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Constitutional Regulation on the Oath of the State President. Case of the Republic of Latvia

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Introduction

Since ancient times the oath has been a form of manifesting faithfulness and loyalty and is known as a traditional model of pledging faithfulness¹. The oath, undoubtedly, is one of the oldest legal instruments which have been retained in the constitutional regulation of many countries. Definitely, the oath has not lost its initial meaning even now, since, when the oath is taken, it is always expected that the person promises to abide by what has been expressed by the formula of the oath².

The oath can have a range of diverse subjects. However, the oath of the Head of the State, *inter alia*, the State President, is one of the most typical oaths in constitutional law. One might even assert that the oath is the main feature of the Head of the State³. Likewise, Article 40 of the Satversme [Constitution] of the Republic of Latvia (hereinafter – the Satversme) provides that the State President, upon assuming the duties of office, gives a solemn affirmation (oath)⁴. The oath

¹ S. Osipova, *Zvērests ir sena tradīcija, kur jāievēro precīza forma* “Jurista vārds”, 25.oktobris, 2011, Nr 43 (690).

² *Black's Law Dictionary*, Thomson West 2004, p. 1101.

³ R.L. Maddex, *The U.S. Constitution A to Z*, Washington DC: CQPress 2002, p. 339.

⁴ The Satversme provides: “40. The President, upon taking up the duties of office, at a sitting of the Saeima, shall take the following solemn oath: “I swear that all of my work will

of the State President has not been explored in theory and practice. Therefore, the aim of this article is to examine the constitutional importance of the oath of the Latvian State President, as well as to analyse its procedural and substantive aspects.

State President as one of the Subjects of the Oath in the Latvian Constitution

Article 40 of the Satversme of the Republic of Latvia, since its coming into force on 7 November 1922, establishes the constitutional regulation of the solemn affirmation (oath)⁵ of the State President. This Article of the Satversme has been amended once. The initial wording of Article 40 of the Satversme provided that “The President, upon taking up the duties of office, at the nearest sitting of the Saeima following election, shall take [...]”. With the amendments of 2007 the words “at the nearest .. following election” were deleted from Article 40 of the Satversme. Concurrently with the amendments to the Satversme a special law was adopted – the Law on Elections of the President of the State⁶, which comprises the procedural aspects of taking the oath.

The Satversme provides that beside the oath taken by the President of the State, the solemn promise must be given also by the members of the Saeima [Parliament]⁷. However, the solemn promise of the members of the Saeima is

be dedicated to the welfare of the people of Latvia. I will do everything in my power to promote the prosperity of the Republic of Latvia and all who live here. I will hold sacred and will observe the Constitution of Latvia and the laws of the State. I will act justly towards all and will fulfil my duties conscientiously.” The Constitution of the Republic of Latvia. HYPERLINK “<http://saeima.lv/en/legislation/constitution/>” <http://saeima.lv/en/legislation/constitution/>, 14.10.2015.

⁵ In Latvian the word “promise” (affirm) means “to express readiness, preparedness (to give, perform, do); allow (someone) to expect that (something) will happen (will be given, performed, done), but “to take an oath” is explained as “to solemnly pledge, promise”. A dictionary of legal terms explains that an oath is a solemn public pledge, which a person or an official takes in cases provided for by law or other legal acts. In view of the linguistic content and meaning of both terms, as well as their legal understanding, the terms included in Article 40 of the Satversme – “solemn promise” and “oath”, essentially, should be seen as synonyms. Even though the oath is a more ancient expression of loyalty, the solemn affirmation has been created [named] as an alternative to an oath, respecting those persons, who cannot take an oath because of subjective reasons, for example, religious, ethical and other considerations. Therefore in the article term “oath” means the same as the “affirmation” and “solemn promise”. *Latviešu valodas vārdnīca*. <http://www.tezaurs.lv/lv/?vards=sol%C4%ABt> [accessed on 2015-07-17]; *Juridisko terminu vārdnīca*, Rīga: Nordik 1998, 301.lpp.

⁶ Valsts Prezidenta ievēlēšanas likums. Latvijas Vēstnesis. 2007. gada 17. maijs, Nr. 79.

⁷ Article 18 of the Satversme says: “A person elected to the Saeima shall acquire the mandate of a Member of the Saeima if such person gives the following solemn promise: “I, upon

a novelty in the Latvian constitutional regulation. Article 18 of the Satversme, which establishes the constitutional status of the solemn promise of the Saeima member, was amended in 2002⁸. It is clear that Article 40 of the Satversme is similar to Article 18 of the Satversme as regards terminology. Article 40 of the Satversme has served as a source of inspiration and has been used in elaborating the solemn oath of the member of the Saeima⁹. Both oaths are similar also as to their contents. During the debates regarding the text of the oath by a member of the Saeima, it was noted that “[...] there are no grounds to worry that the texts of the promise given by a member of the Saeima would differ to a certain extent from the promise given by the President of the State upon taking up the office. This does not mean in the least that this could cause conflicts. However, there is another issue. The procedure of election and the powers of office of the member of the Saeima and the State President are different”¹⁰. The comparison of the oath taken by a member of the Saeima and the State President reveals that, due to objective reasons, the obligation to strengthen the Latvian language as the only official language has not been encoded *expressis verbis* into the oath of the State President. Similarly, the text of the oath taken by a member of the Saeima does not comprise such terms as “to the welfare of the people of Latvia”, “prosperity”, “acting justly”. In difference to the solemn affirmation by a member of the Saeima, the oath of the President of the State does not comprise a reference that it is taken “before the people of Latvia”.

The obligation of other constitutional institutions and officials to take an oath follows from a number of legal acts. For example, judges must take the oath in accordance with the law “On Judicial Power”¹¹, the Constitutional Court Law¹², sworn advocates take the oath in accordance with Advocacy Law of the Republic of Latvia¹³, sworn notaries – in accordance with Notariate Law¹⁴. It must be

assuming the duties of a Member of the Saeima, before the people of Latvia, do swear (solemnly promise) to be loyal to Latvia, to strengthen its sovereignty and the Latvian language as the only official language, to defend Latvia as an independent and democratic State, and to fulfil my duties honestly and conscientiously. I undertake to observe the Constitution and laws of Latvia.”” The Constitution of the Republic of Latvia. <http://saeima.lv/en/legislation/constitution/>, 14.10.2015.

⁸ Grozījumi Latvijas Republikas Satversmē: LR likums. Latvijas Vēstnesis, 70 (2645), 10.05.2002.

⁹ See, for example, Latvijas Republikas 7.Saeimas pavasara sesijas otrā (ārkārtas) sēde 2002.gada 10.aprīlī, http://saeima.lv/steno/2002/st_1004a/st1004a.htm, 14.10.2015.

¹⁰ Latvijas Republikas 7.Saeimas pavasara sesijas otrā (ārkārtas) sēde 2002.gada 10.aprīlī, http://saeima.lv/steno/2002/st_1004a/st1004a.htm, 14.10.2015.

¹¹ Law On Judicial Power. <http://www.vvc.gov.lv>, 14.10.2015.

¹² Constitutional Court Law. <http://www.vvc.gov.lv>, 14.10.2015.

¹³ Advocacy Law of the Republic of Latvia. <http://www.vvc.gov.lv>, 14.10.2015.

¹⁴ Notariate Law, <http://www.vvc.gov.lv>, 14.10.2015.

also noted that the Experts' Group for Improving Governance, established by the President of the State, in its proposals on improving the work of the Cabinet has included a recommendation that an oath could be taken also by the Cabinet members¹⁵. However, at present the constitutional regulation in Latvia establishes the oath of two constitutional institutions: the State President and members of the Saeima.

Constitutional Regulation on the Oath of the State President. Constitutional Consequences of the Oath

Similarly to the majority of European states, the Latvian constitutional regulation also comprises the three most important aspects of the oath by the State President. First, acquiring the office of the State President is linked with the taking of the oath. The oath is an integral part of the office of the State President. A legal norm with the same constitutional meaning is included also in Para 81 of the Estonian Constitution¹⁶, Article 56 of the Federal Constitution of Germany¹⁷, Article 130 of the Polish Constitution¹⁸. The State President of Greece¹⁹, the State President of Lithuania²⁰, as well as presidents of other states must take the oath. Secondly, the Satversme defines the time, when the State President comes into office, as well as [procedural] aspects of giving the oath. Thirdly, similarly to the constitutional regulation of the majority of states²¹, the Satversme comprises also the text of the oath.

¹⁵ *Opportunities for Improving Work of the Cabinet of Ministers*. [in:] *Priekšlikumi Latvijas publiskās varas pilnveidošanai. Ekspertu grupas pārvaldības pilnveidei materiāli*, Rīga: Latvijas Vēstnesis 2015, p. 280.

¹⁶ The Constitution of the Republic of Estonia. <https://www.riigiteataja.ee/en/eli/530102013003/consolide>, 14.10.2015.

¹⁷ Basic Law of the Federal Republic of Germany. https://www.bundestag.de/blob/284870/ce0d03414872b427e57fcb703634dcd/basic_law-data.pdf, 14.10.2015.

¹⁸ The Constitution of the Republic of Poland of 2nd April, 1997. <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>, 14.10.2015.

¹⁹ The Constitution of Greece. Article 33. <http://www.hri.org/docs/syntagma/artcl50.html#A33>, 14.10.2015.

²⁰ Constitution of the Republic of Lithuania. Article 82. <http://www3.lrs.lt/home/Konstitucija/Constitution.htm>, 14.10.2015.

²¹ For example, a precise text of the State President's oath is included in Para 81 of the Estonian Constitution, Article 65 of the German Federal Constitution, the first part of Article 2 (last paragraph) of the Constitution of the USA, Article 56 of the Constitution of Finland, Article 33 of the Constitution of Greece. The constitutional regulation of Lithuanian should be mentioned as an exception. The text of the Constitution of Lithuania (Article 82) provides the core elements of the content of the State President's oath, but not a precise text of the oath. The Constitution provides that the State President takes an oath to be loyal

Even though in practice focus is upon the election of the State President, the moment when the State President takes the oath is constitutionally more important. This is because from this exact moment [of taking the oath] it can be considered that the State President has come into office. To word it differently: as of the moment of taking the oath it can be considered that the State President has assumed his/her duties of office. This means that the legal importance of the oath by the State President is undeniable: it is the legal dividing line, after crossing it, the official may commence performing his/her duties of office²².

The taking of the oath is not an obligation of the newly elected State President, but it is his/her right. A person, who has been elected State President, has also the right to refuse to take the oath. That would be possible, if from the moment of electing the State President until the moment of taking the oath such subjective or objective circumstances have become apparent that might prohibit the newly elected State President to become the State President. The consequences of such refusal are unequivocal: if the newly elected State President refuses to give the oath on the date set by the Presidium of the Saeima, new presidential elections are held²³.

Since the State President, by taking the oath, assumes the office of the Head of State, he must resign from other offices before giving the oath, *inter alia*, he must resign from his/her seat as the member of the Saeima. The regulation of Article 38 of the Satversme is clear: the office of the State President cannot be combined with any other office. If a person, who has been elected the State President, due to any considerations refuses to resign from a previous office, then it means that he also gives up the office of the State President.

The oath of the State President is personal as to its nature, since it is taken by a particular one person²⁴. The oath is a public act, which is taken in the presence of other persons. However, at the same time it must be underscored that the oath of the State President is a unilateral legal act²⁵. This means that the oath of the State President is not accepted by any official or institution. Another aspect of the oath should also be underscored: the oath, even though it is a unilateral legal

to the Republic of Lithuania and the Constitution, to perform his duties conscientiously, to treat everyone equally fair. The precise text of the State President's oath is set out in Law on the President. See, Law on the President. http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=386194, 14.10.2015.

²² J. Pleps, *Par zvērēšanu un uzmanības vērtu precedent*, "Jurista vārds", Nr 29 (287), 20.08.2003.

²³ Valsts prezidenta ievēlēšanas likums: LR likums, "Latvijas Vēstnesis" Nr 79 (3655), 17.05.2007, Article 14.

²⁴ P. Horwitz, *Honor's Constitutional Moment: The Oath and Presidential Transitions*, "Northwestern University Law Review", Vol. 103, 2009, p.1068.

²⁵ J. Pleps, *Par zvērēšanu un uzmanības vērtu precedent*, "Jurista vārds", Nr 30 (288), 27.09.2003.

act, has an addressee. In view of the place, where the oath is taken, – the Saeima, it could be concluded that the Saeima is the addressee of the oath²⁶. However, such conclusion cannot be considered as being exhaustive. Even though the State President is elected by the Saeima, it must be held that the State President is elected by the people, but through the mediation of the Saeima. The text of the oath comprises significant values of the state and society, which primarily link the President to the people. The state exists because of the people, and also all constitutional institutions, the State President among them, function for them. Therefore the subject of the State President's oath first and foremost is the people, which is the supreme value of the state²⁷.

Pursuant to Article 35 of the Satversme, the State President is elected for the term of four years. This means, that the four years of the State President's term in office expire four years after taking of the oath, formally and mathematically not coinciding with the date, when the successive State President takes the oath. Thus, for example, the mandate of the State President A.Bērziņš expired four years after taking the oath – on 7 July 2015 (at midnight, when the respective day of 7 July ended); however, the newly elected State President R. Vējonis gave the oath on 8 July 2015 at the ceremonial sitting of the Saeima. The oath of the State President does not ensure the continuity of the institution of the State President. Even though for a brief moment, but actually for a [very brief] moment Latvia is without the State President. Pursuant to Article 52 of the Satversme, during this period the duties of the State President are assumed by the Speaker of the Saeima. Likewise, in those cases, when the State president has been removed from office or for any other reason the elected State President is prevented from taking the oath, the period of time, when the functions of the State of the Head are performed by the acting Head, is prolonged.

Procedural Aspects of the Oath or the Theory and Practice of Taking the Oath

The procedure for taking the oath of the State President or the procedure of swearing is defined by the Satversme, as well as the Law on Election of the State President. The constitutional tradition is also of great importance, because in Latvia the procedure, in which the State President takes the oath, is not described in such a detailed way as, for example, in Lithuania, where the procedure of

²⁶ K. Hakelis, *Zvērests un zvērināšanas tiesības, ieceļot tiesu varai piederīgas personas*, "Jurista vārds", Nr 22 (289), 10.06.2003.

²⁷ G. Kūtris, *Satversme ir jāciens kā dokuments, ko esam paši sev pieņēmuši*, "Jurista vārds", Nr 45 (744), 06.22.2012.

inauguration is extensively defined in a legal act – the Law on the President²⁸. One might even say that each State President²⁹ in Latvia has brought something new into the inauguration of the State President.

The Satversme provides that the oath is taken during a sitting of the Saeima. The norm that has been included in the Satversme means that the constitutional legislator has defined the place, where the oath must be taken: in the place, where the Saeima is located, and in its procedural form of work – at a sitting. In the recent years the State President takes the oath in a special – ceremonial – sitting of the Saeima. This parliamentary tradition was introduced at the time, when President V. Viķe-Freiberga was in office, i.e., there is only one item on the agenda of the sitting – the taking of the oath by the State President. In view of the amendments introduced to Article 40 of the Satversme, the time for taking the solemn affirmation of the State President is set by the Presidium of the Satversme, taking into consideration the term of office of the incumbent State President³⁰. The general assessment of the taking of the oath allows concluding that the time, when the oath is taken, has been first of all defined by the peculiarity of the constitutional regulation (taken at the nearest sitting), as well as practical possibilities (election linked passions and time³¹). For example, G. Zemgals took the oath within a couple of hours following the election – on 8 April 1927, when it was established, at what time G. Zemgals, who himself did not participate at the Saeima sitting, when the election of the State President was held, would be able to “take over the official mandate of the President and take the solemn oath”³². After the statehood of Latvia was restored and the Satversme reinstated, due to objective reasons 8 July has become established as the date of the inauguration of the State President. This is not a specifically chosen date. The taking of the oath by the newly elected State President G. Ulmanis (pursuant to the provisions of the Satversme) was organised on the following day after the election – 8 July 1993³³. All successive Presidents (G. Ulmanis (second term in office), V. Viķe-

²⁸ Law on the President, Article 5. http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=386194, 14.10.2015.

²⁹ Latvia have had the following State Presidents elected in accordance with the Satversme: J. Čakste (1922.–1927.); G. Zemgals (1927.–1930.); A. Kviesis (1930.–1936.); G. Ulmanis (1993.–1999.); V. Viķe-Freiberga (1999.–2007.); V. Zatlers (2007.–2011.); A. Bērziņš (2011.–2015.); R. Vējonis (2015.). K. Ulmanis who performed functions of the Head of the State (1036.–1940.) have never been elected as the State President.

³⁰ Valsts prezidenta ievēlēšanas likums: LR likums. Latvijas Vēstnesis Nr. 79 (3655), 17.05.2007.

³¹ R. Treijs, *Latvijas prezidenti 1918–1940*, Rīga: Latvijas Vēstneša bibliotēka, 2004, 23.–57. lpp.

³² A. Auziņš, R. Ādmīdiņš, *Brīvās Latvijas prezidenti*, Rīga: Jumava, 2003, 43.lpp.

³³ Latvijas Republikas 5.Saeimas sēde. 1993.gada 8.jūlijā. http://saeima.lv/steno/st_93/080793.html, 14.10.2015.

Freiberģa (two terms in office), V. Zatlers and A. Bērzis) have taken the oath on 8 July. The incumbent State President R. Vējonis took the oath this summer – on 8 July 2015³⁴. Definitely, the sitting at which the State President must take the oath, must be a priority or it must be “the nearest Saeima sitting” after the State President’s term of office has expired.

The “taking” of the oath means that the person speaks it by pronouncing the words orally. The taking of the oath does not mean that the person must mandatorily speak it by heart. The person taking the oath may read it. Sometimes the person taking the oath places his/her hand on heart, thus, very symbolically pointing to the importance of the oath for the individual taking it. In Latvia, this tradition has appeared in recent years, when V. Zatlers and R. Vējonis placed the right hand on heart while taking the oath. G. Ulmanis has said that during taking of the oath “would have liked to place my hand also on the Bible, since the solemnity of the moment is close to a prayer – it is addressing a higher force”³⁵.

The oath must be taken in Latvian – in the language, in which the formula of the oath has been drawn up. The taking of the oath in Latvian also points to the importance of the supreme value – the Latvian language, and additionally highlights its constitutional status. Taking of the oath in a foreign language is inadmissible. Pursuant to the first part of Section 23 of Official Language Law, the Latvian language must be used in official communication, abiding by the valid norms of the literary language³⁶. In the official communication, as a special field of communication, the literary form of the Latvian language must be used, which is common [should be common] to all inhabitants of Latvia³⁷.

The Satversme does not provide that the State President’s oath should be signed. The Saeima Rules of Procedure do not regulate the signing of the State President’s oath either. However, in accordance with the constitutional tradition, after the oath has been solemnly taken orally, it is always signed. This tradition was introduced since the first State President – J. Čakste – took the oath³⁸. Obviously, the signed text of the State Presidents’ oath serves as a testimony that the particular person has come into office of the State President. The taking of the oath by a member of the Saeima is constructed similarly in the Satversme. The second sentence of Article 18 of the Satversme has been constructed in a way to comprise the prerequisite that a person elected to the Saeima acquires the mandate of a mem-

³⁴ Latvijas Republikas Saeimas 2015. gada 08. jūlija ārkārtas sesijas sēdes darba kārtība. http://titania.saeima.lv/LIVS12/SaeimaLIVS2_DK.nsf/DK?ReadForm, 12.10.2015.

³⁵ A. Auziņš, R. Ādmīdiņš, *Brīvās Latvijas prezidenti*, Rīga: Jumava, 2003, 89.lpp.

³⁶ Valsts valodas likums: LR likums. Latvijas Vēstnesis, 428/433 (1888/1893), 21.12.1999.

³⁷ E. Levits, *Par latviešu valodu Satversmes 4. pantā nacionālas valsts kontekstā*, “Jurista vārds”, 25.10.2011, Nr 43 (690).

³⁸ A. Auziņš, R. Ādmīdiņš, *Brīvās Latvijas prezidenti*, Rīga: Jumava, 2003, 21.lpp.

ber of the Saeima, if he or she takes the oath at a Saeima sitting and confirms it by signing³⁹. The signing of the affirmation given by a member of the Saeima has been enshrined in the second part of Para 3 of the Saeima Rules of Procedure⁴⁰.

In taking the oath, the text of the oath must be strictly abided by, amendments to it are prohibited. If any deviations from the text of the oath are made or if the elected State President refuses to take the oath or to sign it, or makes disclaimers upon signing it, then it must be considered that the President has not taken the oath. Until now all State Presidents of Latvia in taking the oath have abided by the formula included in Article 40 of the Satversme precisely. In Latvia the Speaker of the Saeima controls, whether the State President has taken the oath in compliance with the Satversme, the Speaker has the right to request that the oath is retaken, if deviations from the text of the oath have been made. In this respect, it is worth recalling the fact that the President of the USA B. Obama, in taking the oath for the first time (in 2009) pronounced in imprecisely, mixing the order of words⁴¹. His mistake occurred because the Supreme Court Judge Roberts tried to pronounce the text of the oath, which then had to be repeated by the State President, by heart, thus [possibly due to anxiety] mixing the order of words⁴². On the next day this mistake was settled at the White House, when B. Obama retook the oath⁴³.

Content of the President's Oath

The oath of the State President is comparatively short and laconic; the constitutional legislator has tried to include into it the fundamental values of the State⁴⁴. The oath of the Latvian State President is not as short as, for example, the oath

³⁹ Latvijas Republikas 7.Saeimas pavasara sesijas otrā (ārkārtas) sēde 2002.gada 10.aprīlī. http://saeima.lv/steno/2002/st_1004a/st1004a.htm, 12.10.2015.

⁴⁰ Saeimas kārtības rullis: LR likums. Latvijas Vēstnesis, 96 (227), 18.08.1994.

⁴¹ The taking of the oath can be watched on *youtube* channel: Barack Obama Oath of Office. https://www.youtube.com/watch?v=274_VdeckAU, 12.10.2015.

⁴² *Obama Isn't the First President to Retake Oath -- or Forgo Bible*, <http://www.washingtonpost.com/wp-dyn/content/article/2009/01/22/AR2009012203769.html>, 12.10.2015.

⁴³ *Obama retakes oath of office after inauguration stumble*, <http://www.theguardian.com/world/2009/jan/23/barack-obama-oath-inauguration>, 12.10.2015. Retaking of the oath can be watched on *youtube* channel: *Obama retakes oath of office after Roberts' mistake*. https://www.youtube.com/watch?v=KTPEdQ_MpUE, 12.10.2015.

⁴⁴ On the compliance of the decree of the President of the Republic of Lithuania (NO. 40) "On granting citizenship of the Republic of Lithuania by way of exception" of 11 April 2003 to the extent that it provides that citizenship of the Republic of Lithuania is granted to Jurijs Borisov by way of exception with the Constitution of the Republic of Lithuania and paragraph 1 of Article 16 of the Republic of Lithuania's Law on Citizenship: Ruling of the Constitutional Court of the Republic of Lithuania on 30 December 2003 in Case No. 40/03, para 7. <http://lrkt.lt/en/court-acts/search/170/ta1245/content>, 12.10.2015.

of the State President of the USA, and yet, it comprises “general constitutional values”, which are most important for the people⁴⁵. Thus, one might say that the text of the oath or its material manifestation is a kind of written “leitmotif” for the State President in performing the duties of office. Former State President G. Ulmanis has said the following: “I do not forget my oath a single day and I know that it will stay with me for the rest of my life – also when I shall no longer be the State President”⁴⁶.

Traditionally the oath of the State President consists of three parts: the first part is the so-called introductory part, consisting of the first two words of the oath “I swear”. The formula of the oath of the Latvian State President and also that of the member of the Saeima does not envisage including into the name and the surname of the person taking the oath; however, in practice the members of the Saeima [but not the State President] usually state also their name and surname. The second part of the oath consists of the texts of the oath itself, but the third part is the so-called concluding part, which usually contains the phrase “So help me God” or something similar. In comparative constitutional law mentioning the name of the God, the sacred Gospel, etc. in the State President’s oath is rather a choice made by the person taking the oath: to pronounce the name of the God or not. For example, in Lithuania the Law on the President offers to the person taking the oath a choice between two wordings of the oath’s text⁴⁷. The difference between these two wordings lies only in one sentence: in the first version of the text the oath ends with the words “So help me God”, but the second version does not envisage these words. Likewise, the President of the Federal Republic of Germany, upon coming into office, may choose to end the oath with the sentence “So help me God”⁴⁸. The same right to choose has been granted by the Constitution to the State President of Poland. The concluding part of the oath that might comprise references to the name of God has not been included in the oath of the Latvian State President. The reference to God in the Satversme appears only in the most recent legal norms – the Preamble to the Satversme. It is interesting that the text of the oath by the US State President does not envisage pronouncing the phrase “So help me God”; however, traditionally the oath is concluded with these

⁴⁵ On the compliance of action of President Rolandas Paksas of the Republic of Lithuania against whom impeachment case has been instituted with the Constitution of the Republic of Lithuania: Conclusion of the Constitutional Court of the Republic of Lithuania on 31 March 2004 in case No. 14/04, para 6. <http://www.lrkt.lt/en/court-acts/search/170/ta1263/content>, 12.10.2015.

⁴⁶ A. Auziņš, R. Ādmīdiņš, *Brīvās Latvijas prezidenti*, Rīga: Jumava, 2003, 89.lpp.

⁴⁷ Law on the President. http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=386194, 12.10.2015.

⁴⁸ Basic Law for the Federal Republic of Germany. https://www.bundestag.de/blob/284870/ce0d03414872b427e57fcb703634dcd/basic_law-data.pdf, 12.10.2015.

words. It has been noted that this phrase is so well known among Americans that many, indeed, think, that it has been included in the Constitution⁴⁹.

The State President's oath is a kind of "road sign" for the State President. It should be a source of inspiration both for the State President in performing the duties of office, as well as to any person applying legal norms⁵⁰. Undoubtedly, the oath of the State President is one of the most sizeable legal norms, rich as to its contents. As the former State President G. Ulmanis has stated: "[i]f I had to answer the question, what was the most difficult and most complicated thing in the President's work, or – the most important, I would say that it was the ability, the skill, the wish to fit into the order established by the Satversme, in spirit and in letter"⁵¹. In revealing the content of the State President's oath, a number of aspects should be taken into consideration, but, in particular, the methodology for interpreting the Satversme, as well as the place of the State President among the institutions implementing the state power. For example, in clarifying the content of the term that is included in the first sentence of the State President's oath "all of my work", it must be taken into consideration that Latvia is characterised by a form of parliamentary democracy, in the framework of which the State President is more involved in all political processes of the state. The scope of the State President's work and its implementation in practice is also characterised and determined by the place of the State President in the system of division of state power⁵². In Latvia the principle of division of power should be understood as a complex mechanisms consisting of functional division of the three powers, at the same time allowing exceptions from it⁵³. The Constitutional Court has also explained that "[...] the divisions of functions of implementation of power does not mean in the least that the State should establish three constitutional institutions, so that each of them would perform one of the three functions of power in full. In order for the division of power to reach its aim, some functions of the power should be delegated to various constitutional institutions"⁵⁴. The State

⁴⁹ R. Boston, *So, help me Gods?* "Church & State" January 2013, Vol. 66 Issue 1, p. 4.

⁵⁰ R. Balodis, *Latvijas Republikas Satversmes ievads*. [in:] *Latvijas Republikas Satversmes komentāri. Ievads. I nodaļa. Vispārējie noteikumi*. Rīga: Latvijas Vēstnesis 2014, 93, 95. lpp.

⁵¹ G. Ulmanis, *Vieglprātīga iejaukšanās varas sadalē var radīt neparedzētas sekas*, "Jurista vārds", Nr 52 (751), 18.12.2012.

⁵² Ch. Mollers, *The three Branches*. Ed. M. Loughlin, J.P. McCormick, N. Walker, Oxford University Press 2013, p. 16–49.

⁵³ *Par Valsts prezidenta funkcijām Latvijas parlamentārās demokrātijas sistēmas ietvaros*. [in:] *Valsts prezidenta Konstitucionālo tiesību komisija. Viedokļi: 2008–2011*. Rīga: Latvijas Vēstnesis, 2011, 110.lpp.

⁵⁴ On the Compliance of Section 46, Paragraphs six, seven, eight and nine of the Radio and Television Law with Sections 58 and 91 of the Republic of Latvia Satversme (Constitution): Judgement of the Constitutional Court of the Republic of Latvia on October 16, 2006 in

President, as one of the seven constitutional institutions, undoubtedly exercises the state power. However, the State President traditionally does not belong to any of the branches of State power, and therefore is not the main implementer of the three functions of the state power, but is linked to each branch of the power. The State President's Commission of Constitutional Law has provided the following explanation: the principal role of the State President is to become involved in a certain political situation, in decision taking and to create, by his/her activities, a certain impulse for solving the situation or adopting the decision⁵⁵. I. e., the State President performs his or her work by fulfilling the functions of a rather neutral force⁵⁶. The State President's Commission of Constitutional Law calls this function an arbiter or the reserve function, explaining that in a case of dispute between constitutional institutions the task of the State President is to try to reach an agreement or to settle it, by becoming involved into the dispute solution as the last instance⁵⁷. However, even though the State President has the functions of a neutral force⁵⁸, in some cases that are actually necessary the State President may resolve important issues in the life of the state. Likewise, the phrase included in the second sentence of the oath "I will do everything in my power" must be understood that the State President may do "everything" in the framework of the Satversme; by respecting the place of the State President within the system of division of powers and the scope of functions.

The State President is an official, who can perform his/her "work", in order to reach the aims, by using not only legal, but also political tools of impact, in the exercise of which the authority of the State President is very important. A strong, capable, authoritative and competent State President can most directly express himself in implementing everything „in his power". For example, on 14 January 2009 Valdis Zatlers made a statement, pointing to the need for the Saeima and the government to implement a number of measures. A term was set for implementing these tasks – 31 March, noting that in case these tasks were not fulfilled, the Saeima and the members of the Cabinet would prove their inability to act and

case no 2006-05-01, para 10.3. www.satv.tiesa.gov.lv, 12.10.2015; see also, *Constitutions Compared. An Introduction to Comparative Constitutional Law*. Antwerpen: Intersentia, 2009, p. 21.

⁵⁵ *Par Valsts prezidenta funkcijām Latvijas parlamentārās demokrātijas sistēmas ietvaros*. [in:] *Valsts prezidenta Konstitucionālo tiesību komisija. Viedokļi: 2008–2011*, Rīga: Latvijas Vēstnesis, 2011, 113.lpp.

⁵⁶ J. Pleps, E. Pastars, I. Plakne, *Konstitucionālās tiesības*, Rīga: Latvijas Vēstnesis, 2014, 187. lpp.

⁵⁷ *Par Saeimas priekšlaicīgu vēlēšanu mehānisma pilnveidošanu*. [in:] *Valsts prezidenta Konstitucionālo tiesību komisija. Viedokļi: 2008–2011*. Rīga: Latvijas Vēstnesis, 2011, 39.lpp.

⁵⁸ K. Von Beyme, *Parliamentary Democracy. Democratization, Destabilization, Reconsolidation, 1789–1999*, Macmillan Press Ltd 2000, p. 109.

adopt decisions important for the national development, and that in such a case the State President would exercise his right established in the Satversme to initiate a referendum on dismissal of the Saeima⁵⁹.

The Satversme calls upon the State President to work for “the welfare of the people of Latvia”. Highlighting the welfare of the Latvian people points to the symbolic and also legal connection between the State President and the people. The most renown Latvian scholar of state law K. Dišlers, in explaining the State President’s functions, has said that as to the substantive content the State President does not denote anything else, but politically organised people⁶⁰. Or the State President has the right, both in foreign and domestic affairs, to represent the people “in a unit organised by it and to appear as the first citizen of the State”⁶¹. The request in the oath by the State President to work for the people, even though the President is not elected by the people, means that the State President works and acts in common interests – those of the people, and not in the interests of a narrow group in society, not for the benefit and in the interests of some private persons. There is no doubt: welfare is one of the fundamental values in Latvia. In explaining the content of the concept “public welfare”, the Constitutional Court has noted that this concept “obviously, first of all comprises the aspects of the common material wellbeing of society, that includes various measures aimed at increasing the shared material benefits of society or reallocation among members of society”, noting that that welfare comprises also immaterial aspect that are necessary to ensure, to the extent possibly, harmony in the functioning of society⁶². It must be underscored that the Satversme does not *expressis verbis* define the obligation of any other constitutional institution to promote welfare. The concept of welfare is not included in the oath of the member of the Saeima. An opinion has been expressed in legal literature that Article 40 of the Satversme authorises the State President to act if the constitutional institution that primarily has the competence to deal with such issues is unable to provide sufficient protection for the interests of public welfare⁶³. However, the mandate remains solely within the framework of the Satversme, i.e., the State President may act to protect this value,

⁵⁹ 2009. gada darba pārskats. Politiskā stabilitāte valstī. http://www.president.lv/pk/content/?cat_id=8731&lng=lv, 12.10.2015.

⁶⁰ K. Dišlers, *Latvijas valsts prezidenta kompetence*, “Tieslietu Ministrijas Vēstnesis”, Nr 3, 1922, 126.lpp.

⁶¹ *Ibid*, 127.lpp.

⁶² On Compliance of Para 23.5 of the Regulation No. 746 of August 24, 2004 by the Cabinet Regulations, Regulations on Work Remuneration for Teachers» with Article 107 of the Satversme (Constitution) of the Republic of Latvia: Judgement of the Constitutional Court of the Republic of Latvia on 2.05.2007. in case no 2006-30-03, p. 15. www.satv.tiesa.gov.lv, 12.10.2015.

⁶³ D. Amoliņa, *Valsts prezidenta ietekme tautsaimniecībā*, “Jurista vārds”, Nr 52 (751), 18.12.2012.

however, taking into consideration the place and role in the principle of division of powers and exercising the mandate included in the Satversme. The actions by the State President aimed at reaching the particular aim, i. e., promoting public welfare, are obviously limited by his functional possibilities. Former State President V. Vīķe-Freiberga has stated that the executive power has the most direct impact upon public welfare. “The actions by the government influence inhabitants at every step, beginning with its taxation and fiscal policy. [...] The instruments of power that the State President has access to are seriously limited compared to the legislative and executive power, but his moral obligations – almost infinite”⁶⁴. At the same time, the State President can reach this aim by those measures that are at his disposal. Thus, for example, the State President cannot directly organise and ensure the standard of living worthy of human dignity, also the system of social assistance. But the State President can, by exercising his rights defined in the Satversme, monitor that the system of social assistance complies with the Satversme. Likewise, the State President cannot establish the system of social security, but he/she can ensure that the system should be effective, fair and sustainable⁶⁵.

The oath of the State President of Latvia includes also the obligation to abide by the Constitution [the Satversme] and the national laws, which is well known and recognised in comparative constitutional law. The third sentence in the oath of the State President most directly resonates with the formula of the oath taken by a member of the Saeima, included in Article 18 of the Satversme: “I undertake to observe the Constitution and the laws of Latvia”. This formula, undoubtedly, comprises the principle of legality, typical of a state ruled by law, which demands that all officials and constitutional institutions acted in accordance with the Constitution and laws. Only a person, who unreservedly subjects himself to the Constitution and observes it, may be the State President. Or, in compliance with the principle of legality, the laws bind all institutions of the state power⁶⁶. This means that the actions by the State President – both actions and failure to act must be such that would, first and foremost, comply with the

⁶⁴ V. Vīķe-Freiberga, *Prezidentam ir jāspēj būt par visas tautas vienotāju*, Nr 52 (751), 18.12.2012.

⁶⁵ E. Grigore-Bāra, A. Kovaļevska, L. Liepa, E. Levits, M. Mits, D. Rezevska, J. Rozenvalds, G. Sniedzīte, *Satversmes 1. panta komentārs*. [in:] *Latvijas Republikas Satversmes komentāri. Ievads. I nodaļa. Vispārējie noteikumi*, Rīga: Latvijas Vēstnesis 2014, 218.lpp.

⁶⁶ On Conformity of Items 1 and 4 of the Saeima April 29, 1999 Resolution on Telecommunications Tariff Council with Articles 1 and 57 of the Satversme (Constitution) of the Republic of Latvia and Other Laws: Judgement of the Constitutional Court of the Republic of Latvia on 1.10.1999 in case no 03-05(99), p. 1. www.satv.tiesa.gov.lv, 12.10.2015.

Satversme and that his/her actions would not cause violations of law⁶⁷. Moreover, the Satversme does not impose only the obligation to exercise the rights included in the Satversme mechanically, but to act in compliance with the letter and the spirit of the Satversme. One might say that the State President has been authorised to act as the guardian of the Constitution⁶⁸, *inter alia*, by supervising, whether other institutions act with the framework of the Constitution⁶⁹.

One of the fundamental requirements of a democratic and state ruled by law follows from the formula of the oath⁷⁰, i.e., that the Satversme is a legal act with the highest legal force. Moreover, the concept of the Satversme in this instance should not be construed narrowly, but in compliance with the broader understanding of the Satversme, recognised in contemporary constitutional law, the one that is defined in the judgement by the Constitutional Law and in legal science⁷¹. Parallel to that, the general principles of law are also binding upon the State President. It has been recognised in Latvia that the formal constitution consists not only of the positive constitutional norms, but also of the general principles

⁶⁷ J. Pleps, *Par zvērēšanu un uzmanības vērtu precedent*, "Jurista vārds", Nr 30 (288), 27.09.2003.

⁶⁸ The first President of the State J. Čakste has been characterised as follows: "Čakstes' father was a brave and loyal guardian of the democratic constitution of Latvia." Šilde Ā. Valstsvīri un demokrāti. Ņujorka: Grāmatu draugs, 1985, 58.lpp.

⁶⁹ M. de Visser, *Constitutional review in Europe. A Comparative Analysis*, Oxford: Hart Publishing 2014, p. 36.

⁷⁰ On the compliance of the Resolution of the Government of the Republic of Lithuania (No. 1169–22) "On the Special Auction of Government Securities" of 31 August 1995 with the Constitution of the Republic of Lithuania, Paragraph 2 of Article 1 of the Republic of Lithuania's Law on State Treasury, Item 5 of Article 21 of the Law on the Government of the Republic of Lithuania, as well as Article 4 of the Republic of Lithuania's Law "On Approving the 1995 State Budget of the Republic of Lithuania and the Specifications of Deductions into Budgets of Municipalities and Their Subsidies: Ruling of the Constitutional Court of the Republic of Lithuania in Case No. 1/97 on 17 June 1997, para 1.3. <http://lrkt.lt/en/court-acts/search/170/ta1083/content>, 12.10.2015.

⁷¹ On Compliance of the Law "On Authorisation to the Cabinet of Ministers to Sign the Draft Agreement between the Republic of Latvia and the Russian Federation on the State Border between Latvia and Russia Initialled on August 7, 1997" and the Words "Observing the Principle of Inviolability of Borders Adopted by the Organization of Security and Cooperation in Europe" of Article 1 of the Law "On the Republic of Latvia and the Russian Federation Treaty on the State Border of Latvia and Russia" with the Preamble and Article 9 of the Declaration of May 4, 1990 of The Supreme Council of the Republic of Latvia "On Restoration of Independence of the Republic of Latvia" and Compliance of the Treaty of March 27, 2007 of the Republic of Latvia and the Russian Federation of the State Border of Latvia and Russia with Article 3 of the Satversme (Constitution) of the Republic of Latvia: Judgement of the Constitutional Court of the Republic of Latvia on 29.11.2007. in case no 2007-10-0102, p. 62. www.satv.tiesa.gov.lv, 12.10.2015; J. Pleps, E. Pastars, I. Plakne, *Konstitucionālās tiesības*, Rīga: Latvijas Vēstnesis 2014, 21.–22.lpp.

of law⁷². Because the constitution cannot be considered as something consisting only of a totality of norms, it consists of the totality of norms and principles⁷³. Likewise, the constitutional values included into the Preamble of the Satversme and explained in the case law of the Constitutional Court are binding upon the State President⁷⁴. Another important function of the State President follows from this sentence in the State President's oath: in protecting the Constitution to submit an application to the Constitutional Court⁷⁵. The Constitutional Court Law (the first and the second part of Section 17) envisages the right for the State President to submit an application to the Constitutional Court, if a legal act or other act of the Saeima, the Cabinet, the Speaker of the Saeima and the Prime Minister, except for administrative acts, is incompatible with a legal norm of higher legal force⁷⁶. Until 1 November 2015 the State President has turned to the Constitutional Court only once⁷⁷.

The State President's oath comprises also justice – one of the supreme values of mankind⁷⁸. The principle of justice has been read into the case law of the Constitutional Court by using Article 1 of the Satversme. “Article 1 of the Satversme provides that Latvia is an independent democratic republic. A number of principles of a judicial state follow from this Article, the principle of jus-

⁷² J. Pleps, *Satversmes iztulkošana*, Rīga: Latvijas Vēstnesis, 2012, 24–28.lpp.

⁷³ E. Kūris, *Constitutional Principles in the Jurisprudence of the Constitutional Court*. [in:] E. Jarašiūnas, E. Kūris, E. Lapinskas, A. Normants, V. Sinkevičius, S. Stačiokas, *Constitutional justice in Lithuania*, Vilnius: Constitutional Court of the Republic of Lithuania 2003, p. 380.

⁷⁴ On Compliance of the Law “On Authorisation to the Cabinet of Ministers to Sign the Draft Agreement between the Republic of Latvia and the Russian Federation on the State Border between Latvia and Russia Initialled on August 7, 1997” and the Words “Observing the Principle of Inviolability of Borders Adopted by the Organization of Security and Cooperation in Europe” of Article 1 of the Law “On the Republic of Latvia and the Russian Federation Treaty on the State Border of Latvia and Russia” with the Preamble and Article 9 of the Declaration of May 4, 1990 of The Supreme Council of the Republic of Latvia “On Restoration of Independence of the Republic of Latvia” and Compliance of the Treaty of March 27, 2007 of the Republic of Latvia and the Russian Federation of the State Border of Latvia and Russia with Article 3 of the Satversme (Constitution) of the Republic of Latvia: Judgement of the Constitutional Court of the Republic of Latvia on 29.11.2007. in case no 2007-10-0102, p. 40.2. www.satv.tiesa.gov.lv, 12.10.2015.

⁷⁵ A. Rodiņa, A. Spale, *Satversmes 85. panta komentārs*, [in:] *Latvijas Republikas Satversmes komentāri. VI nodaļa. Tiesa. VII nodaļa. Valsts kontrole*, Rīga: Latvijas vēstnesis 2013, 119–152.lpp.

⁷⁶ Constitutional Court Law. <http://www.vvc.gov.lv>, 14.10.2015.

⁷⁷ A. Rodiņa, *Satversmes tiesas kompetence. Teorētiskais izvērtējums. Paplašināšanas iespējas*, [in:] *Konstitucionālās tiesas kompetence: robežas un paplašināšanas iespējas*, Rīga: Latvijas Republikas Satversmes tiesa 2014, 119–122.lpp.

⁷⁸ G. Kūtris, *Vienlīdzības princips Latvijas Republikas Satversmes tiesas praksē*. [in:] *Konstitucionālās doktrīnas attīstība Konstitucionālajā tiesā. Satversmes tiesas 2014. gada konferences materiālu krājums*, Rīga: Latvijas Republikas Satversmes tiesa 2014, 154. lpp.

tice – among them”⁷⁹. The principle of justice is the standard in the exercise of human rights. Justice is also the standard for the State President’s work. Justice as “a fundamentally necessary element” comprises also equality⁸⁰ or the principle of equality, which is binding upon all institutions that exercise state power⁸¹. Whereas “conscientiously” is one of those concepts in the State President’s oath that is not subject to strict legal criteria. The fulfilling of duties “conscientiously” will always be linked to the personality and also self-confidence of the particular person, as well as the totality of those qualities, knowledge and competences that the particular person has, expecting that he or she will act knowingly, i.e., rationally.

Legal consequences of the Breach of the Oath

The oath of the State President also imposes an obligation upon the State President to act, in exercising the mandate defined in the Satversme, in a way that would allow maintaining harmony among constitutional institutions and society, also – the international community, would be able to trust the State President⁸². If the State President does not abide by his/her oath, it decreases trust not only in the State President, but also public trust to the State and its institutions in general. For the very same reason no action or failure to act that causes even suspicion of breaching the State President’s oath can be ignored. Therefore the oath cannot be a mere last “formality” for coming into office. “It is a pre-requisite with a legal emphasis”⁸³. In the Latvian constitutional law discussions regarding the significance of the State President’s oath have occurred in connection with the actions by State President A. Kviēsis. The oath taken by State President A. Kviēsis did not help to protect the Satversme, since on 15 May 1934, when K. Ulmanis instigated *coup d’état*, establishing an authoritarian regime in Latvia,

⁷⁹ On the Compliance of Section 11 (Paragraph 6) of the Law “On State Secret” with Article 92 of the Republic of Latvia Satversme (Constitution): Judgement of the Constitutional Court of the Republic of Latvia on 17.10.2005 in case no 2005-07-01, p. 7.3. www.satv.tiesa.gov.lv, 12.10.2015.

⁸⁰ S. Lasmane, A. Milts, A. Rubenis, *Ētika*, Rīga: Zvaigzne 1992, 87.lpp.

⁸¹ See more in E. Levits, *Satversmes 91. Panta komentārs*, [in:] *Latvijas Republikas Satversmes komentāri. VIII nodaļa. Cilvēka pamattiesības*, Rīga: Latvijas Vēstnesis 2011, 73–118. lpp.

⁸² On the compliance of Article 11 (wording of 4 May 2004) and paragraph 2 (wording of 4 May 2004) of Article 2 of the Republic of Lithuania Law on Presidential Elections with the Constitution of the Republic of Lithuania: Ruling of the Constitutional Court of the Republic of Lithuania on 25 May 2004 in case No. 24/04, para 11. <http://lrkt.lt/en/court-acts/search/170/ta1269/content>, Para 3, 11.10.2015.

⁸³ A. Guļāns, *Dekorācija vai pēdējā barjera?* <http://www.diena.lv/arhivs/dekoracija-vai-pedeja-barjera-11615708>, 13.10.2015.

he kept pensive silence, “thus exhibiting the weakness of the State President as the guardian and the safeguard of the Satversme”⁸⁴. Articles by historians mention that a family member (son) had reminded A. Kviēsis of “the oath to the Satversme of Latvia and had demanded from him vigorous actions, to which A. Kviēsis responded: “I don’t know what to do. There is no communication. The phone has been cut off. I know nothing”⁸⁵.

If, for any reasons, an official places one’s own interests or those of a certain group above the interests of society or brings disrepute to the state power, then a legal mechanism must be put in place for revoking such officials from office⁸⁶. In representative democracies responsibility is to be considered as the most significant mechanism of control over the highest state officials, which allows controlling that the official is not using one’s rights in some selfish or private interests, but in the interests of the people⁸⁷. In constitutional law special significance should be granted to two types of responsibility: political responsibility and constitutional responsibility⁸⁸. The Latvian constitutional regulation does not envisage a mechanism for enforcing the constitutional responsibility of the State President or the impeachment procedure, like, for example, in the USA, France, Germany, Austria, Lithuania and many other European states⁸⁹. It is known that procedure of impeachment against the President is initiated in the United States against A. Johnson in 1868, R. M. Nixon in 1974 and B. Clinton in 1999⁹⁰. However, in none of those cases the State Presidents of the USA lost his office in the impeachment proceedings⁹¹. In Europe, the President of the Lithuanian State Paksas was made constitutionally liable; *inter alia*, for breaching

⁸⁴ M. Drēģeris, *Valsts prezidenta loma Saeimas atļaišanas gadījumā*, “Jurista vārds” Nr 46 (745), 13.11.2012.

⁸⁵ A. Zunda, *Prezidents Alberts Kviēsis. Ģenerālis Jānis Balodis*, Rīga: B.I. 1992, 18.lpp.

⁸⁶ On the compliance of Article 259 of the Statute of the Seimas of the Republic of Lithuania with the Constitution of the Republic of Lithuania: Ruling of the Constitutional Court of the Republic of Lithuania in Case No. 3/99-5/99 on 11 May 1999, para 1. <http://lrkt.lt/en/court-acts/search/170/ta1142/content>, 13.10.2015.

⁸⁷ M. Tomoszek, *Changes of Constitutional Regulation of Responsibility of the President, Government and members of Parliament in the Czech Republic*, [in:] *Liability of Public Officers. Selected issues*, Plock 2013, p. 75.

⁸⁸ K. Dunaj, *Political responsibility of the President*, [in:] *Liability of Public Officers. Selected issues*, Plock 2013, p. 59; K. Prokop, *Accountability for introducing extraordinary measures*, [in:] *Liability of Public Officers. Selected issues*, Plock 2013, p. 43.

⁸⁹ Case Paksas v. Lithuania. (Application no. 34932/04). Judgement of the Grand Chamber on 6 January 2011, para 61. <http://hudoc.echr.coe.int>, 12.10.2015.

⁹⁰ R.L. Maddex, *The U.S. Constitution A to Z*, Washington DC: CQPress 2002, p. 257; R.M. Pious, Ch.H. Pyle, *The President, Congress, and the Constitution: power and legitimacy in American politics*, New York: Free Press 1984, p. 204.

⁹¹ *The Presidency A to Z*, Washington DC: CQPress, 2008, p. 273.–280.

the oath, (pursuant to Article 74 of the Lithuanian Constitution) in impeachment procedure⁹².

However, in Latvia the State President can lose his/her office also by applying the legal regulation included in Article 51 of the Satversme, which envisages the possibility to lose the office of the State President as the result of a vote taken by the Saeima⁹³. Theoretically, Article 51 of the Satversme provides for the State President's political responsibility, in difference to the wording of Article 53 of the Satversme⁹⁴. K. Dišlers in his comments upon Article 51 of the Satversme noted that the mechanism of Article 51 was "true responsibility of the President as to its substance and unlimited as to its content"⁹⁵. Obviously: if the State President "would commit something unconstitutional or incompatible with the principles of democratism"⁹⁶, including breach of the oath, the Saeima might remove the State President from the office. But the decision of the Saeima should be motivated, "article 51, of course, does not give the Saeima the right to dismiss the State President on the grounds of unfounded suspicion or whims [...]"⁹⁷. Similarly, a situation cannot be conceived, where the State President could exercise the right to dismiss the Saeima⁹⁸ without naming the reason and without substantiating this decision⁹⁹. And one the reasons for losing the office of the State President, on the basis of Article 48 and Article 50 of the Satversme¹⁰⁰, when the decision

⁹² Rolandas Paksas. <https://www.lrp.lt/en/institution/history/rolandas-paksas/20815v>, 16.10.2015.

⁹³ Article 51. provides: „Upon the proposal of not less than half of all of the members of the Saeima, the Saeima may decide, in closed session and with a majority vote of not less than two-thirds of all of its members, to remove the President from office.” The Constitution of the Republic of Latvia. <http://saeima.lv/en/legislation/constitution/>, 16.10.2015.

⁹⁴ Article 53 says: „Political responsibility for the fulfilment of presidential duties shall not be borne by the President.” The Constitution of the Republic of Latvia. <http://saeima.lv/en/legislation/constitution/>, 16.10.2015.

⁹⁵ K. Dišlers, *Latvijas Republikas Prezidenta politiskā atbildība*, "Tieslietu Ministrijas Vēstnesis" Nr 2, 1922, 61.lpp.

⁹⁶ K. Dišlers, *Latvijas valsts prezidenta competence*, "Tieslietu Ministrijas Vēstnesis" Nr 3, 1922, 127.lpp.

⁹⁷ K. Dišlers, *Latvijas Republikas Prezidenta politiskā atbildība*, "Tieslietu Ministrijas Vēstnesis" Nr 2, 1922, 62.lpp.

⁹⁸ Article 48. of the Satversme provides: "The President shall be entitled to propose the dissolution of the Saeima. Following this proposal, a national referendum shall be held. If in the referendum more than half of the votes are cast in favour of dissolution, the Saeima shall be considered dissolved, new elections called, and such elections held no later than two months after the date of the dissolution of the Saeima." The Constitution of the Republic of Latvia. <http://saeima.lv/en/legislation/constitution/>, 16.10.2015.

⁹⁹ *Par Saeimas priekšlaicīgu vēlēšanu mehānisma pilnveidošanu*. [in:] *Valsts prezidenta Konstitucionālo tiesību komisija. Viedokļi: 2008–2011*. Rīga: Latvijas Vēstnesis 2011, 31.lpp.

¹⁰⁰ Article 50. of the Satversme provides: "If in the referendum more than half of the votes are cast against the dissolution of the Saeima, then the President shall be deemed to be

would be taken by the people, or Article 51, when the decision would be adopted by the Saeima, could be breaching the oath of the State President. Definitely, in improving the model of presidential responsibility in Latvia, the constitutional liability of the State President should set in for a breach of the oath¹⁰¹.

Conclusion

The oath of the State President in Article 40 of the Satversme generally characterises all aspects of the State President office, taking the central place in the constitutional regulation. The oath not only defines the ideal in performing the official duties of the State President, but also the constitutional values that should be consolidated and protected. Concurrently, the oath is the text of a law [the Satversme]. Implementation of values and principles encoded in the oath to a large extent depends and will always depend on the personality of the State President, which follows from his subjective qualities, competences and skills. And, indeed, our trust in a person does not depend upon the oath, on the contrary: the person makes us believe in the oath¹⁰².

ABSTRACT

In the article the author points out constitutional status of the oath of the State President of the Republic of Latvia. In the article procedural aspects, like giving of the oath, is explained; by providing examples of oath giving and also pointing out some problematical or unclear aspects author explains importance of it. As the oath contains several values which bide the State President, article provides theoretical and axiological explanation of it's content, clearing up so called material aspects of the oath. Taking into consideration importance of the oath of the State President, author points out problematical aspects of liability of the State President in Latvia.

removed from office, and the Saeima shall elect a new President to serve for the remaining term of office of the President so removed.” The Constitution of the Republic of Latvia. <http://saeima.lv/en/legislation/constitution/>, 16.10.2015.

¹⁰¹ *Par Saeimas priekšlaicīgu vēlēšanu mehānisma pilnveidošanu*. [in:] *Valsts prezidenta Konstitucionālo tiesību komisija. Viedokļi: 2008–2011*. Rīga: Latvijas Vēstnesis, 2011, 41.lpp.; *Par Valsts prezidenta funkcijām Latvijas parlamentārās demokrātijas sistēmas ietvaros*. [in:] *Valsts prezidenta Konstitucionālo tiesību komisija. Viedokļi: 2008–2011*. Rīga: Latvijas Vēstnesis, 2011, 132.lpp.

¹⁰² F.B. Jonassen, *Kiss the Book...Your're President...., "So Help me God" and Kissing the Book in the Presidential Oath of Office*. <http://lawpublications.barry.edu/cgi/viewcontent.cgi?article=1006&context=facultyscholarship>, p. 953, 16.10.2015.

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КОНСТИТУЦИОННОЕ РЕГУЛИРОВАНИЕ ПРИСЯГИ ПРЕЗИДЕНТА РЕСПУБЛИКИ ЛАТВИИ

В статье автор анализирует конституционный статус присяги президента Латвийской Республики. В статье рассмотрены процессуальные аспекты присяги, показаны примеры провозглашения присяги, а также показаны проблемные вопросы и в практике неясные аспекты. Так как присяга содержит ценности, которые должен соблюдать Президент Государства, в статье даётся практическое и аксиологическое разъяснение этих ценностей. Имея виду конституционное значения присяги Президента Государства, отмечается проблема конституционной ответственности главы государства Латвии.

КЛЮЧЕВЫЕ СЛОВА: конституция, Президент государства, присяга (клятва), процессуальные аспекты присяги, содержание присяги, нарушение

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