

# EMU CHOICES

THE CHOICE FOR EUROPE SINCE MAASTRICHT  
SALZBURG CENTRE OF EUROPEAN UNION STUDIES

## Fact sheet on legal foundations for fiscal, economic, and monetary integration

### LATVIA

by Kristine Kruma



## **Introduction**

This country fact sheet provides concise information on the main characteristics of the national constitutional systems, including the system and role of national jurisprudence, parliaments and governments. Further, it briefs on the constitutional foundations and limits in the field of Economic and Monetary Union. It outlines on the existence of specific constitutional provisions on EMU membership, accession, treaty amendments, or limits to the (further) transfer of powers through Treaty amendments.

Among others, the overview informs about the principal actors in the field of fiscal and economic policies, the relevant findings of the judicial and parliamentary branches on EMU related actions, implementation measures of supranational and international rules, and respective constitutional amendments.

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## LATVIA (Kristine Kruma)

### 1) Main characteristics of the constitutional framework

The *Satversme* (Constitution) is based on the text adopted in 1922. The legal force of the *Satversme* was suspended during the authoritarian regime of 1934-1940 and then subsequently de facto by the occupation regime of the USSR from 1940 to 1990. It was reinstated upon restoration of independence. According to the rulings of the Constitutional Court, declarations of independence of 1990 and 1991 also should be ranked as documents forming part of legal constitutional framework.

The *Satversme* has been amended by the *Saeima* (Parliament) several times. The most important amendments concerned the provision on Latvian as the State language (Article 4), the insertion of Chapter 8 on fundamental rights, and provisions allowing Latvian accession to the European Union (Articles 68 and 79).

The requirements for amendments differ depending on the Article of the *Satversme*. There several core Articles can be amended only by the consent of the people (Articles 1, 2, 3, 4 and 79). The others require either absolute majority in the *Saeima* while simple majority voting is exceptional (Article 24). The general requirement for ratification of international agreements is absolute majority of two-thirds of MPs present. In addition, when Latvia ratifies an agreement with the purpose to strengthen democracy and to delegate a part of its competences to international institutions at least two thirds of the members of the *Saeima* should participate (Article 68). The *Satversme* also provides that membership in the EU shall be decided by a national referendum, proposed by the *Saeima*, while substantial changes in the membership conditions should be decided by referendum if it is requested by at least one-half of the MPs. Therefore, accession Treaty to the EU was ratified in referendum.

Therefore, the *Satversme* does not allow holding referendum on international treaties, but the EU Treaty amendments would be treated differently if MPs would consider that the changes in the Treaties are substantive (Articles 68 (4), 79 (2), 73). According to Article 79 (2) provides that a draft law, decision regarding membership of Latvia in the European Union or substantial changes in the terms regarding such membership submitted for national referendum shall be deemed adopted if the number of voters is at least half of the number of voters as participated in the previous *Saeima* election and if the majority has voted in favour of for the membership of Latvia in the European Union or substantial changes in the terms regarding such membership.

Thus Article 68 of the *Satversme* allows delegation of competences only ‘with a purpose to strengthen democracy’ which means that delegation of competences to other States or non-democratic international institutions would be contrary to the *Satversme*. In this context it would be important to establish to what extent competences are delegated or exercised and whether Latvia remains entitled to withdraw from arrangements which no longer correspond

to the initial delegation. The control over compatibility of delegation with the *Satversme* is under control of the Constitutional Court.

The *Satversme* divides jurisdiction among the constitutional institutions that it refers to: the totality of Latvia's citizens, the *Saeima*, the President of the State, the Cabinet of Ministers, the State Audit Office, and the Constitutional Court. *Saeima* consists of 100 MPs who are in charge of adopting laws and ratifying international treaties.

The role of the Constitutional Court is review the compliance of legal acts, including international agreements, with *Satversme* (Article 16 of the Law of the Constitutional Court). However, it does not act as a court of appeal. Application can be submitted by President, 20 MPs, Cabinet of Ministers, Prosecutor General, State Audit, local government, Ombudsman, court, State Justice Council, persons (both individuals and legal persons). Different requirements for application apply to groups of applicants.

## 2) Constitutional foundations for EMU membership

In accordance with Article 4 the Act concerning the conditions on accession and the adjustments to the EU Treaties Latvia Accession Treaty Latvia as a new Member State had undertaken an obligation to participate in EMU from the date of accession. However, it took some time when Latvia could satisfy so-called Maastricht criteria. This means that obligation to accede to EMU was derived directly from the Accession Treaty and had been confirmed by people when voting in favour for the accession to the EU.

Concerning ESM Treaty there was a debate on whether a referendum is needed. Experts were involved in the debate.<sup>1</sup> The experts concluded that the role of the European Commission is strengthened but it has not been accorded new competences and its powers are limited to making recommendations and suggestions. Also the competences of the CJEU do not exceed those set in the TEU and TFEU. Experts also concluded that Latvia has already transferred competences to the EU in the area of economic policy by ratifying Lisbon Treaty. Moreover, Article 2 of the ESM Treaty provides that it should be applicable in line with EU Treaties.<sup>2</sup> Therefore, experts did not see that there are sufficient arguments to conclude that ESM represents substantive changes in conditions for Latvia's membership in the EU and, consequently, the *Saeima* could ratify it without calling for a referendum. At the end a political compromise was reached with the opposition parties, and the Treaty was ratified according to Article 68(2) of the *Satversme*. No further debates had taken place.

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<sup>1</sup> See opinion of the Council of Independent Experts on International and European Law on question of the Treaty on stability, co-ordination and management in economic and monetary union from the point of view of EU law and *Satversme*, 20 March 2012. Available in Latvian at <<http://www.mfa.gov.lv/nep-atzinums%20nr%201-20-mar-2012.pdf>> accessed 11 August 2014.

<sup>2</sup> It should be noted that expert analysis was to a large extent similar to one adopted by the CJEU in Case C-370/12 Pringle v. Government of Ireland [2012] ECR, not yet reported.

### **3) Constitutional limits to further economic integration and crisis management measures**

There have been no further debates on Fiscal Compact, financial assistance measures and the Stability and Growth Pact, except some political pronouncements by opposition parties. None of the opposition parties have used the possibility to turn to the Constitutional Court.

At the same time it is important to notice that the Constitutional Court has expressed its opinion for the test on the limits of transfer of competences in so called Lisbon judgment.<sup>3</sup>

According to the Court the Satversme divides the power of Satversme among the body of Latvian citizens and the Saeima, however it guarantees the exclusive rights to deal with the fundamental norms of the Satversme of the Latvian people, namely, to repeal the constitution or to establish a new constitutional order.<sup>4</sup>

The Court has emphasised that Latvia is based on such fundamental values as fundamental rights and freedoms, democracy, sovereignty of the State and people, separation of powers and rule of law. The State has the duty to guarantee these values and they cannot be infringed by introducing amendments to the Satversme by law. Consequently, delegation of competencies cannot exceed the rule of law and the basis of an independent, sovereign and democratic republic based on the fundamental rights. Likewise, it cannot influence the right of citizens to decide upon the issues that are substantial for a democratic state.<sup>5</sup>

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<sup>3</sup> Case No. 2008-35-01, 7 April 2009.

<sup>4</sup> Case No. 2007-10-0102, 29 November 2007, para 31.1

<sup>5</sup> Case No. 2008-35-01, 7 April 2009, para 17.

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