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STATE FUNCTIONS IN LATVIA THROUGH AN INSTITUTIONAL PRISM: THE CONSTITUTION AS A PEDESTAL

Dace Šulmane

Assoc. Prof., Dr.
Turība University, Latvia

Contact information
Address: Graudu iela 68, Rīga, LV-1058, Latvia
Phone: +371 67 622 551
E-mail address: jf@turiba.lv

Linards Muciņš

Lecturer, Dr.h.c., dr.iur.cand.

Turība University, Latvia

Contact information
Address: Graudu iela 68, Rīga, LV-1058, Latvia
Phone: +371 67 622 551
E-mail address: jf@turiba.lv

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ABSTRACT

The article offers a conceptual perspective on the relevance of the theory of state organs developed in the 19th century in Germany for contemporary state theory in Latvia. The article treats the genesis of the understanding of the state institutions since the regaining of independence in the 1990s. Taking into account the phenomenon of "flood of laws" progressing today, one of its manifestations is the constant discussion of amendments to the constitution, including adding new institutions to the constitution. In the absence of serious doctrinally based arguments and filters strengthened by legal culture, the legislator can use the power granted to it to amend the

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constitution without sufficiently comprehensively considering and amending the well-functioning mechanism of checks and balances between the three branches of power, which was established before World War II.

KEYWORDS

State organ theory, Constitutional organs, State authorities, State institutions, Latvia.

INTRODUCTION

According to the state organ theory, the state can pursue its objectives through various state organs and institutions as well as local government organs and institutions that perform the necessary functions to ensure various objectives: security, education, justice, social support, etc. In Latvia, the theory of state organs is used as a theoretical foundation for analyzing the structure of state institutions, the usefulness of state reforms and the development of the institutional state formation as a whole. A clear understanding of the place and mandate of each institution is essential when political actors initiate discussions on the creation or abolition of certain state institutions or initiating to 'level – up' the existing institution to a constitutional level. While each branch of state power is constantly evolving, virtually always on the basis of arguments for better functionality and relevance to the needs of modern society, reforms of public institutions are undertaken, the correctness and relevance of which can most often only be assessed in the long term. Activation of debate about the necessity to amend the status or the powers of the state institution is largely dependent on the political circumstances rather than purely legal, economic, social necessity.

The aim of this article is to provide an analysis of the development of the state law theory in Latvia – from both linguistic and institutional perspectives. The current debates concerning the new proposals for amendments to the Constitution of the Republic of Latvia (the Satversme) are provided. Each relates to the introduction of new constitutional state power organs.

1. EXERCISING PUBLIC AUTHORITY: THE INSTITUTIONAL FRAMEWORK SQUEEZED BY TERMINOLOGY

The basic construction of the state theory in Latvia has been formed during the first two decades of independent Latvia (since 1918), most prominently by K. Dišlers[1], O. Ozoliņš, R. Akmentiņš, and P. Mucinieks.

The fundamental theoretical arguments in relation to the responsibility of the state in case of malfunction of the state officers were established by O. Ozoliņš (1888–1942).[2] P. Mucinieks (1899–1980) is the founding father of the theory of local government system. He clearly stated (1938) that local government has a legal personality. This legal scholar clearly distinguished between administrative bodies whose field of activity is the entire territory of the state (central administrative bodies) and local administrative bodies that operate in certain parts of the state territory. Although local governments cooperate with the state general administration institutions, they are not

[1] The most authoritative Latvian scholar of state law (1878-1954, twice exiled by Soviet occupation forces, in 1941 and 1949. Died in exile in Siberia).

[2] Osvalds Ozoliņš, "Valsts atbildība par ierēdņiem (State Responsibility for Civil Servants)," *Tieslietu Ministrijas Vēstnesis* (1935): 283–285.

included in them. They are not part of the administrative hierarchy chain but stand outside it.[3] P. Mucinieks consolidated the terminology on the types of bodies (in Latvian: orgāni) within the local governments: governing bodies, decision-making bodies, and executive bodies.

R. Akmentiņš described in his university lectures four existing theories that explain the essence of the collective as a legal subject. The following theories were distinguished: 1) the theory of fictions (Savigny); 2) the theory of Jehring; 3) the theory of Brintz; and, 4) the theory of social organisms (Gierke, Regelsberger). Akmentiņš noted the advantages of the last theory, substantiating the logic of the expression of the will of a legal person: "the properties that are present in a living person are also found in a legal person" (corporate honor, expression of will).[4]

In 1938, K. Dišlers clearly referred to G. Jellinek by analysing the fundamental question: does the state organ have the status of a legal subject? The negative response was *expressis verbis* clarified by citing G.Jellinek:

> The organ as such has no personality vis-à-vis the State. The State can only exist through its organs; if you remove the organs, what remains is not the State as the bearer of its organs, but a legal nothingness – *ein juristisches Nichts*.[5]

Contemporary Latvian state theory (since the restoration of the independence in the 1990ies) has not advanced much, largely due to the fact that the original Constitution of Latvia (1922) was restored after the Soviet occupation.[6] The Constitution has not experienced crucial amendments regarding the continuance or functions of the state institutions, with one exception: the creation of a Constitutional Court (Satversmes tiesa) in 1996. This is the main reason why contemporary Latvian legal literature on state law and administrative law contains strong references to G.Jellinek and L. Duguit, through the doctrine developed more than one hundred years ago. Jellinek's strong influence can be attributed to the following concepts: the theory of voluntary self-limitation of the state (the state draws its own boundaries and submits to its own laws for ethical or political reasons); and, the status of public authorities as legal subjects (i.e. the relationship between the state and its organs is the same as between a biological organism and its organs - not legal, but biological).[7] L. Duguit's doctrine, in which the understanding of rights is inseparable from duty, has also found its strong theoretical reflection in D. Dišler's fundamental works devoted to the foundations of state law.[8] Moreover, K. Dišlers, in formulating the concept of state power (the right to issue lawful orders and, if necessary, use lawful means to execute them), relied directly on L. Diguit's awareness of power as a fact as a starting point, without referring to its legitimacy.[9]

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3 Pēteris Mucinieks, *Latvijas pašvaldību iekārta (Latvian local government system)*, L. U. Studentu padomes grāmatnīcas izdevums (Rīga, 1938), 8, 66.

4 Roberts Akmentiņš, *Tiesību zinātņu ievads: lekcijas (Introduction to Law: Lectures)* (Rīga: b.i., 1928), 40–42.

5 Kārlis Dišlers, *Ievads administratīvo tiesību zinātnē (Introduction to Science of Administrative Law)* (Riga: TNA, 2002), 124–126. Cited from: Georg Jellinek, *Allgemeine Staatslehre (General theory of the state)*, 3-teAufl. (1914): 559–560.

6 Kristīne Jarinovska, "Drafting the Preamble for the Satversme: A New Approach to one of the Oldest Still-Functioning Republican Basic Laws," *ICL Journal* 9(2) (2017): 256.

7 Kārlis Dišlers, *supra* note 5, 125.

8 Kārlis Dišlers, "Pienākuma elements tiesībās (The Element of Duty in Law)," *Tieslietu Ministrijas Vēstnesis* 3 (1937): 441, un sek. lpp.

9 Kārlis Dišlers, *supra* note 5; Léon Duguit, *Manuel de Droit Constitutionnel (Manual of Constitutional Law)* (Paris, 1923), 23.

The development of the state law was largely succeeded by the administrative courts in Latvia (Law on Administrative Courts of the Republic of Latvia was adopted in 1921). Therefore, the case law of the Supreme Court of Latvia (on claims against ministers and ministries as well as against decisions of other higher administrative authorities)[10] is used as an authoritative source.

Before analyzing the leading state theory of constitutional organs in Latvia, an explanation will be provided with regard to terminology as used by Latvian legal scholars and judges.[11] The term *organ* is an oft-used term in academic discussions, as well as in public and institutional discourse, referring to an 'institution' — for example, the term 'law enforcement organs' (in Latvian, *tiesībsargājošie orgāni*) is often used describing all the law enforcement agencies (prosecutor's office, state police, corruption prevention and combating bureau, etc). The term is very rarely found in the laws. The biological term *organ* was introduced into Latvian from German language by the German jurist Otto von Gierke (1841–1921) in the 19th century to designate an individual person or a group of persons having the right to express and execute the will of an association of people as a legal entity. This element of the theory was later applied to the state law, referring to the organs of the state. This emphasized the state as a legal entity which has its institutions and officials.'[12]

According to L. Muciņš' "Model for the Classification of Public Institutions", the term 'institution' includes all public authorities as well as autonomous and self-governing bodies. 'Institution' is used as a catch-all synonym for 'authority' or 'organ', which are more precise and specific terms.[13] The word *institution* was first used and accepted in Latvian in the early 1990s to replace the term 'organ',[14] which had explicitly negative associations. In the recent past, the day-to-day reality was the control by 'organs' – agencies of the internal affairs system of the totalitarian state of the Soviet Union. By the word 'organ' every member of society understood the KGB and the operation of the Cheka. Nevertheless, the term *organ*[15] has successfully survived its association with the realities of the Soviet period, returning to the theory of the state established in K. Dišler's original works.

As previously mentioned, the term 'institution' can be used as a synonym for 'organ'. Two approaches have developed among legal scholars on how the concept of 'institution' is to be understood in the theory of organs of the state. The State Administration Structure Law provides a definition of an institution: an authority which acts on behalf of a public entity and to which a competence in State administration is specified by a legal act, funds are allocated to implement its activities and which has its own personnel. This definition of an institution, in the context of Article 58 of the Constitution, has led to the development of the concept of a new category of institutions (or authorities), supporting authorities for state organs, stressing that "the establishment of an

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[10] Ieva Deviatnikovaitė, "Edvīns Danovskis, Ivo Pilving. Evolution of Administrative Justice in the Baltic States in 1918–1940," *Baltic Journal of Law & Politics* 15(1) (2022): 77.

[11] The 'terminology fights' is a specific Latvian oddity not tolerating mixing the terms or regarding them as synonyms if they are not regarded as such by authoritative sources. Latvian legal literature uses a wide range of terms which, depending on the context (which is crucial), can refer to the same subject as an institution, an establishment, a state organ, etc.

[12] Decision of the Terminology Commission of the LASE No 14. On the terms *institution, constitute* and *organ.* Adopted 31.05.2002; prot. No. 4/1028.

[13] At the same time, unlike in English and German, the institutions are not called 'bodies' (German: *gesetzgebender Köper;* English: *legislative body*).

[14] Decision of the Terminology Commission of the Latvian Academy of Sciences No 14. On the terms *institution, constitution* and *organ.* Adopted 31.05.2002; prot. No. 4/1028.

[15] English 'a state organ'; Russian 'государственный орган'; Deutsch 'Staatsorgan'.

institution serving a public authority does not require a law. It can also be established by the public authority itself by means of a decision".[16] Despite the apparent practical advantages of the argument put forward, this article highlights the overriding purpose of the institution as laid down by law - acting on behalf of a public person and competence in public administration - which is clearly and inherently not matched by bodies servicing state organs. Since 2000, the statement, which is consistent with the theory of state law, has not changed: "It is unfounded to believe that the Office of the President and the Office of the Saeima are separate institutions. They are only structural units of the above-mentioned institutions, an integral part thereof."[17] There is no rational purpose for an artificial increase in the number of state institutions from a jurisprudential point of view. It should be stressed that the terms used in practice or the descriptions given in budget requests should not be used as a criterion for distorting the definitions of basic categories that are already recognized. In Latvia, it is recognized that public authorities operate through their departments, which are similar to an institution.

Based on the theories of G. Jellinek, K. Dišlers and F.-J. Peine, Latvian legal scholarship recognizes a division of institutions into two groups: institutions with supreme authority or power authorities (representing all three branches of state power) and institutions without supreme authority or autonomous institutions.[18] Autonomous institutions are those institutions that do not exercise their power outwards (they are not given the same function of external supremacy as the authorities), but only inwardly. The power, moreover, is very limited; they only have power within the walls of the institution (for example, hospitals, schools, cultural, sports, science, education (except universities), etc.). It is incorrect to call such institutions authorities or administrative institutions – they have nothing to manage, the citizens enter user relations with them, because they realize social and other non-power outward functions. Although the debate on the classification of institutions may seem to be the work of theoreticians, it is the clarity, or, conversely, the inconsistency of the theory that can lead to erroneous decisions or nationally significant litigation. On the one hand, a legal entity governed by public law with public powers is called an institution. But does this also apply to a legal entity governed by private law? The answer depends on the rights, powers, and obligations of that entity. In Latvia, the position of legal doctrine is clear: whatever the status of a private person (society with limited responsibility, foundation, public limited company, etc.), it is called an external body established by a legal entity governed by private law which has been granted public powers or which has been set up for public purposes an institution.

In Latvia, private individuals may establish public institutions (such as banks, kindergartens, schools, universities, etc.) in the form of private commercial capital companies. This is defined *expressis verbis* in Article 22 of the Education Law, which states that there are "state, municipal and private educational institutions". Authors suggest that the concept of the institution is not fully and completely elaborated and specified in Latvian theory and law, and is not precisely defined and categorized in the various laws.

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[16] Jānis Priekulis, "Valsts varas orgānu apkalpojošās iestādes (Supporting Authorities for State Organs)": 49; in: *Satversmē nostiprināto vērtību aizsardzība: dažādu tiesību nozaru perspektīva (Protection of the Values enshrined in the Satversme)* (Riga: LU).

[17] Linards Muciņš, "Publisko iestāžu klasifikācijas modelis (Model of classification of public institutions)," *Likums un Tiesības* 4 (2000): 99.

[18] Linards Muciņš, "Ignoring the Doctrine in Legislation: The Concept of Institution": 589; in: *The Quality of Legal Acts and its Importance in Contemporary Legal Space,* ed. J.Rozenfelds et al. (LU Akadēmiskais apgāds, 2012).

Another terminological novelty was expressed by the Terminology Commission in 2002: it proposed to introduce a new Latvian term *konstitūts (constitute)* instead of the term 'organ'. Thus, for example, constitutional organs should be referred to as state *constitutus.* "Constitute" as a new invention in the Latvian language was proposed to replace the term "institution", if the term "institution" does not seem legally acceptable due to its broader meaning. A Constitute (from Latin *cōnstituere*) is a formation that is legally created together with the legal person itself, without which the legal person cannot fully legally operate.[19] In the 20 years since its publication, this proposal has not taken root in the contemporary discourse of legal scholarship, instead, strengthening the term "constitutional organ".

2. LEGAL PERSONALITY OF SUBJECTS OF PUBLIC LAW

The discussion above revolves around the positioning of institutions as legal personalities. The puzzle over the legal status of the state institutions has resulted in highly debated court cases, as the main question in 1990s was: who is to take the liability for an offense committed by a state institution against a person?[20] At the end of the 1990s, the reform of the normative base had not yet been carried out, and the case of state liability was mistakenly considered exclusively a civil law field.

The State Administration Structure Law (2002), Article 5, defined the concept that direct administrative bodies represent the Republic of Latvia. In the event of errors by certain authorities, the Republic of Latvia shall be liable for the activities of the institutions of direct administration. A person seeks damages or compensation for loss against the state, not against the head of an institution or a department.

The definition of a legal entity is concisely regulated in Article 1407 of the Civil Code:[21] the State, local governments, associations of persons, institutions, establishments, and such aggregations of property as have been granted the rights of a legal person shall be considered to be legal persons. However, for the theoretical content of this provision to be clear, the following additions (in square brackets) are necessary:

> The State, local governments, [and other] associations of persons [governed by public and private law], institutions [and other] establishments [governed by public and private law], and such aggregations of property [estates, companies and other aggregations of property] as have been granted the rights of a legal person shall be considered to be legal persons. Also, legal persons are those [state, municipality, associations of persons, establishments, and such aggregations of property] which have been granted legal personality by an act of public legal act.

The historical origin of the term 'institution' in Article 1407 of the Civil Code dates back to the Article 713 of the compilation of the 1864 Baltic Local Civil Codes.[22] The

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19 Decision of the Terminology Commission of the LASE No 14. Par terminiem institūcija, konstitūts un orgāns (On the terms institution, constitute and organ). Adopted 31.05.2002; prot. No. 4/1028.

20 On June 28, 1997, nine children lost their lives and 21 people were injured when the basket of a car lift broke and fell at a height of 19 meters during the festivities organized by the Ministry of the Interior in Talsi (town in Western Latvia). The minister resigned shortly after the accident.

21 More on the history of the 1937 Civil Code currently in force in Latvia: Philipp Schwartz, *Das Lettländische Zivilgesetzbuch vom 28. Januar 1937 und seine Entstehungsgeschichte* (Shaker Verlag, Aachen, 2008).

22 Arta Jansone, "Method of Reception of Roman Law when Elaborating Latvia's Civil Law of 1937 and EU Law," *Fundamentos romanísticos del derecho contemporáneo* T. XI (AIDROM, 2021): 574–585; Edvīns Danovskis, Jautrīte Briede, "Publisko personu civiltiesiskais statuss (Civil law status of public law subjects)," *Jurista Vārds* 7 (706) (14.02.2012): ref. 18.

state, as an original legal entity of public law, has legal capacity only through its organs, and their actions are attributable to the state – they are 'the state'.[23]

While in private law it is easy to obtain legal personality (e.g. by setting up a limited liability company or an association), in the system of public institutions the number of legal entities is much smaller than the number of public authorities. In private law, any legal entity has full legal personality, whereas in public law its competence is determined by the public law act establishing the legal entity. This stems from the understanding of the single state as the original public legal entity. The creation of the state as a legal entity is the moment of the adoption the act of proclamation. It is recognized in legal doctrine as not necessary to prove the legal axiom that the Republic of Latvia is the original legal entity governed by public law.[24] The state is a legal entity *sui generis* – there is no external authority that approves it. The citizens themselves approve the state, a collective with the rights of a legal entity.[25]

One of the obligatory and inseparable features of a legal entity is the organs of the legal entity.[26] Through its organs, the legal entity forms, expresses, and implements the will of the legal entity, i.e. it exercises its private legal capacity to be both transactional and tortious. A legal entity needs at least one external organ to have legal capacity. The organ of a legal entity is usually composed of natural persons (depending on the structure – the organ can be composed of other legal entities), but it can only act through natural persons. The decision-making organ of a legal entity, which expresses its will and acts on behalf of the legal entity, is either composed of a single natural person (monocratic organ) or constituted as a college of natural persons (collegial organ). However, not all organs are equally essential. For example, in the state power, the main role of a court is in its judicial rather than in its administrative function, so those organs of the court whose function is judicial are more important.

Although Latvian legal science and public administration have eradicated the Soviet-era habit of wrongly referring to all institutions as legal entities,[27] laymen, influenced by Soviet law, still tend to equate the existence of an institution's registration number in the Register of Enterprises with the institution's legal personality.

If it is necessary to distinguish legal entities from other institutions that are definitely not legal entities, the method of classifying and comparing legal entities (purpose, founder, scope of activity and other characteristics) is used. Legal personality does not give a particular institution more power or decisive authority over the exercise of public functions. In other words, legal personality is irrelevant to the question of the structure of the exercise of state power. The architecture of the state, as the original legal entity governed by public law, is constituted, without any separate mandate, first by its organs (e.g. the Cabinet of Ministers) and by the state institutions it creates (e.g. the Ministry of Justice) – these are the departments of the state. Consequently, neither the organ nor the institutions it establishes can act on their own behalf, as they have no

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23 More: Egils Levits, *Latvijas Republikas Ministru kabineta funkcijas (Functions of the Cabinet of Ministers of the Republic of Latvia)*, Latvijas Republikas Satversmes komentāri, III nodaļa, Valsts prezidents, IV nodaļa, Ministru kabinets (Rīga: Latvijas Vēstnesis, 2017), 480.

24 Egils Levits, "Valsts un valsts pārvaldes juridiskā struktūra un pamatjēdzieni (The legal structure of the state and state administration)," *Jaunā pārvalde* 1(31) (2002): 13.

25 Roberts Akmentiņš, *supra* note 4, 41.

26 Kārlis Dišlers, *supra* note 5, 123–127.

27 Linards Muciņš, "Valsts vara un juridisko personu un to orgānu pārvaldība un pārvalde (State Power and Governance of Legal Entities and Their Bodies)," *Zinātniskie raksti (Scientific articles)* (RSU: Riga, 2014), 49. For example, according to the law, the Constitutional Court was attributed legal personality for 12 years (1996–2008) until amendents to the law were made.

legal capacity of their own.[28] Thus, all constitutional organs are in fact not independent; they are not separate subjects of law. They are the agents of the will of the initial body, i.e. the State. Constitutional organs are an integral part of the state, exercising the legal capacity of a legal entity (to perform duties, to assume obligations).[29] In other words, it is not possible to "meet the State" except through its constitutional and other organs. Consequently, the constitutional organs of state power are the manifestations of the state as a legal entity in the legislative, executive and judicial branches. For example, the Cabinet of Ministers or the State President do not have legal personality because they act (incur obligations and acquire rights) only on behalf of the State. Similarly, the Constitutional Court does not have the status of a separate legal personality, but it makes decisions of national importance on the constitutionality of laws. This argument can be simplified as follows: if an institution acts on behalf of the Republic of Latvia, it does not have the status of an independent legal entity, because as an organ of state power it is an instrument to exercise the state power: legislative, executive or judicial.

The formation of a contemporary doctrine on the legal personality has developed also through the judicature. In 2007, the Supreme Court emphasized that the Prosecutor's Office is not a legal entity, but an institution of a legal entity – the Republic of Latvia. Consequently, the dispute between the Prosecutor General's Office and the Ministry of Finance as another institution of the Republic of Latvia is a dispute within the same legal entity. Such a dispute is not subject to the jurisdiction of a court, since a court resolves disputes between different legal entities, whereas the Republic of Latvia is a single legal entity,[30] whose legal capacity is enshrined in the Constitution. Nevertheless, the necessary amendments to the law were made only many years later.[31]

The circumstances of mutual legal disagreements between state institutions in Latvia after 2000 created a direct symbiosis between the judiciary and legal science. This was due to the fact that the legislator had not provided clear instructions on the status of state bodies. In instances where the legislator was silent or where there were gaps in the law, the judiciary was responsible for providing responses. The judiciary's auxiliary source of law, namely, legal doctrine, provided constitutionally appropriate guidelines. To illustrate this point, one may consider the 2006 judgment of the Constitutional Court[32], which *inter alia* analyzed the financial liability of institutions. In this hypothetical situation, the court deemed it absurd for a state institution to go bankrupt due to the necessary compensation for losses. The court emphasized that the Republic of Latvia is liable for the obligations of a state institution, given that the relevant institution acts on behalf of the original legal entity under public law, that is, the state itself.

From the perspective of the theory of state organs, the issue of the conformity of independent institutions with the Constitution was debated in the early 2000s. The key questions were: how constitutionally consistent is it to establish independent institutions, and do they not have mandatory subordination to the Cabinet of Ministers

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28 *The judgment of the Senate of the Supreme Court of the Republic of Latvia*, Department of Civil Cases, of 24 November 2010 in case No. SKC-226/2010.

29 More: Egils Levits, *supra* note 24, 14.

30 *Supreme Court of the Republic of Latvia*, Department of Administrative Cases, Case No. A42744209, SKA-0177-12 25.10.2007.

31 Office of the Prosecutor Law, Article 22. From the adoption of the law in 1994 until 2012, stipulated that all prosecution authorities are legal entities. It was only after 18 years that the necessary amendment was made and the reference to the legal entity was deleted.

32 *Constitutional Court of the Republic of Latvia*, On Compliance of Section 1(1), Section 4(1), Section 6(3), Section 22 and Section 50 of Public Prosecutor's Office Law with Article 1, Article 58, Article 82, Article 86 and Article 90 of the Satversme of the Republic of Latvia, Judgment of 20.12.2006 in Case No. 2006-12-1, para 21.

(which is a legitimate constitutional body)? The Constitutional Court recognized that Article 1 of the Constitution authorizes the Saeima to establish independent state institutions in certain cases, when it is otherwise impossible to ensure proper governance. In a democratic state governed by the rule of law, "the release of individual state administrative institutions from subordination to the Cabinet of Ministers" ensures proper governance only in certain areas of administration.[33]

Table 1

Legal entities governed by public law are divided into basic groups	
State as original legal entity governed by public law, also association of persons (one)	Legal entities governed by public law fall into two broad groups: associations of persons and establishments
The President of Latvia, the Saeima, the Cabinet of Ministers, the Supreme Court, the Constitutional Court, the State Audit Office – these are not legal persons.	Associations of persons – associations of persons connected with the territory – municipalities (e.g. Tukums municipality) and self-governments (not related to the territory but to the field (e.g. associations of persons in the professions – doctors, lawyers, notaries, etc.), universities and the Academy of Sciences, public law churches, political parties, the National Olympic Committee, and sports federations, etc. They are legal entities.
	Establishments in various fields (e.g. full-fledged autonomous institutions (Bank of Latvia, Financial and Capital Market Commission) and other public law foundations (Council for Higher Education, State Culture Capital Fund, Society Integration Fund, Privatization Agency, etc.) They are legal entities.

3. DEVELOPMENT OF THE DOCTRINE ON CONSTITUTIONAL ORGANS OF THE STATE IN LATVIA

The organs of state power can be divided into two groups: constitutional organs of state power and other organs of state power. In the 1930s it was stated that the Constitution regulates the functioning of the state's highest organs.[34] Since the restoration of Latvia's independence, the understanding of the nature of constitutional organs of state power has evolved in state theory, especially after the establishment of a new constitutional organ – the Constitutional Court.

The concept of a constitutional organ ushers from the Latin *cōnstituere* (to arrange; to arrange; to appoint; to decide; to determine). These organs of state power are established as an integral part of the State – a legal person – whose effective capacity is the "central nervous system" of the entire State; they are fundamental for the existence of the state. The change or dissolution of a constitutional organ changes the nature of the legal entity (in this case, the State). Not all constitutional organs are created together with the legal entity itself – the state – or with the adoption of its constitution.[35] However, when they are created, a new structure of state governance is

[33] *Constitutional Court of the Republic of Latvia*, On the compliance of Section 46, Parts Six, Seven, Eight and Nine of the Radio and Television Law with Articles 58 and 91 of the Satversme of the Republic of Latvia, Judgment of 16.10.2006 in Case No. 2006-05-1, para 16.3.

[34] Pēteris Mucinieks, *Sociālā likumdošana (Social Legislation)* (Rīga: LU Studentu padomes grāmatnīcas izde- vums, 1934), 22.

[35] For example, the Law on the Judiciary envisaged the creation of a Constitutional Review Chamber within the Supreme Court rather than an independent institution. However, in 1996, the Constitutional Court Law was adopted and the Constitution amended accordingly.

formed, establishing the new 'indivisible concentrate' of state power. The creation of a new state organ requires a relevant legal act, which establishes the procedure for the creation of the organ, its tasks, competence and functioning.

One of the first contemporary analytical publications on the characteristics and functions of constitutional organs was Linards Muciņš' article "A Model for the Classification of Public Institutions," which outlined six constitutional organs. In 2000, the majority of constitutional law theoreticians represented the view of six[36] constitutional organs (or constitutional institutions of public power) listed in the Constitution:

1. State President
2. Saeima (the Parliament)
3. Cabinet of Ministers
4. Supreme Court
5. Constitutional Court
6. State Audit Office

In 2002, in the journal *Jaunā pārvalde*,[37] legal scholar Egils Levits re-introduced the body of citizens (in Latvian, *pilsoņu kopums*) to the list of six constitutional organs, a theory that has gained well-established authority in doctrine to the present day. Such an approach, inspired by the theory of Leon Duguit and instituted already in 1925 by K. Dišlers,[38] articulates the state as a living organism, instead of mechanical sum of formal institutions. Latvian state doctrine regards the body of citizens (about one and a half million citizens eligible to vote) as the constitutional organ and the basic organ of the state, from which all the others derive.[39] The body of citizens does not form a single constitutional organ in organizational terms, which, like the Saeima, is considered to be one of the legislative organs. Instead, it is a genuine constitutional body with a specific role.

Historians, legal scholars, and representatives of other scientific disciplines have analyzed the stages of state formation and the documents drafted during the decision-making process in Latvia. The methods and objectives of the different disciplines have led to a well-established if internally differentiated paradox. The analysis of the events of 1918 by historians illustrates a factual situation in which a small minority of Latvian intellectuals took the decision to establish the state without informing Latvian society as a whole, namely, "because the people of Latvia – the only sovereign of the state – could not freely express its will under the specific historical circumstances."[40] At the same time the basic premise of legal theorists claims that the Latvian people decided to establish the Latvian state by consensus and with a purpose in a specific period of time. Making such idealistic assumptions is a well-established methodological tool in legal theory and state law. As K. Dišlers once pointed out, "a people organized in a state undoubtedly has its own common interests, common needs to be satisfied by common forces and common means."[41] In Latvian legal science, the axiom of common interests and needs of society, defined by the people as the desire to live in a legal and

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36 Linards Muciņš, *supra* note 17, 98–102.
37 Egils Levits, *supra* note 24, 17.
38 Kārlis Dišlers, *Latvijas valsts varas orgāni un viņu funkcijas (Latvian State Organs and Their Functions)* (Riga: TNA, 2004), 35–36.
39 *Speech by Egils Levits at the 7th International Scientific Conference of the Faculty of Law of the University of Latvia* (October 2019) // https://www.president.lv/lv/jaunums/valsts-prezidenta-egila-levita-uzruna-latvijas-universitates-juridiskas-fakultates-7-starptautiskaja-zinatniskaja-konference-tiesibu-zinatnes-uzdevumi-nozime-un-nakotne-tiesibu-sistemas
40 Daina Bleiere, Ilgvars Butulis, Inesis Feldmanis, Aivars Stranga, Antonijs Zunda, *Latvijas vēsture. 20. gadsimts. (History of Latvia. 20th Century)* (Rīga: Jumava, 2005), 110.
41 Kārlis Dišlers, *Ievads administratīvajās tiesībās (Introduction to administrative law)* (Riga: TNA, 2002), 38.

democratic state, is expressed as the basic idea, the fundamental purpose, and the starting point of the state. It was successfully transmitted to the new Preamble to the *Satversme*:

> The State of Latvia, proclaimed on 18 November 1918, has been established by uniting historical Latvian lands and on the basis of the unwavering will of the Latvian nation to have its own State and its inalienable right of self-determination.[42]

State power can only be exercised in accordance with the Constitution. Thus, the constitution contains the entire mechanism of state power, the basic principles for the exercise of power. In the terminology of the theory of organs of state, the alternative central nervous system cannot be 'triggered'. One of the most important guarantees of the existence of democratic regimes is the existence of adequate instruments to implement the concept of 'self-defending democracy'. The constitutional organs of state power are not mechanical entities, they are formed by natural persons, and it is therefore in the interest of the State to subject candidates for office to the necessary eligibility criteria to guarantee the functioning of the organ of state power in order to safeguard the Constitution and its fundamental principles.

The underwater rocks that lay behind the concept of the people's constituent power – the ultimate expression of democratic self-determination – are not a historical issue: they are a source of a lively scholarly debate over the EU integration process and its legitimation sources.[43] Within the limited scope of this article, two examples will be given. The concept that the constitutional legislature – the body of citizens – can act only within the framework of the Constitution, and may not itself act contrary to the foundations of that Constitution by abrogating or otherwise substantially altering them,[44] was cemented in the constitutional theory of Latvia only after a painful lesson. In 2012, there was a constitutional upheaval in Latvia: contrary to the seemingly self-evident fact that Latvia has one and only one state language, the formal application of laws was achieved through provocations in order to hold a referendum on the constitutional amendments stipulating granting Russian language status of the state language.[45] Although this proposal was rejected by a large majority, the fact of the possibility of a referendum forced jurisprudence scholars to urgently fill the gaps in the theory of the constitution and in the understanding of the 'inviolable core' of the Constitution, the amendments of which cannot be referred to referendums.[46]

Another case concerned a proposal by an anti–EU non-governmental organization to amend Article 4 of the Constitution, providing that the national monetary unit of Latvia is the lats (the currency in Latvia before entering eurozone in 2014). The Supreme Court emphasized that "the prohibition in Article 73 of the *Satversme* to hold referendums "on treaties with foreign countries," because of this development, actually reduces the scope of the rights of the citizens as the second legislator of Latvia. In this

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42 *The Constitution of the Republic of Latvia*, Official publication: 08.07.2014, No. 131, No. 2014/131.4.

43 See: Rafael Macía Briedis, "Towards an Institutionalist Vision of Constituent Power?" *European Constitutional Law Review* 19(2) (2023): 410–414.

44 *Supreme Court of Latvia*, Senate Judgment of 28 March 2014 in Case No. SA-3/2014, para 12.

45 Ina Druviete, Uldis Ozolins, "The Latvian referendum on Russian as a second state language," *Language Problems and Language Planning 2012* 40(2) (Jan 2016): 121–145, and Ivars Ijabs, "After the Referendum: Militant Democracy and Nation-Building in Latvia," *East European Politics and Societies* 30(2) (2016): 288–314.

46 Par Latvijas valsts konstitucionālajiem pamatiem un neaizskaramo Satversmes kodolu. *Konstitucionālo tiesību komisijas viedoklis un materiāli (On the constitutional foundations of the Latvian state and the inviolable core of the Constitution, Opinion and materials of the Constitutional Rights Commission)*, Egils Levits et al. (Rīga: Latvijas Vēstnesis, 2012), 79.

way, the balance between the two legislative organs – the Saeima and the citizens' collective – as established by the Constitution is constantly shifting in favor of the Saeima. Such a development, if it leads to a significant restriction of the legislative rights of the citizen body and, consequently, to a significant shift in the balance between the two legislative organs, is contrary to the spirit of the Constitution.[47]

Modern democratic states governed by the rule of law must not be limited to formal compliance with the functioning of statutory institutions, but must also include a qualitative aspect of governance.[48] It cannot be implemented if the authority is headed by incompetent, dishonest or disloyal persons. Regulatory barriers for all state officials are in place to protect against all these risks, especially including the historical circumstances of the Baltic states. As the Constitutional Court has emphasized in the case of parliament elections, the legitimate aim of the restrictions

> is to prevent a person whose actions threaten the independence of the State of Latvia and the principles of a democratic state governed by the rule of law from standing as a candidate in Saeima elections. This objective is pursued in accordance with the principle of self-protective democracy. The protection of the democratic order of the state is a legitimate aim justifying the restriction of a person's right to stand for election to the Saeima.[49]

4. IF YOU'RE NOT IN THE CONSTITUTION, YOU DON'T EXIST

The term 'constitutional organ' has a very authoritative sound in Latvian. The Constitution's laconically clear vision of the enumeration of constitutional organs has not allowed to elaborate the system and internal logic of the basic law of Latvia. The only institution that has found its new place in the Constitution since its adoption is the Constitutional Court. As early as 2000, legal scholars have outlined the issue on expanding the number of constitutional organs – institutions that are *expressis verbis* mentioned in the Constitution. In recent years there have been a number of institutions that have attempted or claimed this status. This is partially the influence of the comparative approach towards the developments of a state structure. The *pro* arguments largely include a following claim: "this institution is mentioned in the text of constitution in x number of European Union countries". Another reason for this is a greater authority of the institution, as well as more political stability and budgetary independence.

For several years legal academics debated whether the fact that the district (city) courts and regional courts are mentioned in the Constitution make them two additional separate constitutional organs, or should all the court system be regarded as one constitutional organ. This issue has been resolved by the Constitutional court by stating that the Supreme Court is a component of the constitutional institution – the judicial system.[50]

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47 *Judgment of the Supreme Court of the Republic of Latvia*, Department of Administrative Cases, 28 March 2014, Case No. SA-3/2014, paragraph 17.

48 Jānis Načisčionis, Una Skrastiņa, Vladas Tumalavičius, "Secure development of public administration," *Journal of Security and Sustainability Issues* 8(1) (2018): 87–102.

49 Judgment of the Constitutional Court On Compliance of Section 5(6) of Saeima Election Law with Article 1, Article 9 and Article 91 of the Satversme of the Republic of Latvia Judgment of 29 June 2018 in Case No. 2017-25-01, para 20.2.

50 All court instances are represented by the Supreme court forming one constitutional organ according to Articles 82 and 86 of the Satversme. See: Judgment of the Constitutional Court of 25.11.2010 in Case No 2010-06-01. On the compliance of Section 19, Part Five of the Law on Budget and Financial Management, Section 44, Part Two of the State Audit Office Law and Section 19, Part Two of the Ombudsman Law with Articles 1, 83 and 87 of the Satversme of the Republic of Latvia, para 14.1.

Chapter VI of the Constitution "Courts" does not contain a reference to the prosecutor's office, therefore it is not a constitutional organ. However, taking into account the fact that the People's Council of Latvia, in the first normative act regulating the judicial system of the Republic of Latvia, had determined parliamentary approval also for prosecutors, it serves as a constitutional landmark in the context of historical interpretation for determining the constitutional framework of the prosecutor's office[51]. In 2010, the Prosecutor General Ēriks Kalnmeiers expressed to the Saeima Commission that the prosecutor's office should be enshrined in the Constitution in the same way as the Supreme and Constitutional Courts and the State Audit Office, thus ensuring the independence of the prosecutor's office.[52] In 2019, the former president of the Constitutional Court, professor Aivars Endziņš, pointed out the necessity to enshrine the Prosecutor's Office of the Republic of Latvia in the *Satversme*.[53] The Constitutional Court has given its interpretation in this context, distinguishing the institutions of adjudication from the institutions of the judiciary, *inter alia* describing the prosecutor's office as the "first echelon" of the judiciary which functions to restore the rule of law within the scope of its competence.[54]

The Law of the Ombudsman entered into force on January 1, 2007, establishing the institution of the Ombudsman[55]. The Ombudsman is one of the autonomous institutions of the State. In 2015, the Ombudsman called for amendments to the Constitution of the Republic of Latvia, adding the institution of the Ombudsman to the Constitution. According to the petitioner, "strengthening the institution of the Ombudsman in the Satversme would testify to the serious will of political decision-makers to strengthen the fundamental rights of the citizens of Latvia and the accountability of the state to the citizens, which would at the same time strengthen the democratic state order."[56] The parliament has not initiated any legislative changes, and the constitution does not mention the Ombudsman as a constitutional organ. The most important state institutions, precisely defined and classified, are the "constitutional organs of state power". The institution of the Ombudsman does not meet several criteria of this definition: it is not, first of all, an organ of power, but an autonomous institution, and it does not meet several criteria of constitutionality.

Prior to accession to the European Union, a proposal was put forward to establish a Judicial Council in Latvia – an independent institution that would ensure decision-making in both organizational and budgetary matters of the judiciary. In 2003, the concept approved by the Cabinet of Ministers envisaged the establishment of the Judicial Council as an institution of self-government of judges enshrined in the Constitution.[57]

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[51] Kristīne Jarinovska. Latvijas Republikas prokuratūras institucionālās struktūras ģenēze un transformācijas līdz 1940. gada 17. jūnijam. I daļa. (The genesis and transformations of the institutional structure of the Prosecutor's Office of the Republic of Latvia until June 17, 1940. Part I) 1. izdevums. Rīga: Latvijas Republikas prokuratūra, p. 149.

[52] "Partijas atturīgas par Kalnmeiera ideju prokuratūru ierakstīt Satversmē (The parties are reluctant to support Kalnmeier's idea to enshrine the prosecutor's office in the Constitution)," *Delfi portal* (15.09.2010) // https://www.delfi.lv/193/politics/34098465/partijas-atturigas-par-kalnmeiera-ideju-prokuraturu-ierakstit-satversme

[53] "Prokuratūras vieta Latvijas Republikas Satversmē (The Place of the Prosecutor's Office in the Satversme of the Republic of Latvia), Latvijas Prokuroru biedrības valde (Board of the Latvian Association of Prosecutors)," *Jurista vārds*. 8(1118) (25.02.2020).

[54] Judgment of the Constitutional Court of 20.12.2006 in Case No. 2006-12-1, para 14.

[55] Previously the National Human Rights Office since 1996.

[56] "Letter from the Ombudsman Juris Jansons to the Saeima, 07 May 2015, No 1-8/10,"*Par likumprojektu „Grozījumi Latvijas Republikas Satversmē" (On the Draft Law 'Amendments to the Satversme of the Republic of Latvia') //* https://www.saeima.lv/darbagrupa/tiesibsarga_vestule%20070515.pdf

[57] *Par tiesu administrācijas koncepciju (Policy planning document "Concept of judicial administration"),* Approved by the Cabinet of Ministers Order No. 547 of 28.08.2003.

During the work of the subsequent Ministers of Justice (V. Muižniece and S. Āboltiņa), the concept of the Judicial Council was significantly narrowed down, and in 2010 it was established as a consultative and coordinating body. Experts criticized the format of the proposed amendments, stating that an institution that is to be entrusted with such important functions in the administration of justice should certainly be legitimized at a higher level than in a simple law, while at the same time noting that the Judicial Council should include the President of the Republic of Latvia, and fulfill functions of judicial ethics and judicial disciplinary, which is not the case.[58] The fact that it was in 2010 that the Judicial Council was established can be linked to the failure of the Saeima to elect a judge to the Supreme Court, whose

> non-confirmation of his candidacy undeniably raised the debate on strengthening the independence of the judiciary and on how to ensure, to the maximum extent possible, that the assessment of professional ability would be the determining factor in the career of a judge.[59]

In 2013, the debate on the status of the Judicial Council and its consolidation in the Satversme continued through the Commentary of the Constitution, raising the next step to be taken to strengthen the authority of judiciary.[60] The Strategy of the Judicial Council 2021-2025 envisages "launching a discussion on the status and functions of the Judicial Council, in particular on the need to provide the Judicial Council with the legislative initiative and to enshrine it in the Constitution as a constitutional body."[61] It should be noted that "the enshrinement of the Judicial Council in the Constitution, as discussed in Latvia and often considered a radical idea, is quite common practice in the European Union."[62]

Since 2015 actors at various levels, both political and academic, have proposed to establish a new constitutional body called a State Council, to improve the quality of legislation. The social–democratic party initiated a discussion on the creation of such a body, envisaging that the Council would be a collegial and consultative state body, working under the President, who would be its head. The Council's opinions would be of a recommendatory nature.[63]

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58 Juris Rudevskis, "Vai grozījumos paredzētā Tieslietu padome atbilst Latvijas tiesību tradīcijām un Satversmei? (Does the Judicial Council provided for in the amendments comply with Latvian legal traditions and the Satversme?)," *Jurista Vārds* 4(599) (26.01.2010).

59 Solvita Āboltiņa, "Vai iecerētā Tieslietu padome attaisnos cerības (Will the envisaged Judicial Council live up to expectations)," *Jurista vārds* (26.01.2010). In response to the non-appointment of the Supreme Court judge, signatures were collected for an amendment to the Constitution to provide that the judge be appointed by the President of the Republic. Such amendments have not been supported and have not been updated since 2010.

60 Veronika Krūmiņa, "Ievads Latvijas Republikas Satversmes VI nodaļas komentāram: tiesu varas evolūcija Latvijā. VI nodaļa. Tiesa (Introduction to the Commentary on Chapter VI of the Satversme of the Republic of Latvia: the Evolution of Judicial Power in Latvia. Chapter VI. Court.)," R. Balodis (ed.), "Satversmes komentāri. VI nodaļa (Commentaries on the Constitution. Chapter VI.)," *Latvijas Vēstnesis* (2013): 45.

61 *Tieslietu padomes darbības stratēģija 2021.–2025. gadam (Strategy for the Judicial Council 2021–2025)*, 2.1. Approved by the Council of the Judiciary Decision No. 16 of 12 March 2021.

62 Solvita Harbaceviča, "Tieslietu Padomes lēmumu efektivitāte (Effectiveness Of Judicial Council's Decisions)," *Tiesības un tiesiskā vide mainīgos apstākļos. Latvijas Universitātes 79. Starptautiskās zinātniskās konferences rakstu krājums (Law and Legal Environment in Changing Conditions. Proceedings of the 79th International Scientific Conference of the University of Latvia)* (Riga: Academic Publishing House of the University of Latvia, 2021), 328.

63 "Juridiskās komisijas deputātu darba grupas Valsts prezidenta pilnvaru iespējamai paplašināšanai un ievēlēšanas kārtības izvērtēšanai atzinums (Opinion of the Working Group of the Members of the Legal Commission on the Possible Extension of the Powers of the President of the Republic and the Procedure for the Election of the President of the Republic of Latvia)," *LR Saeima* (25.04.2017): 12–13 // file:///C:/Users/RDK/Downloads/VPWG_Opinion.pdf

In 2017, a working group of the Saeima's Legal Affairs Commission[64] issued an opinion on the powers of the President of the Republic, including a modified vision of the new state organ to improve the quality of legislation, a new constitutional body could be created: a State Council, whose duties would include reviewing draft laws before their adoption. Prof. I. Ziemele is considered to be one of the leading initiators of the proposal to establish the State Council, pointing out that the Council should be another constitutional body enshrined in the Constitution, so that it would be equal in authority to the Constitutional Court. It would be an independent, consultative constitutional body[65] that would give its scientifically based opinions on legislative initiatives, bringing additional arguments and a different perspective to the political process.[66] President of Latvia E.Levits (2019–2023) was a particularly active promoter of this initiative. In his address to the Saeima, he advanced a concrete vision of the State Council as a mirror image of the Constitutional Court, whose opinion

> must be deep enough both legally and substantively from the point of view of the sustainability of the state, unrelated to the political agenda of the coalition. The State Council does this independently, it looks at (...) sustainability itself, it also interprets these principles in this way, develops them and gives its own assessment. But the democratically legitimate Saeima is the institution that takes the decision. The State Council cannot, must not and will not exempt the decision. The decision must be taken by the Saeima, by the deputies, after they have assessed from their point of view this assessment by the State Council.[67]

The discussion continued in 2020, with the expression that the new body would give opinions on new laws, as well as on only the most important amendments to laws, major sectoral reforms, including amendments to the Constitution, assessing the impact of legislation on the sustainability of the state and its compliance with the values set out in the Constitution.[68] Looking at the pragmatic side of the proposal to establish a State Council, situations should be allowed in which a law that has received a favorable assessment by the State Council is nevertheless challenged before the Constitutional Court and found to be incompatible with the fundamental law of the country. The basic philosophy of the State Council, the guarantor of legislative quality, is based on an ideal vision of an abstract legislator whose decisions are based on the sustainability of the country. This vision captures the dynamics of the political process and the compromises that are reached day after day, including in the form of amendments to laws.

The former President of the Constitutional Court has expressed justified skepticism, stressing that in Latvia "the structures of state administration are already overgrown,

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64 Comprising: prof. Dr. iur. Dr. Ringolds Balodis (NSL), prof. Dr. oec. Prof. Ivars Brīvers (LRA), Guntis Kalniņš (ZZS), Assoc. Dr. iur. Inese Lībiņa-Egnere (V), Imants Parādnieks (VL-TB/LNNK) and Jūlija Stepaņenko (S). In accordance with the decision of the Working Group of 26 March 2015, Ringolds Balodis was confirmed as its Chair.

65 Ineta Ziemele, "Valsts padome – neatkarīgs konstitucionāls orgāns valsts likumdošanas darbības jomā (The State Council – an Independent Constitutional Body in the Field of State Legislative Activity": 378; in: R. Balodis (ed), *Satversmes komentāri. V nodaļa (Commentaries on the Constitution. Chapter V.)* (Latvijas Vēstnesis, 2019).

66 Opinion of the Working Group of the Members of the Law Commission on the Possible Extension of the Powers of the President of the Republic and the Procedure for the Election of the President of the Republic of Latvia, 12.

67 Speech by the President of Latvia Egils Levits at the discussion 'The Role of the State Council in Legislation' jointly organised by the Chancellery of the President of Latvia and the Constitutional Court (February 2020) // https://www.president.lv/lv/jaunums/valsts-prezidenta-egila-levita-runa-diskusija-valsts-padomes-loma-likumdosana

68 Egils Levits, "Kā uzlabot likumdošanu un ierobežot likumdevēja netikumus (How to improve legislation and curb the vices of the legislator)," Interview, *Jurista vārds* 5 (1115) (04.02.2020).

and our political and legal culture is also very lame. Unfortunately, we have a legislator that thinks it can ignore the opinions of others. The objections of the Legal Bureau are often ignored in Parliament."[69] The constitutional architecture of the Republic of Latvia can be described as a relative model of power sharing, which is characterized by the leadership of the parliament. It has many means at its disposal to influence any other institution, while no institution is authorized to stand against the parliament and limit its power.[70] Creation of a new constitutional organ with advisory mandate might in a way endanger the current status of the parliament and *inter alia* compete with the newly developed field of the State Audit Office: performance audit. This form of audit goes far beyond the standard budget control. By analyzing the quality of implementation of reforms, the State Audit Office also gives recommendations for further steps to be taken to increase the efficiency and meaningful changes in legislation. As all the state power constitutional organs should be vested with means of power, the initiated institution of State Council lacks the very essence of its correspondence to these criteria.

If all the "candidates to the Constitution" were accepted, then the list of the constitutional organs of Latvia would create the following spectrum of the main functions of the state:

Table 2

Legislative power	Executive power	Judicial power	Advisory, control function
The body of citizens (founding constitutional organ) The Parliament (Saeima)	The Cabinet of Ministers The State president	The Constitutional Court The Supreme Court The Judicial Council The Prosecutors' Office	The State Audit Office The State Council The Ombudsman

CONCLUSIONS

The formal and linguistic battles over the division of state institutions are a constant source of ever-developing academic debate. In the 1990s the main target of investigation and academic creativity was to find the right designation for institutions, forming a correct hierarchy and structure of the state after the period Soviet occupation. The term "organ of state power" successfully survived its association with the realities of the Soviet period, returning to the theory of the state established in the original works of the state law authority Kārlis Dišlers of 1920s and 1930s. A new constitutional organ of state power was established in 1996: namely, the Constitutional Court. At the same time, many institutions were mistakenly attributed the status of a legal entity, which caused misunderstandings regarding the state liability. The next decade (2000–2010) cemented the correct balance of the constitutional organs in fair play of balancing the three state powers. Legal doctrine adopted the construct of Egils Levits to include the body of citizens (in Latvian, *pilsoņu kopums*) in the list of six already clearly highlighted

[69] Aivars Endziņš, "Jau tagad valsts pārvaldes struktūras ir pārmērīgi apaudzētas (Public administration structures are already overgrown)," *Jurista Vārds* 10 (964) (07.03.2017): 13.

[70] Edgars Pastars, Jānis Pleps, "Vairāk varas tautai – vai diktatūra? (More power to the people – a dictatorship?)," in *Saeimas atlaišana. Rakstu krājums (Dismissal of the Saeima. A collection of articles)* (Riga: Latvijas Vēstnesis, 2009), 29.

state power constitutional organs, stressing the importance of a genuine constitutional body with a specific role.

The power architecture and the distribution of the functions among all the constitutional organs and other state authorities must serve the purpose of the principle of separation of powers, so that the most appropriate decisions are taken by the most appropriate organs of state power. It is self-evident that the work of public authorities is not abstract and impersonal. The functioning of each organ of state is decisively influenced by the officials appointed/elected to lead it. The same applies to the content of initiatives by the constitutional organs of the state power. In Latvia, one of the initiatives by the body of citizens (regarding the introduction of the second state language – the Russian language) not even led to the referendum, but also indirectly drastically accelerated the adoption of the preamble to the constitution.

The laconic constitution of Latvia, which is the oldest Eastern and Central European constitution still in force, is regarded as a possible field of security for several state institutions to be included or 'leveled–up' to the highest status of the constitutional organ of state power. Such debates are initiated by the leaders of the respective institutions, and have gained relative support among the politicians, but have never reached the procedure of the readings in the Parliament.

Over the past ten years, the inclusion of new constitutional organs *i*n the text of the Constitution has been on the agenda of politicians and officials in Latvia with irregular intensity. The Prosecutor General's Office, the Ombudsman, the Judicial Council, and, in the form of a draft, the State Council, which has not yet been established,[71] have all made such claims. None of these institutions is directly at the primary and integral core of the mechanism of the separation of powers. If the Constitution were to include all the qualifying institutions, then of the eleven constitutional organs of state power, four would represent the judiciary, two would represent the legislature, two would represent the executive, and three would be independent control/advisory bodies. There is no doubt that with the increase in the volume and complexity of the issues to be solved by the state in today's global world, the structure, number, and functions of the state institutions must be adjusted accordingly. Nevertheless, any amendment to a constitution that was adopted over 100 years ago should be weighed not only against the arguments of the current political realities or need for the security of the institutions, but also against the historical architecture of the inner logic of the constitution.

BIBLIOGRAPHY

1. Āboltiņa, Solvita. Vai iecerētā Tieslietu padome attaisnos cerības (Will the envisaged Judicial Council live up to expectations). *Jurista vārds* (26.01.2010).
2. Akmentiņš, Roberts. *Tiesību zinātņu ievads: lekcijas (Introduction to Law: Lectures)*. Rīga: b.i., 1928.
3. Bleiere, Daina, Ilgvars Butulis, Inesis Feldmanis, Aivars Stranga, Antonijs Zunda. *Latvijas vēsture. 20. gadsimts (History of Latvia. 20th Century)*. Rīga: Jumava, 2005.

[71] Also a number of public authorities subordinate to the Cabinet of Ministers have expressed such an initiative.

4. Danovskis, Edvīns, Jautrīte Briede. Publisko personu civiltiesiskais statuss (Civil law status of public law subjects). *Jurista Vārds* 7(706) (14.02.2012).
5. "Partijas atturīgas par Kalnmeiera ideju prokuratūru ierakstīt Satversmē (The parties are reluctant to support Kalnmeier's idea to enshrine the prosecutor's office in the Constitution)." *Delfi portal* (15.09.2010) // https://www.delfi.lv/193/politics/34098465/partijas-atturigas-par-kalnmeiera-ideju-prokuraturu-ierakstit-satversme
6. Deviatnikovaitė, Ieva, Edvīns Danovskis, Ivo Pilving. Evolution of Administrative Justice in the Baltic States in 1918–1940. *Baltic Journal of Law & Politics* 15(1) (2022): 71–97.
7. Dišlers, Kārlis. *Ievads administratīvo tiesību zinātnē (Introduction to Science of Administrative Law).* Riga: TNA, 2002.
8. Dišlers, Kārlis. *Latvijas valsts varas orgāni un viņu funkcijas (Latvian State Organs and Their Functions).* Riga: TNA, 2004.
9. _____. "Pienākuma elements tiesībās (The Element of Duty in Law)." *Tieslietu Ministrijas Vēstnesis* 3 (1937).
10. Druviete, Ina, Uldis Ozolins. "The Latvian referendum on Russian as a second state language." *Language Problems and Language Planning 2012* 40(2) (Jan 2016): 121–145.
11. Duguit, Léon. *Manuel de Droit Constitutionnel (Manual of Constitutional Law)*. Paris, 1923.
12. Endziņš, Aivars. "Jau tagad valsts pārvaldes struktūras ir pārmērīgi apaudzētas (Public administration structures are already overgrown)." *Jurista Vārds* 10(964) (07.03.2017).
13. Harbaceviča, Solvita. "Tieslietu Padomes lēmumu efektivitāte (Effectiveness Of Judicial Council's Decisions)." *Tiesības un tiesiskā vide mainīgos apstākļos. Latvijas Universitātes 79. Starptautiskās zinātniskās konferences rakstu krājums (Law and Legal Environment in Changing Conditions. Proceedings of the 79th International Scientific Conference of the University of Latvia).* Riga: Academic Publishing House of the University of Latvia, 2021, 326–334.
14. Ijabs, Ivars. "After the Referendum: Militant Democracy and Nation-Building in Latvia." *East European Politics and Societies* 30(2) (2016): 288–314.
15. Jansone, Arta. "Method of Reception of Roman Law when Elaborating Latvia's Civil Law of 1937 and EU Law." *Fundamentos romanísticos del derecho contemporáneo* T. XI (AIDROM, 2021): 574–585.
16. Jarinovska, Kristīne. "Drafting the Preamble for the Satversme: A New Approach to one of the Oldest Still-Functioning Republican Basic Laws." *ICL Journal* 9(2) (2017): 253–271.
17. Jarinovska, Kristīne. Latvijas Republikas prokuratūras institucionālās struktūras ģenēze un transformācijas līdz 1940. gada 17. jūnijam. I daļa (The genesis and transformations of the institutional structure of the Prosecutor's Office of the Republic of Latvia until June 17, 1940. Part I). 1. izdevums. Rīga: Latvijas Republikas prokuratūra: 260.
18. "Juridiskās komisijas deputātu darba grupas Valsts prezidenta pilnvaru iespējamai paplašināšanai un ievēlēšanas kārtības izvērtēšanai atzinums (Opinion of the Working Group of the Members of the Legal Commission on the Possible Extension of the Powers of the President of the Republic and the Procedure for the Election

of the President of the Republic of Latvia).” *LR Saeima* (25.04.2017) // file:///C:/Users/RDK/Downloads/VPWG_Opinion.pdf

19. Jellinek, Georg. *Allgemeine Staatslehre (General theory of the state), 3-teAufl*. 1914.
20. Krūmiņa, Veronika. “Ievads Latvijas Republikas Satversmes VI nodaļas komentāram: tiesu varas evolūcija Latvijā. VI nodaļa. Tiesa (Introduction to the Commentary on Chapter VI of the Satversme of the Republic of Latvia: the Evolution of Judicial Power in Latvia. Chapter VI. Court.).” R. Balodis (ed.). *Satversmes komentāri. VI nodaļa (Commentaries on the Constitution. Chapter VI.).* Latvijas Vēstnesis, 2013, 9–30.
21. Letter from the Ombudsman Juris Jansons to the Saeima, 07 May 2015, No. 1-8/10. *Par likumprojektu „Grozījumi Latvijas Republikas Satversmē” (On the Draft Law ‘Amendments to the Satversme of the Republic of Latvia’)* // https://www.saeima.lv/darbagrupa/tiesibsarga_vestule%20070515.pdf
22. Levits, Egils. *Latvijas Republikas Ministru kabineta funkcijas (Functions of the Cabinet of Ministers of the Republic of Latvia). Latvijas Republikas Satversmes komentāri.* III nodaļa. Valsts prezidents. IV nodaļa. Ministru kabinets. Rīga: Latvijas Vēstnesis, 2017, 480–492.
23. _____. “Valsts un valsts pārvaldes juridiskā struktūra un pamatjēdzieni (The legal structure of the state and state administration).” *Jaunā pārvalde* 1(31) (2002): 5–23.
24. _____. “Kā uzlabot likumdošanu un ierobežot likumdevēja netikumus (How to improve legislation and curb the vices of the legislator).” Interview. *Jurista vārds* 5(1115) (04.02.2020).
25. _____. *Speech by the President of Latvia at the discussion ‘The Role of the State Council in Legislation’ jointly organised by the Chancellery of the President of Latvia and the Constitutional Court.* (February 2020) // https://www.president.lv/lv/jaunums/valsts-prezidenta-egila-levita-runa-diskusija-valsts-padomes-loma-likumdosana
26. _____. *Speech at the 7th International Scientific Conference of the Faculty of Law of the University of Latvia.* (October 2019) // https://www.president.lv/lv/jaunums/valsts-prezidenta-egila-levita-uzruna-latvijas-universitates-juridiskas-fakultates-7-starptautiskaja-zinatniskaja-konference-tiesibu-zinatnes-uzdevumi-nozime-un-nakotne-tiesibu-sistemas
27. Linards, Muciņš. Publisko iestāžu klasifikācijas modelis (Model of classification of public authorities). *Likums un tiesības (Law and Rights)* 4 (2000): 98–102.
28. Macía Briedis, Rafael. “Towards an Institutionalist Vision of Constituent Power?” *European Constitutional Law Review* 19(2) (2023): 390–414.
29. Mucinieks, Pēteris. *Latvijas pašvaldību iekārta (Latvian local government system).* L. U. Studentu padomes grāmatnīcas izdevums. Rīga: 1938.
30. _____. *Sociālā likumdošana. (Social Legislation).* Rīga: LU Studentu padomes grāmatnīcas izdevums, 1934.
31. Muciņš Linards. Ignoring the Doctrine in Legislation: the Concept of Institution. In: *The Quality of Legal Acts and its Importance in Contemporary Legal Space.* Ed.J.Rozenfelds et al., LU Akadēmiskais apgāds, 2012, pp. 585- 595.
32. _____. “Valsts vara un juridisko personu un to orgānu pārvaldība un pārvalde (State Power and Governance of Legal Entities and Their Bodies).” *Zinātniskie raksti (Scientific articles)*. RSU: Riga, 2014, 45–56.

33. Načisčionis, Jānis, Una Skrastiņa, Vladas Tumalavičius. "Secure development of public administration." *Journal of Security and Sustainability Issues* 8(1) (2018): 87–102.
34. Ozoliņš, Osvalds. "Valsts atbildība par ierēdņiem (State Responsibility for Civil Servants)." *Tieslietu Ministrijas Vēstnesis* (1935): 283–285.
35. *Par Latvijas valsts konstitucionālajiem pamatiem un neaizskaramo Satversmes kodolu. Konstitucionālo tiesību komisijas viedoklis un materiāli (On the constitutional foundations of the Latvian state and the inviolable core of the Constitution. Opinion and materials of the Constitutional Rights Commission).* Egils Levits et al. Rīga: Latvijas Vēstnesis, 2012.
36. *Par tiesu administrācijas koncepciju (Policy planning document "Concept of judicial administration").* Approved by the Cabinet of Ministers Order No. 547 of 28.08.2003.
37. Pastars, Edgars, Jānis Pleps. "Vairāk varas tautai – vai diktatūra? (More power to the people – a dictatorship?)." In *Saeimas atlaišana. Rakstu krājums (Dismissal of the Saeima. A collection of articles)*. Riga: Latvijas Vēstnesis, 2009.
38. Priekulis, Jānis. "Valsts varas orgānu apkalpojošās iestādes" (Supporting Authorities for State Organs). In *Satversmē nostiprināto vērtību aizsardzība: dažādu tiesību nozaru perspektīva (Protection of the Values enshrined in the Satversme).* Riga: LU, 468–479.
39. "Prokuratūras vieta Latvijas Republikas Satversmē (The Place of the Prosecutor's Office in the Satversme of the Republic of Latvia). Latvijas Prokuroru biedrības valde (Board of the Latvian Association of Prosecutors)." *Jurista vārds* 8(1118) (25.02.2020).
40. Rudevskis, Juris. "Vai grozījumos paredzētā Tieslietu padome atbilst Latvijas tiesību tradīcijām un Satversmei? (Does the Judicial Council provided for in the amendments comply with Latvian legal traditions and the Satversme?)." *Jurista Vārds* 4(599) (26.01. 2010).
41. Schwartz, Philipp. *Das Lettländische Zivilgesetzbuch vom 28. Januar 1937 und seine Entstehungsgeschichte.* Shaker Verlag, Aachen, 2008.
42. *Tieslietu padomes darbības stratēģija 2021.–2025. gadam (Strategy for the Judicial Council 2021–2025), p. 2.1.* Approved by the Council of the Judiciary Decision No. 16 of 12 March 2021.
43. Ziemele, Ineta. "Valsts padome – neatkarīgs konstitucionāls orgāns valsts likumdošanas darbības jomā (The State Council – an Independent Constitutional Body in the Field of State Legislative Activity." In R. Balodis (ed.). Satversmes komentāri. V nodaļa (Commentaries on the Constitution. Chapter V.). *Latvijas Vēstnesis* (2019): 374–379.

LEGAL REFERENCES

1. *Decision of the Terminology Commission of the Latvian Academy of Sciences No. 14.* Par terminiem institūcija, konstitūts un orgāns (On the terms institution, constitution and organ). Adopted 31.05.2002; prot. No. 4/1028.
2. *Supreme Court of the Republic of Latvia*, *Department of Civil Cases.* Case No. SKC-226/2010 24.11.2010.
3. *Supreme Court of the Republic of Latvia, Department of Administrative Cases*. Case No. A42744209, SKA-0177-12 25.10.2007.

4. *Supreme Court of the Republic of Latvia, Department of Administrative Cases.* Case No. SA-3/2014 28.03.2014.
5. *Constitutional Court of the Republic of Latvia. On Compliance of Section 5(6) of Saeima Election Law with Article 1, Article 9 and Article 91 of the Satversme of the Republic of Latvia.* Judgment of 29 June 2018 in Case No. 2017-25-01.
6. *Constitutional Court of the Republic of Latvia. On Compliance of Section 1(1), Section 4(1), Section 6(3), Section 22 and Section 50 of Public Prosecutor's Office Law with Article 1, Article 58, Article 82, Article 86 and Article 90 of the Satversme of the Republic of Latvia.* Judgment of 20.12.2006 in Case No. 2006-12-1.
7. *Constitutional Court of the Republic of Latvia. On the compliance of Section 46, Parts Six, Seven, Eight and Nine of the Radio and Television Law with Articles 58 and 91 of the Satversme of the Republic of Latvia.* Judgment of 16.10.2006 in Case No. 2006-05-1.
8. *Constitutional Court of the Republic of Latvia. On the compliance of Section 19, Part Five of the Law on Budget and Financial Management, Section 44, Part Two of the State Audit Office Law and Section 19, Part Two of the Ombudsman Law with Articles 1, 83 and 87 of the Satversme of the Republic of Latvia.* Judgment of 25.11.2010 in Case No. 2010-06-01.
9. *The Constitution of the Republic of Latvia.* Official publication 08.07.2014, No. 131, No. 2014/131.4