišlers, *Ievads Latvijas valststiesību zinātnē* (Ansis Gulbis, 1930) 171.

¹¹⁷ Decision of the Constitutional Court of 19 December 2012 to terminate judicial proceedings in the case No. 2012-03-01, para. 21.

¹¹⁸ Anita Rodiņa, 'Valstiskumu pamatu aizsardzības mehānismi' *Tiesību interpretācija un tiesību jaunrade – kā rast pareizo līdzsvaru: Latvijas Universitātes 71. zinātniskās konferences rakstu krājums* (LU Akadēmiskais apgāds, 2013) 232.

¹¹⁹ Art. 85 *Satversme* and Constitutional Court Law.

¹²⁰ See, for example, Judgment of the Constitutional Court of 23 April 2003, case No. 2002-20-0103, para. 7; Judgment of the Constitutional Court of 3 June 2009, case No. 2008-43-0106, para. 12.

been challenged before it, the Constitutional Court has used the opportunity to clarify the legal limits and the competence of other state institutions to review compliance with them.¹²¹

4.3 Agenda Initiative

After the receipt of an agenda initiative, the Presidium of the *Saeima* is obliged to evaluate, within 20 days, its compliance with the previously mentioned legal limits and decide on forwarding it to the Mandate, Ethics and Submissions Committee (Submissions Committee), which is in charge of an initial evaluation. The person authorised to represent the signatories of the agenda initiative is invited to the meeting of the Presidium.¹²² If the Presidium ascertains that the submission does not comply with the legal requirements, it provides a reply to the submission according to the regular procedure for responding to submissions of individuals.¹²³

Once the Submissions Committee has received the collective submission it must hold a meeting not later than a month after the collective submission has been filed with the *Saeima*.¹²⁴ The person authorised to represent the initiators is again invited to the meeting and has the right to justify the collective submission and take part in the relevant debates.¹²⁵

Not later than three months after the collective submission has been filed, the Submissions Committee drafts a report on its evaluation of the agenda initiative and prepares a draft resolution of the *Saeima* on further processing the initiative.¹²⁶ The Committee can recommend specific action to be taken, for instance, to form a special committee of the *Saeima* tasked with preparing a relevant draft law, to forward the collective submission to a relevant institution for further evaluation, to instruct the Cabinet of Ministers to prepare a relevant concept or draft law, or to turn down the initiative.¹²⁷ The Committee supervises the fulfilment of the tasks set forth in the draft resolution of the *Saeima* and, if necessary, may prepare other draft resolutions that would ensure fulfilment of a given task.¹²⁸ The decision of the *Saeima* regarding the

¹²¹ Decision of the Constitutional Court of 19 December 2012 to terminate judicial proceedings in the case No. 2012-03-01; Judgment of the Constitutional Court of 18 December 2013, case No. 2013-06-01; Judgment of the Constitutional Court of 12 February 2014, case No. 2013-05-01.

¹²² Art. 131⁴(1) Rules of Procedure of the *Saeima*.

¹²³ Art. 131⁴(2) Rules of Procedure of the *Saeima*.

¹²⁴ Art. 131⁵(1) Rules of Procedure of the *Saeima*.

¹²⁵ Art. 131⁵(2) and (3) Rules of Procedure of the *Saeima*.

¹²⁶ Art. 131⁵(4) Rules of Procedure of the *Saeima*.

¹²⁷ Art. 131⁵(5) Rules of Procedure of the *Saeima*.

¹²⁸ Art. 131⁵(7) Rules of Procedure of the *Saeima*.

specific actions to be taken cannot be challenged before a court or any other body.

5. CONCLUSION

The direct-democratic instruments that are used most often in Latvia are the agenda initiative and citizens' legislative initiative. While there are relatively few limits on the agenda initiative, the citizens' legislative initiative is restricted by open-ended substantive and formal legal limits. In practice, the main reason for the rejection of citizens' legislative initiatives is non-compliance with the requirement that the draft must be 'fully elaborated'. This requirement is constantly developed further in legal scholarship and the case law of the Supreme Court and the Constitutional Court. According to the publicly available information, since the end of 2012, 15 citizens' legislative initiatives have been registered,¹²⁹ while in nine cases registration has been refused (eight of these initiatives proposed new laws, one proposed amendments to the constitution).¹³⁰ The initiators are involved in the registration process before the CEC, and all decisions of the CEC regarding legislative initiatives can be challenged before the Supreme Court.

Since the agenda initiative does not oblige the legislature to take any specific action, the limits on this instrument are much more narrow. It allows the people to put important matters on the political agenda without having to comply with the limits applicable to the citizens' legislative initiative. Although only Latvian citizens have the right to launch an agenda initiative, the instrument is widely used, constantly placing important matters on the parliament's agenda.

There are very few specific formal limits when it comes to the formulation of referendum questions by state institutions. Accordingly, the parliament and the CEC have a wide margin of discretion in drafting them, and there are no precedents where a referendum question would have been challenged. For the sake of legal certainty and clarity, more detailed regulations on the formulation of referendum questions would be desirable.

¹²⁹ List of initiatives where the process of collecting signatures has been closed: <https://www.cvk.lv/lv/iniciativas/veletaju-iniciativas/iniciativas-par-kuram-parakstu-vaksana-noslegusies>, accessed 10 August 2020; list of initiatives that are currently in the process of collecting signatures: <https://www.cvk.lv/lv/iniciativas/veletaju-iniciativas/registretas-iniciativas>, accessed 10 August 2020.

¹³⁰ List of initiatives the registration of which was refused: <https://www.cvk.lv/lv/iniciativas/veletaju-iniciativas/iniciativas-kuram-registracija-atteikta>, accessed 10 August 2020.