JURIDISKĀ KOLEDŽA

# The Development of Baltic States Over 30 Years Since Restoration of Independence: Political, Economic and Legal Aspects

Proceedings
of an International
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RĪGAS STRADIŅA UNIVERSITĀTE

# The Development of Baltic States Over 30 Years Since Restoration of Independence: Political, Economic and Legal Aspects

**Proceedings of an International Scientific Conference, 24–25 April 2020, Riga**

# Baltijas valstu attīstība aizvadīto 30 gadu laikā kopš neatkarības atjaunošanas: politiskie, ekonomiskie un tiesiskie aspekti

**Starptautiskās zinātniskās konferences materiāli, 2020. gada 24.–25. aprīlis, Rīga**

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Krājumā piedāvājam lasītājiem ieskatu konferencē "Baltijas valstu attīstība aizvadīto 30 gadu laikā kopš neatkarības atjaunošanas: politiskie, ekonomiskie un tiesiskie aspekti", publicējot divpadsmit rakstus, kuru autori uzstājās šai konferencē. Publikācijai tika izvēlētas nozīmīgākās tēmas ekonomikā, vēsturē, politikā, tiesību zinātnēs.

Literārās redaktores: Anita Rudziša, Antra Legzdiņa

Vāka dizains, makets: Anita Rudziša

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# PREFACE

The College of Law, as a higher education institution, celebrates its 20th anniversary this year. Being one of the first colleges in Latvia, it has established and developed a number of significant traditions over the years. Among these traditions are the International Science Week and participation in the Latvian Lawyers` Days, which are organised every year during the last full week of April. Due to the recent emergency situation in the country all the events were held remotely via electronic communication tools.

The year 2020 is also significant because just 30 years ago, on 4 May, the Supreme Council of Latvia made a historic decision on the restoration of state independence. Similar decisions were made shortly before in Lithuania and Estonia. Therefore, this year`s International Science Week at the end of April, just before 4 May, is largely thematically related to these historical events in all three Baltic States.

During the International Science Week, the College of Law offered the students an exciting and interesting opportunity to play a lawsuit: Latvia`s claim to the UN International Court against Russia for the losses caused by the Soviet occupation. The discussion on 25 April – the position of the Baltic States regarding non-internationally recognised subjects and territories – was equally interesting. However, the most important event of the International Science Week 2020 and Lawyers` Days at the College of Law was the international conference "The Development of Baltic States over 30 Years since Restoration of Independence: Political, Economic and Legal Aspects". The conference was attended not only by scientists from three Baltic States, but also by academic staff members and students from Georgian and Turkish universities. Special mention should be made of the representative delegation from our partner university – Utena University of Applied Sciences, whose representatives also gave a good insight into the topicalities of the Lithuanian legal system.

In this volume, we offer readers only a brief introduction to the conference by publishing twelve articles of the authors who addressed and

discussed the above-mentioned topics online. Of course, there was a wide range of conference reports, but we selected only the most significant topics for publication. Their authors represent Latvia, Lithuania, Estonia, Georgia and Turkey. The conference proceedings may be useful and interesting not only to students of the College of Law, but also to a much wider audience.

*Dr.habil.sc.pol., Dr.iur.*
**Tālavs Jundzis,**
Director of the College of Law

Riga, April 2020

# PRIEKŠVĀRDS

Juridiskā koledža kā augstākās izglītības institūcija šogad atzīmēs savas dibināšanas 20. gadadienu. Būdama viena no Latvijas pirmajām koledžām, gadu gaitā tā ir iedibinājusi un attīstījusi virkni nozīmīgu tradīciju. To vidū īpaši izceļama būtu Starptautiskā zinātnes nedēļa un dalība Latvijas Juristu dienās, kas tiek organizētas katru gadu aprīļa pēdējā nedēļā. Ņemot vērā šogad valstī izsludināto ārkārtas stāvokli, pasākumi notika attālināti, izmantojot elektroniskos saziņas līdzekļus.

2020. gads ir nozīmīgs arī ar to, ka tieši pirms 30 gadiem 1990. gada 4. maijā tika pieņemts vēsturiskais Latvijas PSR Augstākās padomes lēmums par valstiskās neatkarības atjaunošanu. Līdzīgi lēmumi īsi pirms tam tika pieņemti arī Lietuvā un Igaunijā. Tāpēc šī gada Starptautiskā zinātnes nedēļa aprīļa beigās tieši pirms 4. maija lielā mērā tematiski ir saistīta ar šiem vēsturiskajiem notikumiem visās trijās Baltijas valstīs.

Juridiskajā koledžā Starptautiskās zinātnes nedēļas ietvaros norisinājās aizraujoša un saistoša tiesas procesa izspēle studentiem – Latvijas prasība ANO Starptautiskajā tiesā pret Krieviju par Padomju Savienības okupācijas rezultātā nodarītajiem zaudējumiem. Ne mazāk interesanta izvērsās arī diskusija 25. aprīlī par Baltijas valstu pozīciju attiecībā uz starptautiski neatzītiem subjektiem un teritorijām. Tomēr pats svarīgākais 2020. gada Starptautiskās zinātnes nedēļas un Latvijas Juristu dienu notikums Juridiskajā koledžā bija starptautiskā konference "Baltijas valstu attīstība aizvadīto 30 gadu laikā kopš neatkarības atjaunošanas: politiskie, ekonomiskie un tiesiskie aspekti". Konferencē piedalījās ne tikai visu trīs Baltijas valstu zinātnieki, bet arī Gruzijas un Turcijas universitāšu mācībspēki un studenti. Īpaši atzīmējama mūsu sadarbības partnera – Utenas Lietišķo zinātņu universitātes *(Utena University of Applied Sciences)* pārstāvju dalība, kuri sniedza ieskatu Lietuvas tieslietu sistēmas aktualitātēs.

Šoreiz krājumā piedāvājam lasītājiem tikai nelielu ieskatu minētajā konferencē, publicējot divpadsmit rakstus, kuru autori konferencē uzstājās tiešsaistes režīmā un iesaistījās aktīvās diskusijās. Protams, ziņojumu klāsts bija daudz plašāks, taču publikācijai izvēlējāmies vien pašas nozīmīgākās

tēmas. To autori pārstāv Latviju, Lietuvu, Igauniju, Gruziju un Turciju. Krājums varētu būt noderīgs un interesants ne tikai Juridiskās koledžas studentiem, bet daudz plašākam interesentu lokam.

*Dr.habil.sc.pol., Dr.iur.*
**Tālavs Jundzis,**
Juridiskās koledžas direktors

Rīgā, 2020. gada aprīlī

# SATURS

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# THE ROLE OF THE LABOUR DISPUTE COMMISSIONS' DECISIONS IN SHAPING THE RELATIONSHIP BETWEEN THE PARTIES

# DARBA STRĪDU KOMISIJU LĒMUMU NOZĪME PUŠU ATTIECĪBU VEIDOŠANĀ

***Keywords:*** *labour dispute, relationship between the parties, labour law reform.*
***Atslēgvārdi:*** *darba strīdi, attiecības starp pusēm, darba tiesību reforma.*

1. The Labour Code of the Republic of Lithuania (hereinafter referred to as LC) that came into force 1 July 2017, has significantly expanded the role of the Labour Dispute Commissions (hereinafter referred to as LDC`s). Almost all individual labour disputes and collective labour disputes over law came under the competence of LDC. It was a truly historic moment, forcing the rather "young" LDC`s to reassess their competencies, responsibilities and prestige of the pre-trial institution.

2. The rise of LDC`s authority and the high stability rates of the decisions they make call to analyse the potential impact of their decisions on the stability of employment legal relationships and their subsequent disputes between the same parties, but arising from other relationships, e.g. family, obligations, damage compensation, business, etc. In this case, the author does not seek to investigate the decisions of LDC`s solely on the questions of the preliminary ruling referred. The pre-trial practice of LDC`s is to confirm or deny the existence of such a connection at all. Such a connection is evident when the parties being dissatisfied with LDC`s decision, apply to the court which is provided with all the proceedings, including the audio record. However, the court is not bound by the evidence gathered

by LDC and the Commission`s decision, nor is it an appellate or cassation authority with regard to LDC, so there is no reason to speak here even of the preliminary ruling of LDC.

3. When analysing labour cases regarding dismissal to be acknowledged as unlawful, there is a symbiosis between these claims and the claim for non-pecuniary damage. Recently, the claimants have brought these claims against defendants in the same case. Having acknowledged that the dismissal is unlawful, LDC also examines the claims regarding the compensation for non-pecuniary damage. There is a practice that non-pecuniary damage occurs not from the very fact of unlawful dismissal, but from the subsequent consequences – illness, stress, depression, loss of reputation, etc. It should be noted that non-pecuniary damage suffered by the claimant is far too low and ranges from 100 euro to 300 euro, since the amounts claimed under the original claim for forced absences from work are ten times higher. The compensation for a moral hazard suffered is relatively higher (up to 1000 euro) in cases where the claimant has already been found to have been unlawfully dismissed by a previous decision of LDC, so that in a re-action he claims only damages. The number of such cases, according to the data of the State Labour Inspectorate (hereinafter – SLI) was about 1.5% of all cases in 2019, the first half of the year. Decisions in such cases are made following the same rules, but these cases are interesting in the way that we face the preliminary ruling of earlier LDC decisions in making resolutions for the future cases. However, there are some exceptions. In the work case No APS-131-16219 the LDC denied the claimant`s S.B. claim against the defendant *MIR GLOBAL*, *UAB*, represented by the claimant`s wife M.B. The Commission found that the claim for non-pecuniary damage was based on the defendant`s possible dissemination of inaccurate information about the claimant's professional qualifications, but when the employment relationship was terminated. For the sake of completeness, it should be noted that there was a parallel divorce case run between the claimant S.B. and the representative of the defendant M.B. and this circumstance potentially determined LDC`s position regarding non-pecuniary damage compensation.

4. The issue of reimbursement of the costs of attending of a lawyer in LDC needs a separate discussion. It is clear that the right of this claim belongs to the successful party. However, in accordance with Article 217(3) of the Labour Code of the Republic of Lithuania, the litigation costs incurred by the parties to the dispute in LDC are not ordered. This means

that the winning party has to apply to court and the decision of LDC will have a preliminary ruling, of course, if there is no appeal. Given that lawyers are involved in almost all lawsuits concerning the lawfulness of dismissal (~ 5% of all cases), compensation for material damage (~ 7.5%), moral hazard (~ 1.5%) and in more complex salary recovery cases, this provision of the law should be evaluated newly, in order not to overburden the courts with rather mechanical work, having in mind that the expertise and experience of LDC have grown considerably.

5. The increasing role of LDC decisions in society can also be attributed to the quantitative performance of LDC. They have remained stable for several years. According to the data provided by the SLI for the first half of 2019, the main part of the disputes is the recovery of wages and other work-related benefits (about 75% of all disputes). However, when compared to the data for the first half of 2018, the number of disputes has increased from 3319 to 3733 in 2019, i.e. just over 12%. This reflects a rise in public awareness, decline in tolerance for violations of law and increasing confidence in LDC`s activities. Can it be argued that the similar trends in defence of violated rights would remain even if only court actions were taken? Hardly, and, unfortunately, such sociological research has never been carried out in Lithuania. If you rely on the fact that only 10% of LDC`s decisions are sued to the court every year, and again, only about 10% of the decisions being sued are satisfied by the court, the number of direct complaints to courts for the infringement of labour rights would undoubtedly be significantly lower. It is, therefore, important that the activities of LDC and the decisions they make have a significant impact on the courts, protecting them from dealing with minor or irrelevant cases. It also saves taxpayers` money significantly, as labour litigation costs in LDC are 2–2.5 times lower than in litigation.

6. In summary, one may state that the labour law reform of the last decade in Lithuania is quite smooth. It is only through this reform that the institution of Labour Disputes was "reanimated". Currently, there are 22 LDCs in the country (the number having increased from 13 in 2013). According to the latest data from the SLI, in 2019, 7.4 thousand applications were processed with 9.6 thousand claims. Annual growth remains stable at 10% per year. About 35% of all claims settled in favour of a claimant, about 10% of claims partially satisfied, slightly more than 1.5 thousand peace agreements have been concluded (about 16% of all claims). About 15% of the claims were terminated because the claimants withdrew all their claims

due to agreement between the parties. In 2019, only 4.6% of the work cases that were handled by LDC were transferred and largely dealt with by the courts. This is self-referencing statistics that confirms the author`s thoughts on evaluating LDC`s activities and the decisions they make in the public eye. There is, of course, a prospect for growth, as important levers like the development of a unified nationwide pre-litigation practice, the strengthening of the feedback between the courts and LDC`s, etc., which remain incomplete.

**Dina Benefelde,**
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# ADMINISTRATĪVIE SODI PAR PĀRKĀPUMIEM POLITISKO PARTIJU FINANSĒŠANĀ

# ADMINISTRATIVE PENALTIES FOR IRREGULARITIES IN THE FINANCING OF POLITICAL PARTIES

***Atslēgvārdi**: politiskā partija, administratīvā atbildība, administratīvais sods, partiju finansēšanas regulējums, tiesu prakse.*
***Keywords:** political party, administrative responsibility, administrative sanction, party financing regulation, case law.*

Tiesībām ir nozīmīga loma ikvienas tautas dzīvē. Administratīvās tiesības kā sabiedrisko attiecību regulators visās valstīs ir ieņēmušas un turpina ieņemt vienu no vadošajām vietām citu tiesību nozaru vidū. Tikai, izpildot likumos paredzēto, realizējot izpildvaru, ir iespējams sakārtot attiecības, lai nodrošinātu valsts, sabiedrības un indivīda attīstību tiesiskā valstī. Tiesu praksē paustās atziņas liecina, ka politiskajām organizācijām (partijām) un to apvienībām (turpmāk tekstā – partija), ņemot vērā viņu īpašo lomu valsts dzīvē, ir piemērojamas stingrākas prasības attiecībā uz likumu ievērošanu nekā personai, kas nav saistīta politiskajā dzīvē. Šāda pieeja ir nepieciešama demokrātijas nostiprināšanai un tās tālākai attīstībai valstī. Vadoties no politisko partiju lomas valsts dzīvē, jebkurš politiskās partijas izdarītais likuma pārkāpums ir uzskatāms par būtisku kaitējumu sabiedrībai. Politisko partiju vadītājiem ir jāpievērš pastiprināta uzmanība likumu un citu normatīvo aktu ievērošanai.[1]

1 Administratīvā lieta par partijas vēlēšanu ieņēmumu un izdevumu deklarācijā norādītajām nepatiesajām ziņām: 18.08.2008. Administratīvās apgabaltiesas spriedums Lietā Nr.A42286106.– https://www.tiesas.lv/nolemumi.– (Resurss apskatīts 02.05.2016.).

Pētījuma tēmu autore izvēlējās, ņemot par pamatu savu profesionālo darbību, ar mērķi – sniegt priekšstatu par partiju finansēšanas kārtību, priekšvēlēšanu aģitācijas ierobežojumiem priekšvēlēšanu periodā, par partiju pārkāpumiem to finansēšanā un piemērotajiem administratīvajiem sodiem.

## Partiju finansēšanas regulējums normatīvajos aktos

Saskaņā ar deleģējumu Korupcijas novēršanas un apkarošanas biroja likumā Korupcijas novēršanas un apkarošanas birojs (turpmāk tekstā – KNAB) kontrolē partiju finansēšanas noteikumu izpildi un likumā noteiktajos gadījumos sauc vainīgās personas pie administratīvās atbildības, piemērojot sodu.

Partiju finansēšanas noteikumus reglamentē Politisko organizāciju (partiju) finansēšanas likums (turpmāk tekstā – Finansēšanas likums). Tā mērķis ir nodrošināt partiju finansiālās darbības atklātumu, likumību un atbilstību parlamentārās demokrātijas sistēmai.[2]

Finansēšanas likums regulē partiju gada pārskata, vēlēšanu ieņēmumu un izdevumu deklarācijas (turpmāk tekstā – vēlēšanu deklarācija), ziņojuma par biedru iestāšanās naudu un biedru naudu, ziņojuma par ziedojumiem un paziņojuma par paredzamo priekšvēlēšanu aģitācijas materiālu izvietošanu vai pasta pakalpojumu izmantošanu, aizpildīšanas un iesniegšanas kārtību, kā arī nosaka noteiktus iesniegšanas termiņus.

Partija katru gadu ne vēlāk kā līdz 31. martam KNAB iesniedz gada pārskatu, bet partijas, kas iesniegušas savus deputātu sarakstus vēlēšanām, sastāda vēlēšanu deklarāciju, kas KNAB iesniedzama 30 dienu laikā pēc vēlēšanām.

Jāatzīmē, ka Finansēšanas likuma 8.[4] panta pirmā, otrā un trešā daļa paredz limitu priekšvēlēšanu izdevumiem. Šie ierobežojumi attiecas uz reklāmas izvietošanas izdevumiem un labdarības pasākumu finansēšanu.

Kārtību, kādā veicama partiju priekšvēlēšanu aģitācija, reglamentē Priekšvēlēšanu aģitācijas likums, bet grāmatvedības uzskaiti partijas kārto saskaņā ar likumu "Par grāmatvedību" un uz tā pamata izdotiem tiesību aktiem. Savukārt administratīvās atbildības, administratīvo pārkāpumu un administratīvo sodu tiesiskā reglamentācija ir paredzēta Latvijas Administratīvo pārkāpumu kodeksā (turpmāk tekstā – LAPK).

2 Politisko organizāciju (partiju) finansēšanas likums (pieņemts 19.07.1995.), 1. pants // Latvijas Vēstnesis.– Nr. 114 (1995, 2. augusts).

Saskaņā ar Politisko partiju likuma 2. panta pirmo daļu partiju dibināšanas mērķis ir veikt politisko darbību un piedalīties vēlēšanās. Lai šo mērķi realizētu, partijas veic finansiālo darbību, kas ir cieši saistīta ar grāmatvedības uzskaites kārtošanas noteikumu ievērošanu.

## Administratīvais pārkāpums partiju finansēšanā

LAPK atbildību par pārkāpumiem partiju finansēšanā paredz gan partijām, gan fiziskām personām, gan juridiskām personām. Raksta autore analīzei izmantoja KNAB mājās lapā www.knab.gov.lv pieejamos datus par laika posmu no 2010. gada 1. janvāra līdz 2014. gada 31. decembrim.

KNAB gada pārskatu pārbaužu laikā konstatēja šādus partiju pieļautos administratīvos pārkāpumus:

1. Partijas regulāri neievēroja gada pārskatu iesniegšanas kārtību, piemēram, 2011. gadā no 64 partijām, kurām bija jāsniedz gada pārskati, šo kārtību neievēroja 10 partijas, t.i., 15,6% no partiju skaita. Pavisam šajā periodā par minēto pārkāpumu partijām piemērotā sodu summa ir 7098,00 eiro. Te jāatzīmē, ka daļa no reģistrētajām partijām ir neaktīvas, politisko darbību neveic un likumā par gada pārskatu iesniegšanu noteikto neievēro gadu no gada, kā arī atrodas likvidācijas procesā. Vidēji analīzē ņemtos piecos gados Latvijas Republikas Uzņēmumu reģistrā ir reģistrētas 64,4 partijas, no tām likvidācijas procesā atradās 21,6 no tām.

2. Divpadsmit pieļautie administratīvie pārkāpumi saistīti ar nepatiesu ziņu norādīšanu partiju gada pārskatā un grāmatvedības uzskaites kārtošanas normu neievērošanu. Lielākais administratīvo pārkāpumu skaits konstatēts 2010. gadā (5 pārkāpumi, kas sastāda 38,5% no piecu gadu periodā konstatētajiem šādiem pārkāpumiem). Savukārt pa vienam šādam pārkāpumam konstatēts 2011. gadā un 2014. gadā. Tas skaidrojams ar to, ka minētajos gados notika Saeimas vēlēšanas un partijas KNAB iesniedza vēlēšanu deklarācijas. KNAB veica šo deklarāciju pārbaudi un par konstatētajiem pārkāpumiem informēja partijas, līdz ar to tām bija iespēja attiecīgā gada pārskata periodā novērst konstatētos pārkāpumus. Kopējā piemērotā administratīvo pārkāpumu sodu summa par šiem pārkāpumiem ir 1187,00 eiro.

3. Jākonstatē, ka partijas ziņojuma par saņemto vai nepieņemto dāvinājumu iesniegšanas nozīmīgumu ir sapratušas un to iesniegšanas kārtības pārkāpumi samazinās, proti, no 15 pārkāpumiem 2010. gadā uz 4 pārkāpumiem 2013. gadā. Jāatzīst, ka 2014. gadā to skaits atkal ir pieaudzis līdz 8. Taču tas izskaidrojams ar partiju politiskajām aktivitātēm

divos priekšvēlēšanu periodos. Par šiem pārkāpumiem piemērotā kopējā soda summa ir 3908,00 eiro.

4. Par ziņojuma par biedru iestāšanās naudu un biedru naudu iesniegšanas kārtības neievērošanu sodītas 3 partijas. Atbildība par šīs kārtības neievērošanu tika paredzēta LAPK grozījumos, kas stājās spēkā 2013. gada 29. maijā, tāpēc partijas par šo pārkāpumu pirmo reizi tika sodītas sākot ar 2014. gadu. Kopējā piemērotā soda naudas summa 2014. gadā ir 200,00 eiro. Turklāt, divos gadījumos, administratīvo pārkāpumu lietvedība netika uzsākta pārkāpumu maznozīmīguma dēļ.

5. 2010. gadā tika konstatēts, ka divas partijas pieņēmušas neatļautus dāvinājumus – juridisku personu ziedojumus. Par to KNAB piemērojis naudas sodu 1423,00 eiro apmērā.[3]

Minēto datu analīze liecina, ka KNAB veicot partiju gada pārskatu pārbaudes, visbiežāk konstatē administratīvos pārkāpumus, kas pieļauti neiesniedzot nepieciešamos pārskatus savlaicīgi, proti, gada pārskatus (42 pārkāpumi) un ziņojumus par saņemto vai nepieņemto dāvinājumu (42 pārkāpumi). Tie apskatītajā periodā sastāda 84,25% no kopējo pārkāpumu skaita. Savukārt aplūkoto piecu gadu laika posmā vismazāko īpatsvaru no konstatēto administratīvo pārkāpumu skaita aizņēma pārkāpumi neatļauta ziedojuma pieņemšanā. Viss iepriekšminētais norāda, ka partijas rūpīgi izvērtē katra saņemtā ziedojuma likumību.

Rakstā apskatītajā periodā partijām par administratīvajiem pārkāpumiem, kas konstatēti gada pārskatu pārbaužu laikā, piemērotā naudas sodu kopsumma ir 13859,00 eiro. Vislielākie sodi piemēroti 2010. gadā (5179,00 eiro, kas ir 37% no kopējās summas šajā periodā).

Papildus gada pārskatu pārbaudēm, ievērojot Finansēšanas likuma 8.[2] panta trešajā daļā noteikto, KNAB veic partiju vēlēšanu deklarāciju pārbaudes. Raksta autores apskatītajā laika posmā Latvijā ir notikušas 3 Saeimas, 1 Eiropas Parlamenta un 1 pašvaldību vēlēšanas. Izvērtējot iesniegtās partiju vēlēšanu deklarācijas, KNAB konstatēja sekojošus administratīvos pārkāpumus:

1. Par vēlēšanu deklarāciju iesniegšanas kārtības neievērošanu, veicot 2013. gada pašvaldību vēlēšanu deklarāciju pārbaudes, sodītas deviņas partijas, kurām piemērotā kopējā naudas sodu summa ir 170,00 eiro.

2. Vēlēšanu deklarāciju pārbaužu laikā viens no raksturīgākajiem partijām konstatētajiem pārkāpumiem ir nepatiesu ziņu norādīšana

3 Administratīvie pārkāpumi.– http://www.knab.gov.lv/lv/finances/control/offences/.– (Resurss apskatīts 21.05.2016.).

vēlēšanu deklarācijā. Piecu gadu periodā konstatēti 48 šādi pārkāpumi. Jāatzīmē, ka nepatiesu ziņu norādīšana vēlēšanu deklarācijā ir cieši saistīta ar grāmatvedības uzskaites kārtošanas noteikto normu ievērošanu. Proti, partijai grāmatvedības uzskaites reģistros neatspoguļojot savus veiktos darījumus, vienlaikus nav ievērots gan likumā "Par grāmatvedību" noteiktais, gan Finansēšanas likuma prasības.

3. Par ziņojuma par saņemto vai nepieņemto dāvinājumu iesniegšanas kārtības neievērošanu 11. Saeimas vēlēšanu deklarāciju pārbaužu laikā sodītas divas partijas.

4. Paziņojumu par paredzamo priekšvēlēšanu aģitācijas materiālu izvietošanu iesniegšanas kārtības neievērošanas gadījumā atbildība paredzēta LAPK (ar grozījumiem, kas stājās spēkā 2013. gada 29. maijā). Par šo pārkāpumu, kas pieļauts 2014. gada Eiropas Parlamenta vēlēšanu priekšvēlēšanu periodā sodītas divas partijas, bet 12. Saeimas vēlēšanu priekšvēlēšanu periodā – piecas.

5. KNAB par neatļauta ziedojuma pieņemšanu, sodīja piecas partijas. Četri no neatļautajiem ziedojumiem 70928,00 eiro apmērā ir juridisku personu ziedojumi, t.sk., 3 saņemti 2010. gadā (70355,00 eiro) un viens 2014. gadā (573,00 eiro). Šādu ziedojumu pieņemšanu Finansēšanas likums neparedz. Savukārt Eiropas Parlamenta vēlēšanu deklarāciju pārbaužu laikā konstatēts, ka viena no partijām pieņēma ziedojumu no fiziskas personas, kas pārsniedza fiziskai personai Finansēšanas likumā noteikto ierobežojumu attiecībā uz ziedojumu veikšanu vienai partijai kalendārā gada laikā par 27600,00 eiro.

6. KNAB konstatēja divus gadījumus, kad partijas pārsniegušas atļauto priekšvēlēšanu limitu. Viens gadījums konstatēts 10. Saeimas vēlēšanu priekšvēlēšanu periodā, kad limits pārsniegts par 62700 eiro, bet otrs – 12. Saeimas vēlēšanu priekšvēlēšanu periodā par 43015,00 eiro.[4] Neiespējami būtu izdalīt KNAB piemērotā soda apmēru par katru partijas pieļauto administratīvo pārkāpumu atsevišķi, jo vairumā gadījumu KNAB pārbaužu ietvaros, vienlaicīgi tiek konstatēti vairāki partiju administratīvie pārkāpumi. Tāpēc KNAB piemēro LAPK 35. panta nosacījumus.

Analīzes rezultātā secināms, ka 48 pārkāpumi jeb 66% no kopējo partiju vēlēšanu deklarāciju pārbaužu laikā konstatēto administratīvo pārkāpumu skaita ir nepatiesu ziņu norādīšana vēlēšanu deklarācijā. Šo pārbaužu laikā konstatēti 73 pārkāpumi, piemēroto administratīvo sodu

4 Administratīvie pārkāpumi.– http://www.knab.gov.lv/lv/finances/control/offences/.– (Resurss apskatīts 21.05.2016.).

summa ir 23068,00 eiro. Tas skaidrojams ar partiju biedru un deputātu kandidātu likuma normu nezināšanu vai nepietiekamu izpratni par tām. Šie pārkāpumi tiek pieļauti, jo partiju amatpersonas netiek savlaicīgi informētas par fizisko personu veiktajiem dāvinājumiem pakalpojumu veidā. Šādus pārkāpumus partijas pieļauj regulāri, taču īpaši raksturīgi tie ir priekšvēlēšanu periodā.

**Administratīvie sodi par pārkāpumiem partiju finansēšanā**

Korupcijas novēršanas un apkarošanas biroja likuma 10. panta pirmās daļas 3. punkts nosaka, ka KNAB amatpersonai atbilstoši tās kompetencei ir tiesības sastādīt administratīvos protokolus par atklātajiem pārkāpumiem, izskatīt administratīvo pārkāpumu lietas un uzlikt administratīvos sodus par pārkāpumiem, kuru izskatīšana saskaņā ar LAPK ir piekritīga KNAB.

Ja partija neiesniedz gada pārskatus vai vēlēšanu deklarācijas līdz likumā noteiktajam termiņam vai nenorāda likumā prasītās ziņas, kā arī ja netiek pildīti noteikumi, kas regulē partiju ienākumus, izdevumus un grāmatvedības uzskaiti, KNAB sauc attiecīgo partiju pie administratīvās atbildības un brīdina tās vadītāju.

Rakstā analizētie dati liecina, ka KNAB par administratīvajiem pārkāpumiem partijām piemēro vienīgi LAPK 23. pantā noteikto administratīvo sodu, t.i., naudas sodu. Attiecīgajā laikposmā tie ir 187 naudas sodi. Savukārt, saskaņā ar LAPK 21. panta pirmo daļu no administratīvās atbildības, izsakot mutvārdu aizrādījumu, KNAB atbrīvo partijas 55 gadījumos.[5]

Partiju atbildība par Finansēšanas likuma prasību ievērošanu nosaka LAPK 166.[6] pants "Grāmatvedības, pārskatu iesniegšanas un statistiskās informācijas noteikumu neievērošana" un 166.[34] pants "Politisko organizāciju (partiju) finansēšanas noteikumu pārkāpšana". Atbildība par Priekšvēlēšanu aģitācijas likuma normu pārkāpumiem noteikta LAPK 204.[2] panta sestajā un astotajā daļā. Smagākais sods, kuru piemēro partijām par finansēšanas ierobežojumu neievērošanu noteikts LAPK 166.[34] panta trešajā daļā. Tas ir naudas sods no 140,00 līdz 7100,00 eiro apmērā, konfiscējot administratīvā pārkāpuma priekšmetus vai bez to konfiskācijas. Turklāt par partiju nelikumīgu finansēšanu lielā apmērā un tās starpniecību, kā arī par nelikumīga finansējuma pieņemšanu atbildību paredz arī Krimināllikuma 288.[2], 288.[3] un 288.[4] pants.

5 Administratīvie pārkāpumi.– http://www.knab.gov.lv/lv/finances/control/offences/.– (Resurss apskatīts 21.05.2016.).

Partijām, kurām saskaņā ar Finansēšanas likumā noteikto tiek piešķirts valsts budžeta finansējums, gadījumos, kad KNAB piemēro sodu atbilstoši augstāk minētajām LAPK normām, var iestāties sekas, proti, Finansēšanas likuma 7.[3] panta nosacījumi paredz gadījumus, kuros tiek atteikts valsts budžeta finansējums un valsts budžeta finansējuma izmaksas pārtrauc vai aptur. Minētā likuma norma nosaka gadījumus, kad partija tiek saukta pie atbildības saskaņā ar LAPK 166.[6] panta nosacījumiem, LAPK 166.[34] panta pirmās vai trešās daļas nosacījumiem, ievērojot to, ka attiecīgais lēmums ir stājies spēkā, KNAB atbilstoši konstatētajam pārkāpumam pieņem lēmumu par valsts budžeta finansējuma izmaksas pārtraukšanu vai apturēšanu.

## Tiesu prakse

Attiecīgā laika posma datu analīzes rezultātā autore secina, ka tiesu prakse partiju finansēšanas kontrolē nav pietiekami liela. Ņemot vērā to, ka raksturīgākos Finansēšanas likuma pārkāpumus partijas pieļauj, sastādot vēlēšanu deklarācijas, tika aplūkoti divu administratīvo pārkāpumu lietu tiesu spriedumi par pārkāpumiem, kuriem ir nozīme turpmākās juridiskās prakses veidošanā.

Pēc 2013. gada 1. jūnija pašvaldību vēlēšanām tika veikta Partijas X vēlēšanu deklarācijā ietvertās informācijas pārbaude. Tās rezultātā KNAB amatpersona konstatēja vairākus pārkāpumus:

1. Priekšvēlēšanu periodā Partijas X deputātu kandidāti un biedri veica ziedojumus partijai pakalpojumu veidā Ls 1700,00 (2 418,88 eiro) apmērā, maksājot drošības naudu par dalību 2013. gada 1. jūnija pašvaldību vēlēšanās. Dāvinājumi netika atspoguļoti Partijas X grāmatvedības uzskaites reģistros, arī ziņojumu par saņemtajiem ziedojumiem Ls 1700,00 (2418,88 eiro) apmērā Partija X neiesniedza KNAB.

2. Partija X iesniedza ziņojumu KNAB par pers. H. ziedojumu Ls 200,00 (284,57 eiro) apmērā, neievērojot likumā noteikto ziņojuma iesniegšanas termiņu.

3. Partija X 2013. gada 1. jūnija pašvaldību vēlēšanu priekšvēlēšanu periodā slēdza līgumus ar SIA "Nosaukums A" par Partijas X politiskās reklāmas izgatavošanu un cita veida reklāmas pakalpojumu sniegšanu, bet sabiedrības izrakstītos rēķinus par summu Ls 32488,64 (46277,17 eiro), Partijas X grāmatvedības uzskaites reģistros neiegrāmatoja.

KNAB konstatēja, ka Partija X, nesniedzot KNAB informāciju par saņemtajiem ziedojumiem, nekorekti sastādot grāmatvedības uzskaites reģistrus un iesniedzamo vēlēšanu deklarāciju, ir pārkāpusi likuma "Par

grāmatvedību" 2. panta pirmās daļas prasības un Finansēšanas likuma 4. panta trešās daļas, 8.[2] panta otrās daļas un 8.[4] panta piektās daļas nosacījumus. Līdz ar to KNAB amatpersona Partiju X par normatīvajos aktos noteikto grāmatvedības kārtošanas nosacījumu neievērošanu, nepatiesu ziņu norādīšanu deklarācijā un ziņojuma par ziedojumu publicēšanas kārtības neievērošanu nolēma saukt pie administratīvās atbildības pēc LAPK 166.[6] panta trešās daļas un 166.[34] panta pirmās daļas un sodīt ar naudas sodu LAPK 166.[34] panta pirmās daļas sankciju ietvaros 700,00 eiro apmērā.

Partija X izmantoja likumā noteiktās tiesības un KNAB amatpersonas lēmumu apstrīdēja KNAB priekšniekam, kurš to atstāja negrozītu. Pēc tam Partija X lēmumu pārsūdzēja. Rīgas pilsētas Ziemeļu rajona tiesa secināja, ka lēmumā ir pareizi konstatēts pārkāpums, jo pārkāpuma esamību, tā nozīmīgumu vai mazsvarīgumu nevar attaisnot ar subjektīviem apsvērumiem par kļūdām grāmatvedības kārtošanā. Tiesa norādīja, ka iestāde lēmumā pilnīgi un vispusīgi izvērtējusi visus lietā esošos pierādījumus. Tad Partija X iesniedza apelācijas sūdzību. Rīgas apgabaltiesas Krimināllietu tiesu kolēģija, pārbaudījusi lietas materiālus, izvērtējusi pārsūdzētā sprieduma pamatojumu un apelācijas sūdzībā izteiktos argumentus, nosprieda Rīgas pilsētas Ziemeļu rajona tiesas spriedumu atstāt negrozītu.[6]

Raksta autore norāda, ka administratīvā pārkāpuma lietas spriedumā vērtēti raksturīgākie partiju pārkāpumi, proti, ziedojumu, kas saņemti pakalpojumu veidā, un priekšvēlēšanu aģitācijas izdevumu nepilnīga iekļaušana vēlēšanu deklarācijā, kā arī daļēja priekšvēlēšanu perioda ieņēmumu un izdevumu atspoguļošana grāmatvedības uzskaites reģistros. Savukārt viens no biežāk konstatētajiem iemesliem, kāpēc partijas pieļauj pārkāpumus, kas saistīti ar saņemto ziedojumu nedeklarēšanu, ir tas, ka ziedojusī persona partijas amatpersonām par veikto ziedojumu nav paziņojusi un partijai nav iesniegusi dokumentus, kas apliecina veikto ziedojumu.

KNAB, veicot Partijas Y 2014. gada 24. maija Eiropas Parlamenta vēlēšanu deklarācijas pārbaudi, konstatēja, ka vēlēšanu deklarācijā nav norādītas reklāmas materiālu iegādes izmaksas par pulksteņiem 28800,00 eiro vērtībā, kurus Partija Y dalīja priekšvēlēšanu periodā pašas

6 Administratīvā lieta par KNAB konstatētajiem Partijas X pārkāpumiem 2013. gada 1. jūnija pašvaldību vēlēšanu priekšvēlēšanu periodā: 14.09.2015. Rīgas apgabaltiesas Krimināllietu tiesu kolēģijas spriedums Lietā Nr.132024014.– https://tiesas.lv/nolemumi.– (Resurss apskatīts 02.05.2016.).

organizētajos pasākumos Latvijas teritorijā, kā arī pers. J. ziedojums Partijai Y 28800,00 eiro apmērā. Ziņojums par saņemto ziedojumu KNAB netika iesniegts. Pārbaudes laikā KNAB konstatēja Finansēšanas likuma 4. panta trešās daļas un 8.[2] panta otrās daļas noteikumu pārkāpumus. Pārkāpti tika arī Finansēšanas likuma 3. panta pirmās daļas noteikumi, jo Partijai Y veikto dāvinājumu kopsummu pers. J. 2014. gada laikā pārsniedza par 27600,00 eiro. KNAB amatpersona pieņēma lēmumu, ar kuru Partiju Y par izdarītajiem administratīvajiem pārkāpumiem saskaņā ar LAPK 166.[34] panta pirmajā daļā un 166.[34] panta trešajā daļā noteikto, sodīja ar naudas sodu 2700,00 eiro apmērā.

Nepiekrītot lēmumam, Partija Y to apstrīdēja. KNAB priekšnieks šo lēmumu atstāja negrozītu un Partija Y KNAB priekšnieka lēmumu pārsūdzēja tiesā. Rēzeknes tiesa, savukārt, atzina, ka KNAB priekšnieka lēmums ir atceļams un administratīvā pārkāpuma lietvedība izbeidzama. Tiesnesis spriedumā norādīja, ka administratīvo pārkāpumu lietās tiesai ir jākonstatē administratīvā pārkāpuma sastāvs. Tiesa secināja, ka lietā esošie materiāli pierāda, ka pulksteņus pasūtīja un apmaksāja pers. J. Partija Y organizēja pasākumus Latvijas pilsētās, bet nekonstatēja pierādījumus tam, ka pulksteņi tiktu dāvināti priekšvēlēšanu periodā konkrētajā Latvijas pilsētā. Vienlaikus tiesa atzina, ka pers. J. paskaidrojums nav atzīstams par pieļaujamu pierādījumu šajā administratīvā pārkāpuma lietā, jo pers. J. nav pratināts atbilstoši LAPK 264. panta prasībām. Par šo spriedumu apelācijas sūdzību iesniedza KNAB priekšnieks. Latgales apgabaltiesa, novērtējot administratīvā pārkāpumā lietā esošos pierādījumus, izvērtējot pārsūdzētā tiesas nolēmuma tiesiskumu un pamatotību, nosprieda atstāt negrozītu Rēzeknes tiesas spriedumu un atcelt KNAB amatpersonas lēmumu, bet KNAB priekšnieka apelācijas sūdzību noraidīt.[7]

Spriedumā norādītais liek izdarīt secinājumu – administratīvā atbildība iestājas tikai par izdarītu pārkāpumu. Tas nozīmē, ka ir jākonstatē pārkāpuma sastāvs un gadījumā, ja kaut viena no administratīvā pārkāpuma sastāva veidojošām pazīmēm iztrūkst, atzīstams, ka nodarījumam nav administratīvā pārkāpuma sastāva.

7 Administratīvā lieta par KNAB konstatētajiem Partijas Y pārkāpumiem 2014. gada Eiropas Parlamenta vēlēšanu priekšvēlēšanu periodā: 12.10.2015. Latgales apgabaltiesas spriedums Lietā Nr.126012015.– https://tiesas.lv/nolemumi.– (Resurss apskatīts 02.05.2016.).

## Secinājumi un priekšlikumi

Lai arī partijām ir stingri jāievēro visi ar likumu uzliktie finansiālās darbības ierobežojumi un pienākumi, tās nereti pieļauj administratīvos pārkāpumus, kas, savukārt, noved pie tā, ka partijām, īpaši tām, kurām saskaņā ar Finansēšanas likumu ir piešķirts valsts budžeta finansējums, var iestāties ievērojamas finansiālas sekas.

Rakstā aplūkotā tiesu prakse liecina, ka nereti partijas lēmuma, ar kuru tām piemērots administratīvs sods, apstrīdēšanas un pārsūdzēšanas iespēju izmanto laika novilcināšanas nolūkā, proti, lai attālinātu valsts budžeta finansējuma izmaksas apturēšanu. Tāpēc autoresprāt ir nepieciešami grozījumi Finansēšanas likuma 7.$^{3}$ panta ceturtajā daļā, kas nosaka, ka KNAB pieņem lēmumu par valsts budžeta finansējuma izmaksas apturēšanu, to papildinot ar 4. punktu šādā redakcijā: "ja ir konstatēti šā likuma 7.$^{3}$ panta pirmās daļas noteikumu pārkāpumi un pieņemts lēmums par naudas soda piemērošanu – līdz lēmuma spēkā stāšanās brīdim. Gadījumos, kad pieņemtais lēmums atzīts par prettiesisku, visa izmaksai apturētā naudas līdzekļu summa trīs darbdienu laikā ieskaitāma politiskās organizācijas (partijas) šā likuma 7.$^{2}$ panta pirmajā daļā noteiktajā kārtībā atvērtajā norēķinu kontā". Šāda likuma norma noteiktu, ka valsts budžeta finansējuma izmaksa apturama uz laiku, kamēr notiek apstrīdēšana un tiesvedība. Tas disciplinētu partijas un tās uzmanīgāk sekotu līdzi saviem ieņēmumiem un izdevumiem. Šobrīd tiesvedība notiek lēni un ir gadījumi, kad Finansēšanas likuma 7.$^{3}$ pantā noteiktās normas nav piemērojamas, jo partija valsts finansējumu nesaņem jau citu iemeslu dēļ.

Tiesu spriedumi liecina, ka partiju klupšanas akmens ir fizisku personu ziedojumi apmaksātu pakalpojumu veidā, jo personas, kuras veic šos ziedojumus ne vienmēr ir informētas par partiju finansēšanas noteikumiem. Šādus pārkāpumus visbiežāk KNAB konstatē varas partijām, kuras darbojas visā Latvijas teritorijā. Tām ir liels biedru skaits un apgrūtināta to uzraudzība, kas parasti ir par iemeslu šādiem pārkāpumiem. Tāpēc lielāka uzmanība partijām jāvelta savu biedru izglītošanai.

Ievērojot to, ka partijām raksturīgs pārkāpums ir vēlēšanu deklarācijā nenorādīti ieņēmumi no ziedojumiem un izdevumi par priekšvēlēšanu periodā samaksātajām drošības naudām, autore uzskata, ka Finansēšanas likuma 8.$^{2}$ panta otrā daļa, kas nosaka, ka vēlēšanu ieņēmumu un izdevumu deklarācijā norādāmi visi ieņēmumi un izdevumi, kas radušies laika posmā no 120. dienas pirms vēlēšanām līdz vēlēšanu dienai, neatkarīgi no datuma, kad izrakstīts darījumu apliecinošs dokuments (rēķins, līgums vai cits

dokuments), saņemts vai veikts maksājums par reklāmas izvietošanu, pasta pakalpojumiem, reklāmas materiālu izgatavošanu, vēlēšanu kampaņas plānošanu un organizēšanu, maksājumiem fiziskām personām, mantas īri, reklāmas materiālu iespiešanu un labdarības pasākumu finansēšanu, būtu papildināma ar norādi – "par dalību vēlēšanās samaksātā drošības nauda".

Jāakcentē arī pierādījumu nozīmīgums administratīvo pārkāpumu lietas izskatīšanā un iestādes pienākums ir izvērtēt, vai iegūtie pierādījumi pārkāpumu lietas materiālos ir pieļaujami, pietiekami un attiecināmi pierādījumi, vai apliecina izdarīto pārkāpumu. Bez tam jānorāda, ka jebkurai iestādei, t.sk., KNAB, kura pieņem lēmumu par administratīvo pārkāpumu vispusīgi, pilnīgi un objektīvi jānoskaidro visi lietas apstākļi un ļoti rūpīgi jāizvērtē savāktie pierādījumi, lai īstenotu Valsts pārvaldes iekārtas likumā noteiktos valsts pārvaldes principus.[8]

Autore, analizējot pārbaužu rezultātus laikposmā no 2010. gada 1. janvāra līdz 2014. gada 31. decembrim, konstatēja, ka raksturīgākie politisko partiju pārkāpumi ir gada pārskatu iesniegšanas kārtības neievērošana, ziņojuma par saņemto vai nepieņemto dāvinājumu iesniegšanas kārtības neievērošana un nepatiesu ziņu norādīšana vēlēšanu ieņēmumu un izdevumu deklarācijā, kā arī grāmatvedības uzskaites kārtošanas normu neievērošana. Politisko partiju pieļautie administratīvie pārkāpumi, partiju atbildība par administratīvo pārkāpumu un problēmas, kas veicina šādu pārkāpumu pieļaušanu, tika aplūkoti ar nolūku – sniegt priekšstatu par partiju finansēšanas kārtību, priekšvēlēšanu aģitācijas ierobežojumiem priekšvēlēšanu periodā, par partiju pārkāpumiem un tām piemērotajiem administratīvajiem sodiem. Lai arī partijām ir stingri jāievēro visi ar likumu uzliktie finansiālās darbības ierobežojumi un pienākumi, tās tomēr pieļauj administratīvos pārkāpumus, kas nereti noved pie tā, ka partijām un īpaši tām, kurām saskaņā ar Finansēšanas likumu ir piešķirts valsts budžeta finansējums, var iestāties ievērojamas finansiālas sekas.

8 Valsts pārvaldes iekārtas likums (pieņemts 06.06.2002.) 10. pants// Latvijas Vēstnesis.– Nr. 94 (2002, 21. jūnijs).

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# RETURN OF THE BALTIC STATES TO EUROPE – AS IF THEY HAD EVER LEFT EUROPE

# BALTIJAS VALSTU ATGRIEŠANĀS EIROPĀ – IT KĀ TĀS KĀDREIZ BŪTU EIROPU PAMETUŠAS

***Keywords**: European Union, foreign policy, sovereignty, Latvian diaspora, future of the EU, BREXIT, EU-US relations.*
***Atslēgvārdi:** Eiropas Savienība, ārpolitika, latviešu diaspora, ES nākotne, ES–ASV attiecības.*

During 2019, Latvia could look back at 15 years experience as an EU Member State and also as a partner in the NATO alliance. The mass movement decision in 1989 to demand restoration of an independent sovereign Republic of Latvia was duly commemorated during this year. One popular rallying cry of the movement had been a return to Europe. The Europe of the 1990s was quite different from the idealised image of Europe that had survived among the titular population. Europe was far differently organised than during the pre-war period and not a few of these organisations had the USSR as an influential member. When on 7 September 1991 the USSR, being badgered into doing so, grudgingly yet incontrovertibly, in a decree conforming to Soviet legal norms of the time, declared that the three Baltic States were independent, it stipulated that the Baltic States seek membership of the United Nation signalling that the USSR would not exercise its veto right. The wat was open for early and uncontested Baltic membership on 17 September 1991. No other subsequent admission to international organisations would come so "effortlessly". Neither the USSR nor its principal successor state, the Russian Federation, countenance admitting that incorporation of the Baltic States had not extinguished their legal existence.

In this article the process of how the Baltic States secured their desired member status will not be described, rather the enduring political, economic, and legal developments which came about and which today are still evolving. Not the least factor in how the present-day Republic of Latvia is facing up to and girding itself to deal with new future challenges is how the EU is evolving. The EU and NATO are buffeted by the United States of America while the EU also needs to face down the challenge offered by the People's Republic of China. How these challenges will be met shall influence the medium-term physical and economic security of the Republic of Latvia not to mention its sovereignty.

## The Europe to which the Baltic States returned

Less noted during the celebrations in the Baltic States of the events of 1989 was the fact that in December 1989 the 12 member states of the European Communities opened an Inter-governmental Conference that ultimately defined the basis for the European Union as we know it today, the Maastricht Treaty on European Union (TEU). Aggressive economic challenge to the single market offered by third countries and the potential political challenge of new European neighbours seeking membership of the EU were important contributing factors. The Baltic States again politically and legally part of Europe had to deal with a steep learning curve vis-à-vis accession to the European Union. Crucial was setting in place essentially from scratch the framework for a system of governance capable of meeting the challenges of EU membership. In this they were given sound advice by the Nordic countries, most significantly by Denmark. There were careful negotiations, persistence and patience in the face of increasing Russian displeasure and disquiet,[1] respectively, of the parallel processes.[2] For the titular populations of Latvia these years meant serious revision and updating of the image of pre-war Europe which was part of their ethnic identity to take account of changes in Europe. The remarkable success is often under-stated of all three Baltic States in meeting in just 15 years the threshold for a functioning market economy.

1 The USSR finally accepted European integration via an Agreement which entered into force 1 March 1990.– http://ec. europa.eu/world/agreements/prepareCreate TreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=5981.– (Accessed 3.10.2019).

2 The Breakaways.– https://warontherocks.com/2019/10/the-breakaways-a-retrospective-on-the-baltic-road-to-nato.– (Accessed 3.10.2019).

## The challenges and successes of EU membership

The world geopolitical and economic situation has considerably evolved during the 15 years that the Republic of Latvia has been a member of NATO, and a member state of the European Union. Clearly the resurgence of Russia vis-à-vis its smaller neighbours has thus far directly challenged only a few former members of the Soviet Union, principally Georgia and Ukraine.

Noisy propaganda notwithstanding Latvia membership of NATO appears to have dissuaded the Russian Federation from acting more aggressively than it has to-date. The apparent fragility of the NATO alliance typified by intemperate pronouncements by US President D. Trump has evidently had a sobering effect on the Latvian domestic audience. Notwithstanding populist (nativist) sentiments vis-à-vis EU membership no comparable sentiments regarding NATO have been expressed by serving or ambitious politicians, at least via the Latvian language press and media.

## Pre-Accession period

There has been no end of political science analyses of the process of Latvian accession to the EU and Latvia joining the NATO alliance.[3] Few reminiscences have been published by Latvian diplomats and senior officials. The article by the chief Latvian negotiator for EU accession is one of few such summaries available in English.[4] Although it is comprehensive in describing how various negotiation steps were successfully taken the facts of how rapidly the appreciation of what accession entailed permeated throughout the decision makers and other leading actors is still outstanding. Recently a collection of articles by various Latvian officials and personalities has been published dealing with the challenges faced by and successes of the Republic of Latvia from 1990 to 2015 in the light of membership of the EU and NATO.[5]

Latvian authorities in some instances, most notably regarding legal culture and response to corruption, had to be strongly led from abroad. Serious debate arose concerning the compatibility of Latvian ratification of the Accession Treaty and provisions in the Latvian Constitution concerning

3 Kramer M. NATO, the Baltic States and Russia: A Framework for Sustainable Enlargement// International Affairs (Royal Institute of International Affairs 1944).– Vol. 78, No. 4 (2002, October).– Pp. 731-756.

4 Ķesteris A., Plamše K. The Accession Story: the EU from fifteen to twenty-five Countries.– Oxford: Oxford University Press, 2007.– Pp. 207-224.

5 Atgriešanās Eiropā 1990–2015: no starptautiskās atzīšanas līdz pirmajai prezidentūrai Eiropas Savienībā.– Rīga: Zinātne, 2016.– 383 lpp.

international treaties. The resolution involved a constitutional amendment of May 2003 inserting a revised text for paragraph 68 with one key sentence being: "Substantial changes in the terms regarding the membership of Latvia in the European Union shall be decided by a national referendum if such referendum is requested by at least one-half of the members of the Saeima".[6]

This constitutional provision has engendered several unsuccessful court challenges and is noteworthy for the imprecise formulation "substantial changes".

**The self-evident benefits of EU membership**

Illusions dissipated post-Accessions about an accelerated convergence to at least the median level of development and prosperity in the configuration EU-15. A detailed overview of economic and social gains and losses is found in a regular publication "Latvijas intereses Eiropas Savienībā" (Latvia`s Interests in the EU), to within the special issue for 2019, which concluded that: "The quality of life of the Latvian population has significantly improved. Population income has increased, unemployment has fallen and household consumption patterns have diversified. Citizens live in a cleaner and healthier environment, enjoy greater protection of financial deposits, higher standards of social security, consumer and personal data protection. Expectations of a knowledge-based economy and income convergence have not been met in Latvia. Membership has contributed to convergence of the Baltic markets, but cooperation with the economic core countries of the EU is not very successful. Inbound and outbound investment flows are relatively small: foreign investors lack interest in Latvia, while Latvian investors have no incentive to transfer assets to other countries".[7]

Nonetheless steady progress is noted in reference to selected foreign policy benefits related to EU membership:[8]

• The successful Latvian Presidency of the Council of the EU showed that Latvia has the capability to lead important international processes.

• The European External Action Service, involving Latvian diplomats and exchange of information with the Latvian diplomatic service strengthens Latvia's foreign policy expertise.

6 The Constitution of the Republic of Latvia.– https://likumi.lv/ta/en/en/id/57980-the-constitution-of-the-republic-of-latvia.– (Accessed 11.01.2020).

7 Austers A. 15 no 100 gadiem.– https://www.mfa.gov.lv/images/Zurnals_Latvijas_intereses_Eiropas_Savieniba_/ES_2019-1_WEB.pdf.– (Accessed 15.01.2020).

8 Ieguvumi no Latvijas dalības Eiropas Savienībā.– https://www.mfa.gov.lv/ arpolitika/eiropas-savieniba-arpolitika/sabiedribas-informesana-es-jautajumos/ieguvumi-no-latvijas-dalibas-eiropas-savieniba.– (Accessed 15.01.2020).

• Facing new challenges member states must show solidarity by upholding and defending common values and European democratic traditions. It is in our interests to have a strong and successful EU.

Rhetoric about a return to Europe notwithstanding the Republic of Latvia and most states who have acceded to the EU starting in 2004 was stimulated by the prospects of accessing EU financial instruments to their relative economic benefit. Previous enlargements were not preceded by financial support (and this was also the case for Cyprus and Malta).

A degree of dependency on such external support has evaporated post-accession wherein the majority of financial support instruments are co-financed by the receiving entities.[9]

*Table 1*

**Principal financial instruments allocated to Latvia (billion EUR)**[10]

| Cycle | Cohesion | CAP support | Maritime support/ Fisheries | Total |
|---|---|---|---|---|
| 2009–2013 | 4.620 | 1.054 | 0.125 | 5.799 |
| 2014–2020 | 4.753 | 2.527 | 0.140 | 7.380 |

The efficiency of how these instruments have been used may be questioned but the uptake is typically quite high. One failing of projects supported this way is an absence of how, for example, large infrastructural investments (facilities and roads) result in a positive contribution to GDP. In 2020, the 27 WU member states must agree through intense negotiations the outline of future financial support, i.e. the Multi-Annual Financial Framework.[11]

9 The PHARE programme which was to the benefit of Latvia was originally set up in 1989 as transient support to Eastern European states undergoing transition from a socialist political and economic system. In 1992, Latvia was included in the list of countries addressed.

10 Data.– http://ec.europa.eu/budget/biblio/documents/fin_fwk0713/fin_fwk0713= en.cfm; http://ec.europa.eu/budget/mff/preallocations/index_en.cfm.– (Accessed 7.10. 2015).

11 Effective January 2020 the proposed overall level represents 1,07% of the gross national income (GNI) of the EU27. In the past the percentage has been but withdrawal of the UK from input into the total budget has meant a decrease in absolute numbers. All EU member states who depend on large cohesion fund instruments are struggling to each make its own special case.– https://ec.europa.eu/info/ strategy/eu-budget/documents/multiannual-financial-framework/2021-2027_en.– (Accessed 7.10. 2015).

In the face of appeals to Latvian national pride, with the EU misrepresented as the USSR run by dubious Western interests, or pointing to the inevitable loss of the national currency (indeed a condition of accession was eventual use of the euro as the national currency) the referendum on Accession in Latvia produced a convincing approval, see Table 2 below.

*Table 2*

**Referendums in support of Accession Treaty ratification**[12]

| Country | Date | Yes vote (%) | Participation (%) |
|---|---|---|---|
| Latvia | 20 September 2003 | 67.5 | 71.5 |
| Lithuania | 11 May 2003 | 90.1 | 63.4 |
| Estonia | 13 September 2003 | 66.8 | 64.1 |

Unbeknownst to the negotiators, and indeed, to most campaigners for a yes vote in the 2003 referendum,[13] a substantial segment of the population had quietly noted the possibility of personal mobility and were moved to take part in a referendum that was otherwise tainted with nostalgia for an autarkic Latvia that simply could not exist today.

Individual exercise of their right as EU citizens has meant a substantial drop in population of Latvia. Census data for 2011 gave 2 040 812 residents, whereas the approximate number for 2002 was 2 339 000.[14] An All-Union census produced a figure of 2 666 687 residents in 1989. On the date of Accession to the EU by the Republic of Latvia some citizens or permanent residents of Latvia were to be found living in all of the EU Member States as of 30 April 2004. In several cases they joined ethnic Latvian groups (extant as of 1991) and came numerically to predominate. A large diaspora community subsequently formed in Ireland (where there had been no pre-existing community of exiles) while the Latvian diaspora in the UK became the largest world-wide (estimated at up to 120 000 by 2020).

12 European Election Database.– http://www.nsd.uib.no/european_election_database/election _types/eu_related_referendums.html.– (Accessed 7.10. 2015).

13 Both chief negotiators A. Piebalgs and A. Kesteris have admitted this in public interviews; author of this article has heard this comment from mature students at various regional Institutions of Higher Learning in Latvia.

14 Database Central Statistical Board of Latvia.– http://www.csb.gov.lv/en/dati/statistics-database-30501.html.– (Accessed 20.01.2020).

Currently citizens and residents of Latvia were found to be living legally in all 28 EU member states.[15] Official figures give the sum of all out-migration from Latvia from 2004 to 2018 as 272 248 individuals, while over the same period less than 50 000 have immigrated.

It has been a condition for all EU Member States that joined after 1993 that they adopt the euro as their national currency once a series of legal, economic and financial conditions are met. It was in the interests of their medium term financial stability that the three Baltic States make a sustained effort to discharge their treaty commitments as soon as feasible and join the Euro-zone.

Estonia adopted use of the euro on 1 January 2011, Latvia on 1 January 2014, and Lithuania, on 1 January 2015. Whatever reticence was felt by the general public, once the euro was in use as the national currency confidence in it rose to comparable levels in all three Baltic States between 74% (LT) to 85% (EE). [16]

## Popular sentiment in Latvia

Popular sentiment in Latvia in regard to issues identified as important (with varying degrees of significance) in all 28 EU member states is by no means consistently extreme.[17] In all EU Member States but one, a majority of respondents were optimistic about the future of European Union. The highest proportions of optimists are seen in Ireland (85%), Denmark (79%), Lithuania (76%) and Poland (74%). In Latvia the figure (67%) is above the EU-28 average of 62%. EU Parliament elections of 2019 were characterised by a low turnout of 33.53 % in Latvia (27.6% in Estonia and 53.48% in Lithuania) compared to the EU-28 average of 50.86%. The eight deputies reflect the divided nature of the political landscape in Latvia.

## The on-going challenges brought by EU membership

Accession defined Latvian acceptance of the basis for adoption of legislation (legal acts). Latvian courts including the Constitutional Court

15 Hazans M. Emigration from Latvia: A Brief History and Driving Forces in the Twenty-First Century: The Emigrant Communities of Latvia.– https:// doi.org/ 10.1007/978-3-030-12092-4_3.– (Accessed 20.01.2020).

16 Europeans views on the priorities of the European Union.– https://ec.europa.eu/commfrontoffice/publicopinion.– (Accessed 20.01.2020).

17 Ibid.

have submitted requests to the Court of Justice of the European Union.[18] Implemented preliminary rulings interpreting EU legal acts have been made in specific cases. Unlike the case in other EU member states there has been little challenge in Latvia to recourse to this procedure. Certain aspects of transposition of legal norms defined by Latvian membership of other entities, notably the Council of Europe, have engendered debate and some confusion. Most recently this relates to the so-called Istanbul Convention, i.e. the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence. Notwithstanding violence against women being an observed egregious problem in Latvia, populist interpretation of certain terms in the said convention (legally binding the Convention exists in English and French versions only) may be construed to grant legal status to "non-traditional" genders and even same-sex marriages. For reasons that are difficult to fathom such issues occupy a disproportionate space in the political environment of Latvia although the general public is far less intolerant than some of the political actors strutting the Saeima. Thus Latvia remains unable to ratify the Istanbul Convention.

A pernicious problem in Latvia remains corruption and the associated inability to deal with questionable financial practices through the national courts. Certainly post-Accession few corruption scandals have touched EU-financed processes, but this cannot be said for other aspects of the Latvia national economy. Pre-Accession corruption in Latvia was seen as high (in 1998, it was ranked 71) while post-Accession improvement in standing has stagnated (43 in 2014, 44 in 2019).[19] The consistent result is that Estonia is typically of the order of 20 places better in ranking than Latvia and that Lithuania is steadily improving its rating.

## The way forward

The political tribulations of how the United Kingdom which always was an awkward member of the European Union continued throughout a frustrating 2019. The Act of Parliament approving an agreement reached with the 27 EU member States on details of how the UK will cease being a member

18 For example, in June 2019, the Constitutional Court of Latvia requested a preliminary ruling.– http:// curia.europa.eu/juris/document/document.jsf?docid=216959&text=&dir=&doclang=EN&part=1&occ=first&mode=DOC&pageIndex=0&cid=1155796.– (Accessed 18.01.2020).

19 Corruption perceptions Index.– http://www.transparency.org/ research/cpi/overview; https://www.transparency.org/cpi2018.– (Accessed 20.01.2020).

state was given Royal Assent 20 January 2020, paving the way for 31 January 2020 the UK withdrawing from EU membership. Much of the public rhetoric in the UK recalls the observation made by the anglophile German Chancellor Helmut Schmidt that for many in the UK the channel is a far wider stretch of water than the North Atlantic. Rather remarkably this UK sentiment flies in the face of it being unilateral with US reciprocation – fickle.

Evidently, that both the EU and the UK will need to reconfigure their trade relations well beyond 2021 at which point a new legal framework will have to be in place. It is also self-evident that the United Kingdom will make every effort to deal with any difficulties, even to the extent of astutely positioning itself as an alternative entry port for goods into the EU circumventing the difficulties third countries face. The economic impact of any future EU–UK relations on Latvia cannot be reasonably estimated today and no speculation will be offered here. For Latvian society, future relations with very nearly 100 000 persons who have departed for the UK from Latvia are a subliminal cause for wide-spread individual uncertainty.

An imposing challenge to European integration is posed now by the United States of America. One may debate without end the reasons why but the initial US toleration of European integration – during the 1960s, the US acquiesced in tolerating Community restrictions on foreign trade, i.e. tariffs and export support subsidies – has turned into an aggressive stance seeking to tear down any European cooperation unless the United States consumer is protected against import of goods from the EU while insisting on EU lifting restrictions on not a few US products that violate EU scientific conclusions on their safety (in particular this concerns food). The heart-felt sentiment that all countries in the world must buy more from the United States than they sell (tolerating with poor grace a trade balance) at the same time as giving US multi-nationals extraterritorial immunity hopefully is a passing fad. The sentiment is not new and one sees poorly how it will be tamed this time around.

## Conclusions

An account of 15 years of European Union membership lists advantages that have accrued; some challenges brought by membership have been met only partially. EU membership has brought economic support for whose efficient use has not been prioritised by the agencies charged with its disbursement. Latvia has been tardy in meeting corruption issues and has reluctantly contributed to the fight against money laundering. A serious

internal political issue relates to substantial outmigration of citizens whose track record has shown their departure to be very nearly irreversible. Internally there is resentment of EU policies on resettling migrants from third countries playing to flamboyant nativist political figures. The large Latvian diaspora in the UK and its relations with Latvia is one aspect of BREXIT specific to Latvia. Clearly the future relations of the EU with the UK and the USA will be relevant to Latvia, less so EU–China issues.

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# LABOUR LAW IN EUROPE, LATVIA AND TURKEY

# DARBA TIESĪBAS EIROPĀ, LATVIJĀ UN TURCIJĀ

***Keywords:*** *labour law, national history of law, labour law, human rights, employment contract, termination, severance pay.*
***Atslēgvārdi:*** *darba tiesības, tiesību vēsture, darba likums, cilvēktiesības, darba līgums, darba attiecību izbeigšana, atlaišanas pabalsts.*

## History of labour law

Labour law has improved in European countries since the 18th century. The labour force needed by the developing industry was tried to be eliminated by people from rural areas to cities and as a result, a separate class of workers and employers was formed. Freedom of contract was created later on, and employees and employers` sectors started to freely decide wages and working conditions. But actually, employers decided the conditions. During this period, daily working times for all workers were kept fairly long.[1] There were significant increases in the number of people who had died or been injured due to work accidents occurring in adverse working conditions created by the Industrial Revolution. Occupational diseases not seen until that day appeared. As a natural result of these negativities, in the 19th century, the state interfered in the working life, made legal arrangements on the subject, and in addition, working groups began to organise among themselves.[2]

1 Sümer H., Canikoğlu N., Canpolat T. İş Hukuku Dersleri.– Seckin Publishing House, 2017.– P. 4.

2 İş Hukukunun Tarihsel Gelişimi.– https://www.eforosgb.com/is-hukukunun-tarihsel-gelisimi/.– (Accessed 3.01.2020).

"Mecelle-i Ahkam-i Adliye", prepared by the delegation headed by Ahmet Cevdet Paşa in 1877, is a text of the first written rules of Turkish Labour Law. Preparations for legislation related to working life were continued at the period of Sultan 2th Abdulhamid (1976–1909), but after the Constitutional Period was declared by the Sultan, "Tatil-i Eşgal Law" was published, due to workers` approximately 30 strike incidents. Workers` right to strike was restricted.[3] The constitutions and amendments which were made after the proclamation of the Republic, are very important arrangements for workers` rights. Until 1936, workers` rights were regulated by the Turkish Code of Obligations. In 1936, the Labour Code was published. One of the most prominent features of this act is that it introduces a system of mandatory arbitration by prohibiting strikes and lockouts altogether. After that, until 2003, many Labour Codes were published. Finally, the Occupational Health and Safety Law and the Code on Trade Unions and Collective Bargaining have come into force in 2012.[4]

Drawing attention to the evolution of Latvian law history in the 20th century, it must be mentioned that in the 19th century many outstanding historians of Baltic German law worked in the Baltic: Friedrich Georg von Bunge, August von Bulmering, Astaf Transe-Rozenek, Leonid Arbuzov and others. First, in the 19th and 20th century, Baltic German legal historians regarded the history of Baltic law as part of German legal history. In the late 19th century, Latvians and Estonians began to see themselves as nations. The next crucial stage in Latvian Law History studies took place after 1918, and the Republic of Latvia was founded in 1919.

The University of Latvia was also founded in 1919. Scientists from the University of Latvia first formed a national history of law, setting other goals and putting other emphasis on their studies than had been done in the previous century. The most prominent of the historians of the law that time was Arveds Švābe. He said: "Who until now was in the shadow of the history of law, must rise again in the sun". A. Švābe extensively studied the history of peasant rights. He believed that it was the rights of Latvian peasants that were previously unjustifiably little analysed in his works. A. Švābe educated students simultaneously in two faculties, published a considerable number of scientific articles and monographs on the history of the Latvian

3 Ameleye Hak Verirsen Siyaset Yapar.– http://www.tekgida.org.tr/Oku/8457/Ameleye-Hak-Verirsen-Siyaset-Yapar.– (Accessed 3.01.2020).

4 Sümer H., Canikoğlu N., Canpolat T. İş Hukuku Dersleri.– Seckin Publishing House, 2017.– Pp.7–11; 16–17.

law, as well as sources of Latvian history and sources of law providing short comments in Latvian on the content of each source.[5] After the Republic of Latvia was founded, many amendments were made to the Labour Law. Finally the Latvian Labour Law which was published on 1 June 2002, is now in force. [6]

## Developing of Labour Law in Europe

In order to secure human life and rights as a result of the world wars, the states held the Lahey Meeting in 1948. At this meeting, Winston Churchill stated: "In the centre of our movement stands the idea of a Charter of Human Rights, guarded by freedom and sustained by law". As a result of this meeting, the European Convention on Human Rights (ECHR) began to emerge. The European Convention on Human Rights was formally drafted by the Council of Europe in Strasbourg in the summer of 1949. The Convention came into full effect on 3 September 1953.[7] Following this convention, numerous international conventions were adopted to protect and extend the scope of human rights. Contracts covering labour law were drawn up by Member States of the Council of Europe, ECHR, European Social Charter (ESC) and the European Convention on the Legal Status of Migrant Workers.

There is no detailed regulation concerning labour law in the European Convention on Human Rights. Only Article 5 of the convention provides for the prohibition of slavery and forced labour. According to this article, no one shall be held nor employed in the position of a slave or servant position. But there are some exceptions to this article; for example, in some cases it is legal to want someone to work in prison or in the military services. There is a mandatory military duty obligation in Turkey. Each Turkish man has a minimum of 6 months and a maximum of 12 months mandatory military duty. Also, those who have mandatory military duty, can make the period shorter by paying money. This period is 21 days for a price set by the Ministry of National Defence. In the first half of 2020, this price is 35 054.64 Turkish Lira (5400 euro).[8]

5 Osipova S. Vēsture, tiesību vēsture un nacionālā identitāte Latvijā XX gadsimtā.– https://juristavards.lv/doc/200613-vesture-tiesibu-vesture-un-nacionala-identitate-latvija-xx-gadsimta/.– (Accessed 3.01.2020).

6 Labour Law.– https://likumi.lv/ta/en/en/id/26019-labour-law.– (Accessed 3.01.2020).

7 Human Rights in the UK.– https://www.amnesty.org.uk/what-is-the-european-convention-on-human-rights .– (Accessed 3.01.2020).

8 2020 Yili Bedelli ve Dovizle Askerlik Basvuru Duyurusu.– https://asal.msb.gov.tr/SlaytHaber/2020-yili-bedelli-ve-dovizle-askerlik-basvuru-duyurusu.– (Accessed 3.01.2020).

The ECHR was signed by Turkey on 4 November 1950 and was ratified and entered into force on 18 May 1954. It was signed by Latvia on 10 February1995 and was ratified and entered into force on 27 June 1997.[9] Due to the obligation of being a party to the Convention, Article 106 of the Constitution of the Republic of Latvia assures that "(...) Everyone has the right to freely choose his or her employment and workplace according to his or her abilities and qualifications. Forced labour is prohibited. Participation in the relief of disasters and their effects, and work pursuant to a court order shall not be deemed forced labour".[10] Article 18 of the Constitution of the Republic of Turkey assures that "(...) No one shall be required to perform forced labour. Unpaid compulsory work is prohibited. The term forced labour does not include work required of an individual while serving a court sentence or under detention services required from citizens during a state of emergency, and physical or intellectual work necessitated by the requirements of the country as a civic obligation, provided that the form and conditions of such labour are prescribed by law".[11] The obligation brought by the convention was fulfilled by the constitution of both two countries.

In addition, in Article 11 of the ECHR, "Freedom of assembly and association" is guaranteed. According to this article,[12] the right of employees and employers to establish a union and become a member has been introduced.

Article 108 of the Constitution of the Republic of Latvia assures that "Employed persons have the right to a collective labour agreement, and the right to strike. The State shall protect the freedom of trade unions."[13] Also, the Republic of Latvia enacted the Law on Trade Unions[14] in 2014.

Article 51 of the Constitution of the Republic of Turkey assures that "Employees and employers may form or become members of unions without

9 Convention.– https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures.– (Accessed 3.01.2020).

10 Constitution of the Republic of Latvia, Article 16.– https://likumi.lv/ta/en/id/57980-the-constitution-of-the-republic-of-latvia.– (Accessed 3.01.2020).

11 Türkiye Cumhuriyetinin Anayasi.– https://www.mevzuat.gov.tr/MevzuatMetin/1.5.2709.pdf.– (Accessed 3.01.2020).

12 "Everyone can have meetings and establish unions provided that they are peaceful." Article 11 of the ECHR.

13 Constitution of Republic of Latvia, Article 108.– https://likumi.lv/ta/en/id/57980-the-constitution-of-the-republic-of-latvia.– (Accessed 3.01.2020).

14 Law on trade Unions.– https://likumi.lv/ta/en/en/id/265207-law-on-trade-unions.– (Accessed 3.01.2020).

permission, and may resign from membership. (...) No one can be forced to join or withdraw from the Union. The right to form unions can only be limited by law for reasons of national security, public order, prevention of crime, general health and general morality, and protection of the rights and freedoms of others. The formalities, conditions and procedures to be applied in exercising the right to form union shall be prescribed by law."[15] In addition to this, Turkey enacted the Law on Trade Unions and Collective Bargaining[16] in 2012. Thus, both countries have fulfilled their obligations arising from the International Convention.

It is a regional European Convention that aims to complement the 1950 European Convention on human rights, which includes international human rights, which was adopted in 1961, guaranteeing political and civil rights. All countries that are parties to the convention have had responsibilities related to work, workers, occupational health and occupational safety under the European Social Charter. The parties have made and continue to make changes to their labour laws under these responsibilities.

There are two versions of the European Social Charter, dated 1961 and dated 1996. The Social Charter of 1996 is known as the Revised European Social Charter. The Revised European Charter is the only convention guaranteeing fundamental social and economic rights in all its aspects. The Revised European Charter has six Parts. The Charter consists of a total of 31 articles and 98 paragraphs, 9 of which are core. The following 19 rights are guaranteed in this convention: "Article 1 – the right to work, Article 2 – the right to just conditions of work Article 3 – the right to safe and healthy working conditions, Article 4 – the right to a fair remuneration, Article 5 – the right to organise, Article 6 – the right to bargain collectively, Article 7 – the right of children and young people to protection, Article 8 – the right of employed women to protection of maternity, Article 9 – the right to vocational guidance, Article 10 – right to vocational training, Article 11 – the right to protection of Health, Article 12 – the right to social security, Article 13 – the right to social and medical assistance, Article 14 – the right to benefit from social welfare services, Article 15 – the right of persons with disabilities to independence, social integration and participation in the life of the community, Article 16 – the right of the family to social, legal and

15 Constitution of fhe Republic of Turkey, Article 51.– https://www.constitution.org/cons/turkey/turk_cons.htm.– (Accessed 3.01.2020).

16 Sendikalar ve toplu iş sözleşmesi.–https://www.mevzuat.gov.tr/MevzuatMetin/1.5.6356.pdf.– (Accessed 3.01.2020).

economic protection, Article 17 – the right of children and young persons to social, legal and economic protection, Article 18 – the right to engage in a gainful occupation in the territory of other Parties, Article 19 – the right of migrant workers and their families to protection and assistance".[17] Also there are three additional protocols adopted in the Social Charter. These protocols are:

- Protocol № 1 – the Additional Protocol dated 5 May 1988 came into force in 1992 and 4 groups have taken the new right to protection.[18]
- Protocol № 2 – the audit system was reviewed by the protocol of Amendment (Turin protocol) of 21 October 1991.
- Protocol № 3 – "collective complaint system" was established with the Additional Protocol dated 9 November 1995. European Social Charter came into force on 1 July, 1998.[19]

Turkey ratified the European Social Charter, which was submitted for signature in 1961, entered into force in 1965 and comprised a total of 19 rights, in 1989, although Turkey had signed it in 1961. Furthermore, Turkey signed the Revised European Social Charter, which was submitted for signature in 1996, entered into force in 1999 and comprised a total of 31 rights, with some its reservations in 2004, but fully ratified it in 2007.[20]

Latvia signed the Revised European Social Charter of 2 April 1996 on 29 May 2007. This Convention entered into force in Latvia on 1 May 2013, after being ratified on 26 March 2013.[21]

The European Convention on the Legal Status of Migrant Workers is aimed at facilitating the social development welfare of migrant workers and their family members, relating to all living and working conditions not lower than the status level of the citizens of the country in which they

17 Milletlerasrasi Andalasma.– https://www.resmigazete.gov.tr/eskiler/2007/04/20070409-1.htm.– (Accessed 3.01.2020).

18 Article 1 – All employees have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex. Article 2 – Employees have the right to be informed and to be consulted within the undertaking. Article 3 – Employees have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking. Article 4 – Every elderly person has the right to social protection.

19 Milletlerasrasi Andalasma.– https://www.resmigazete.gov.tr/eskiler/2007/04/20070409-1.htm.0.– (Accessed 3.01.2020).

20 European Social Charter.– Ministry of Labour and Social Security, 2014.– P. 7.

21 Chart of signatures and ratifications of Treaty 163.– https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163/signatures?p_auth=6WKmbcgT.– (Accessed 3.01.2020).

work.[22] With this convention, the member Countries undertake to protect the rights of migrants working on their territory in the same way as of their own citizens.

The Convention enacted the Law on Work Permits for Foreigners in 2003. However, Turkey repealed this law in 2016 and enacted the International Labour Law in 2016, as well as the Foreigners and International Protection Law in 2013. Furthermore, the Regulation on the Employment of İnternational Protection Applicants and Persons With İnternational Protection Status Law came into force in 2016. A refugee or secondary protection status identity document replaces a work permit in accordance with these laws.[23] Application for a work permit can be made six months after the date of the application for international protection. This application is made on the website.[24] The wages to be received cannot be below the minimum salary.[25]

Asylum Law came into force in Latvia in 2016. A person has the right to express, orally or in writing, a desire to acquire refugee or alternative status. The person who wants to have this status, must submit an application to the State Border Guard in Latvia.

## Employment contracts, termination and severance pay in Latvia and Turkey

An employment contract is a contract by which one party undertakes to perform a particular work and the other party undertakes to pay remuneration for it. Employment contracts are of six types: of fixed term and indefinite term, full and partial term, continuous and discontinuous term. In fixed-term employment contracts, the parties may set a deadline or add an end date to the contract. The parties do not specify a period of time in indefinite duration employment contracts. Employment contracts are of indefinite duration as a rule. If the weekly and daily working periods specified in the law depend on the employer, it is a full-term employment contract. If the employee's normal weekly working period is less than that of the full-term employee, this contract is a partial-term employment con-

22 Resmî Gazete.– https://humanrightscenter.bilgi.edu.tr/media/uploads/2015/07/31/GocmenIscilerinHukukiStatusuSozlesmesi.pdf.– (Accessed 3.01.2020).

23 The Foreigners And International Protection Law, Article 90.

24 http://www.turkiye.gov.tr.– (Accessed 3.01.2020).

25 Internatıonal Protectıon Regulatıon on the Work of Applıcants and Persons wıth Internatıonal Protectıon Status Law, Article 4, 6, 7.

tract. The work that lasts up to thirty days is called discontinuous work, and the work that lasts longer is called continuous work.

Employment contracts are made for an indefinite period, except in cases specified in the law in Latvia. The parties have free will to determine the duration of the employment contract. Fixed-term employment contracts are specified in Article 44[26] of the Latvian Labour Law. In Latvia, an employment contract is made for a maximum of five years. Seasonal work can-not exceed ten months.[27]

There are no provisions related to duration of fixed-term employment contracts in Turkish Labour Law. This period is set according to the nature of the work. It can be 10 months or 10 years. For seasonal employees, a fixed-term employment contract for a season ends automatically at the end of the season. In contrast, if a fixed-term employment contract has been entered into by the employee and the employer in concerning a seasonal work and in the following years also the work is performed with a seasonal employment contract, the employment contract will be of indefinite duration.[28]

The problem of severance pay occurs as a result of terminating employment contracts or end of duration of employment contracts. Severance pay is a compensation to the heirs of the employee in the case of death and the amount is specified in the law, provided that the employee works for more time than that specified in the law due to one of the conditions specified in the employment contract. Each country has created solutions concerning

26 1) seasonal work; 2) work in activity areas where an employment contract is normally not entered into for an unspecified period, taking into account the nature of the respective occupation or the temporary nature of the respective work; 3) substitution of an employee who is absent or suspended from work, as well as substitution of an employee whose permanent position has become vacant until the moment a new employee is hired; 4) casual work which is normally not performed in the undertaking; 5) specified temporary work related to short-term expansion of the scope of work of the undertaking or to an increase in the amount of production; 6) emergency work in order to prevent the consequences caused by force majeure, an unexpected event or other exceptional circumstances which adversely affect or may affect the normal course of activities in an undertaking; 7) temporary paid work intended for an unemployed person or other work related to his or her participation in active employment measures, or work related to the implementation of active employment measures; 8) work of an educatee of a vocational or academic educational institution, if it is related to preparation for activity in a certain occupation or study course.

27 Latvian Labour Law, Section 45.– https://likumi.lv/ta/en/id/26019-labour-law.– (Accessed 3.01.2020).

28 Sümer H., Canikoğlu N., Canpolat T. İş Hukuku Dersleri.– Seckin Publishing House, 2017.– Pp. 40–43.

the severance pay which is a global problem. Latvia`s solution is the following: if a collective agreement or employment contract does not specify a better severance pay, it shall pay severance pay in the following cases:

- if the employee does not have sufficient professional competence to carry out the contracted work;
- the employee cannot perform the contracted work due to health condition and if this condition is approved with the opinion of the doctor;
- if an employee who has previously done the relevant work is reassigned at work;
- if the number of employees is reduced;
- if the employer – legal person or partnership – is liquidated;
- if the employee does not work for more than six months due to temporary incapacity;
- if the employee`s incapacity is uninterrupted or if the employee is unable to work due to temporary incapacity for more than six months for a year in a three-year period, if the cause of incapacity is an accident at work, if this period is repeated with deductions, excluding pre-natal and maternity leave and incapacity period.

Average gain of one month if the employee is employed by the employer concerned for less than five years; average earnings of two months if the employee is employed by the employer concerned for five to 10 years; average earnings of three months if the employee is employed by the employer concerned for 10 to 20 years; average earnings of four months if the employee is employed by the employer concerned for more than 20 years severance pay is paid by the employer to employee. [29] The dismissed employee may sue to receive the severance payment within one month from the date of dismissal or the date of leaving of his own accord.[30]

The issue of severance pay is very different in Turkey. Severance pay is provided for not in the current Labour Code, but in the previous Labour Code. The previous law was repealed, but the provision which is related to severance pay, is still in force. Severance pay is available only when the employee dies among the other expiration situations except the contract cancellation. The legal heirs of the employee are entitled to this compensation.[31]

29 Latvian Labour Law, Section 112.– https://likumi.lv/ta/en/id/26019-labour-law.– (Accessed 3.01.2020).

30 Ibid.

31 Turkish Labour Law No. 1415, Article 14.

Therefore, if the employment contract is terminated by the agreement of the parties, or if the term of the contract has expired in fixed-term employment contracts, the employee shall not take the severance pay. If there is a case of one of the justifiable reasons mentioned in Article 24 of the law, the employee is entitled to severance pay by terminating the employment contract without notice of termination.

Declarative termination does not give the employee severance pay as a rule, but the exceptions are stated in Article 14 of the law. According to this article, if employee wants to sign a contract for military service with the army, in the case of the employee`s retirement, old age or disability pension in order to receive contract termination, the woman`s marriage within one year of her own desire to terminate the contract, gives the right to severance pay. If the workplace is transferred, the severance pay of employees who continue to work in the workplace is calculated for the entire period before and after the transfer, according to Decision No 2018/9860 of the Law Department of the 22nd Supreme Court. However, limited liability for the transferred employer or employers must be determined, with respect to the period and the fee at the transfer date. According to Article 14 of the law, in case of terminating of the contract or termination of the contract by employee`s own desire in one year from the date of the woman`s marriage or termination of the contract due to the death of the employee, the employer shall pay to employee a severance payment of 30-days` wages for each year during the continuation of the employment contract as of the date of the employee`s employment. This 30-days wages is the gross wages of the employee at that date (minimum gross wage is 2943.00 TL/ 450.46 Euros for 2020). If the employee works with minimum salary for 1 year 5 months, payments are made at the same rate for increasing periods from one year. So the severance pay will be 2943 TL + 1226.25 TL for 1 year 5 months of working time. The employee must exercise this right within ten years from the day he or she is entitled to severance pay. Otherwise, this right will expire.[32]

32 Turkish Obligation Law, Article 146.

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# NODOKĻI UN TO NOZĪME LATVIJAS EKONOMISKAJĀ IZAUGSMĒ

# TAXES AND THEIR ROLE IN LATVIA`S ECONOMIC GROWTH

***Atslēgvārdi:*** *nodokļi, budžets, budžeta deficīts, IKP.*
***Keywords:*** *taxes, budget, budget deficit, GDP.*

1990. gada 4. maijā Latvijas PSR Augstākā padome pieņēma deklarāciju "Par Latvijas Republikas neatkarības atjaunošanu", tika atjaunota Latvijas Republikas Satversme un valstij sākās jauns attīstības posms – pilns cerību un jaunatklāsmju. Viens no pirmajiem valsts uzdevumiem bija – sakārtot Latvijas valsts budžetu, proti, "apstiprināt 1990. gadam atskaitījumu normatīvus no vissavienības valsts nodokļiem un ienākumiem Latvijas Republikas valsts budžetā šādos apmēros: no apgrozījuma nodokļa – 82,1 procentu, no iedzīvotāju ienākuma nodokļa – 100 procentus, no ieņēmumiem no 1982. gada valsts iekšējā laimestu aizņēmuma obligāciju realizācijas un vissavienības pakļautības uzņēmumu un organizāciju maksājumu budžetā no peļņas (ienākuma) kopsummas – 57,5 procentus".[1]

Valsts budžets ir finanšu plāns, kur summēti ienākumi un izdevumi (naudas izteiksmē) noteiktam laika posmam. Pirmais atjaunotās Latvijas valsts budžets tapa 1991. gadā. Tā ieņēmumu daļu 2,9 miljonu rubļu apmērā veidoja 9 valsts nodokļi un 8 vietējie nodokļi (tagad valsts un pašvaldību nodevas): tirdzniecības, laivu, reklāmas, autoceļu un ielu slēgšanas, transportlīdzekļu, dzīvnieku, izklaides nodoklis un maksa par stāvvietu.

1 Par izmaiņām 1990. gada valsts budžetā.– https://m.likumi.lv/doc.php?id=76208.– (Resurss apskatīts 5.02. 2020.).

2020. gadā Latvijā iekasē 15 nodokļus un ap 120 valsts un pašvaldību nodevas. Valsts budžeta ieņēmumu daļa ir pieaugusi līdz 9,9 miljardiem (t.sk. pamatbudžets 6,883) eiro, izdevumu daļā – līdz 10,19 miljardiem (t.sk. pamatbudžets 7,225) eiro. Jau trīsdesmit gadus valsts budžetā ir deficīts: izdevumi pārsniedz ieņēmumus, uzkrājumi netiek veidoti. Budžeta deficīts 2020. gadā sastāda 0,3% no iekšzemes kopprodukta (turpmāk tekstā – IKP). Nodokļu īpatsvars budžeta ieņēmumu daļā sastāda 88%, pārējo daļu veido dažādi ārējie, iekšējie maksājumi, nodevas, soda, kavējumu naudas u.c.

*1. tabula*

**Latvijas Republikas 1991. gada un 2020. gada budžeta ienākumu daļa** (bez ES finansējuma)[2;3]

| Nr. | Valsts budžeta ieņēmuma daļa 1991. gadam | 1991. gads | | | 2020. gada prognoze | | |
|---|---|---|---|---|---|---|---|
| | | Tūkst. rbļ. | % | Uzkrātie % | Milj. eiro | % | Uzkrātie % |
| 1. | Apgrozījuma nodoklis/ PVN | 1111 | 38,3 | 38,3 | 2884,9 | 33,1 | 33,1 |
| 2. | Akcīzes nodoklis | 715 | 24,6 | 62,9 | 1203,4 | 13,8 | 46,9 |
| 3. | Peļņas nodoklis/ Uzņēmumu ienākuma nodoklis | 411 | 14,2 | 77,1 | 362,6 | 4,2 | 51,1 |
| 4. | Iedzīvotāju ienākuma nodoklis | 241 | 8,3 | 85,4 | 351,7 | 4,0 | 55,1 |
| 5. | Ceļu nodoklis/ Transports nodokļi, nodevas | 211 | 7,3 | 92,7 | 155,2 | 1,8 | 56,9 |
| 6. | Īpašuma nodoklis | 67 | 2,3 | 95,0 | 253,4 | 2,9 | 59,8 |
| 7. | Zemes nodoklis | 22 | 0,7 | 95,7 | | | |
| 8. | Celmu nauda | 52 | 1,8 | 97,5 | 30,8 | 0,4 | 60,2 |
| 9. | Dabas resursu ienākums no dabas vides un dabas resursu licencēšanas/ Dabas resursu nodoklis | 16 | 0,6 | 98,1 | | | |
| 10. | Sociālās iemaksas | | | | 2957,7 | 34,0 | 94,2 |

2 Par Latvijas Republikas 1991. gada valsts budžetu// Latvijas Republikas Augstākās Padomes un Valdības Ziņotājs.– Nr. 15/16 (1991, 25. aprīlis).

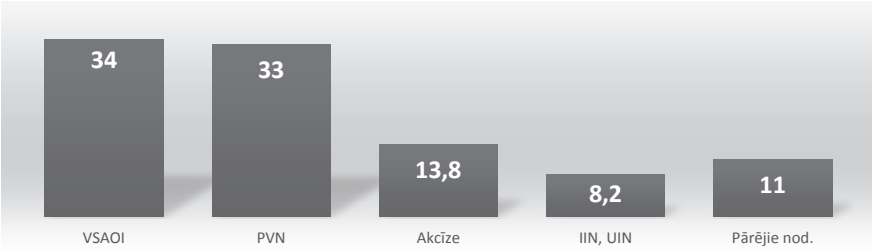
3 Par valsts budžetu 2020. gadam// Latvijas Vēstnesis.– Nr. 240 (2019, 28. novembris).

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 11. | Muitas nodoklis | | | | 57,2 | 0,7 | 94,9 |
| 12. | Solidaritātes nodoklis | | | | 17,7 | 0,2 | 95,1 |
| 13. | Elektroenerģijas nodokļi | | | | 5,4 | 0 | 95,1 |
| 14. | Nodevas nenodokļu ieņēmumi | 54 | 1,9 | 100 | 427,3 | 4,9 | 100 |
| 15. | ES fondi | | | | | | |
| Kopā | | 2900 | 100 | | 8707,3 | 100 | |

Latvijā 89% no visiem nodokļu kopienākumiem veido: valsts sociālās apdrošināšanas obligātās iemaksas – 34%, pievienotās vērtības nodoklis – 33%, akcīzes nodoklis – 13,8%, ienākumu nodokļi (IIN, UIN, MUN) – 8,2%. Pārējiem nodokļiem ir pakārtota loma, vērtējot grāmatvedības uzskaites un nodokļu administrēšanas sarežģītības procesu, tā racionalitāti un ekonomiskumu.

*1. attēls*

**Nodokļu ieņēmumu struktūra 2020. gadā** (%)[4]




Nodokļu iekasēšanai ir noteicošā loma valsts budžeta veidošanā. Budžeta izveidē 2016.–2017. gadā tika izstrādātas 2 dažādas programmas, apkopojot daudzu valstu pieredzi un nodokļu iekasēšanas modeļus. Nozīmīgākās ir Latvijas Bankas un Eiropas Bankas programmas un to izstrādātie priekšlikumi.

Latvijas Bankas pamatojums ir sekojošs: "Esošā nodokļu sistēma ir sarežģīta, tās elementi bieži tiek mainīti, padarot godīgu uzņēmējdarbību apgrūtinošu. Zemais iekasēto nodokļu īpatsvars tautsaimniecībā ir ēnu ekonomikas rezultāts, bet nodokļu slogs godīgiem nodokļu maksātājiem pārāk liels. "Nodokļu stratēģijas 20/20" priekšlikumu īstenošanas rezultātā

4 Nodokļu stratēģija 20/20.– https://www.bank.lv/images/stories/pielikumi/publikacijas/citaspublikacijas/Nodoklu_strategija_20_20_2017.pdf.– (Resurss apskatīts 05.02.2020.).

IKP 2020. gadā būtu par 2,4% lielāks." Daudzi ieteikumi jau ir ieviesti dzīvē. Sekas: skaitļi apliecina ekonomikas izaugsmi 2020. gadā nodokļu aprēķinos salīdzinot ar 2019. gadu, veiktas minimālas izmaiņas (t.i., pozitīvs rādītājs). Nodokļi iekasēti plānotajā apjomā. Normatīvie akti joprojām apjomīgi, nepārskatāmi, līdz galam neizprotami.

*2. tabula*

**Viedokļi par Latvijas nodokļu sistēmas stratēģiju**[5]

| **Latvijas Bankas rekomendācijas Stratēģija 20/20** | **Pasaules Bankas rekomendācijas** |
|---|---|
| 1. Nodokļu stratēģijai jāveicina valsts ekonomisko izaugsmi, t.sk. iedzīvotāju labklājību | 1. Izmaiņas nodokļu politikā raisa bažas par lielo nevienlīdzību un sistēmas taisnīgumu |
| 2. Pamats – nodokļu līdzsvarošana, vienkāršošana, ēnu ekonomikas mazināšana | 2. Mērķis – palielināt nodokļu ieņēmumus par 3% no IKP, lai sasniegtu IKP proporciju 32 % apmērā |
| 3. Samazinot IIN, palielinātos iedzīvotāju ienākumi, pieaugtu patēriņš | 3. Nodokļu sistēmām jābūt pietiekami efektīvām, lai iespējami mazāk ietekmētu saimniecisko darbību |
| 4. Mazinoties darbaspēka izmaksām, palielinātos uzņēmumu starptautiskā konkurētspēja | 4. Latvijā iespējams iekasēt jaunus nodokļus, t.i., 4% apmērā no IKP |
| 5. Reinvestēto peļņu neaplikt ar UIN | 5. Nodokļiem uzsvars jāpārliek no darba devējiem uz darbiniekiem |
| 6. PVN likmes nemainīt, bet paplašināt reverso nodokļa maksāšanas kārtību | 6. Nodokļu bāzes paplašināšana PVN kontekstā |
| 7. Valstī liels potenciāls, lai mazinātu izvairīšanos no nodokļu maksāšanas | 7. Jāveic pretpasākumi nodokļu nemaksāšanai |
| 8. Turpināt nodokļu pārvaldīšanas digitalizāciju: caurspīdība, ātrums. Pārrobežu darījumi | 8. Padarīt nodokļu sistēmu vienkāršu, caurskatāmu, viegli saprotamu. Mērķis – mazināt valdības nodokļu iekasēšanas izmaksas un atbilstības izmaksas |
| 9. Ēnu ekonomikas samazināšana no 50% līdz 35% no IKP | 9. Nodokļu likmju celšana vides un akcīzes nodokļiem |
| 10. Vāja kapacitāte fiktīvām uzņēmumu darbībām | 10. Mikrouzņēmuma nodoklis rada bažas sociālās apdrošināšanas sistēmai |

5 Pasaules Bankas (PB) ziņojuma projekts: Latvijas nodokļu sistēmas izvērtējums.– https://www.fm.gov.lv/files/nodoklupolitika/Latvia%20Tax%20Review%20Draft_EN_LV.pdf.– (Resurss apskatīts 05.02.2020.).

Teorija māca, ka nodokļu sistēmai jābūt vienkāršai, visiem saprotamai, viegli un lēti administrējamai, caurspīdīgai, kur skaidri noformulēti nodokļu objekti, subjekti, likmes, atvieglojumi, deklarāciju aizpildīšanas kārtība, soda sankcijas u.c. Reālajā dzīvē bieži tā nenotiek.

Nodokļu sistēmas normatīvās bāzes hierarhija Latvijā (tās līmeņi):

1) likums "Par nodokļiem un nodevām";
2) konkrētā nodokļa likums, piemēram, "Par iedzīvotāju ienākuma nodokli";
3) likumu skaidrojošie Ministru kabineta noteikumi (daudzi);
4) VID informatīvie un metodiskie materiāli;
5) VID informējošās vēstules un skaidrojumi;
6) jautājumi un to noskaidrošana, saziņa ar VID, elektroniskās deklarēšanas sistēma (EDS).

Nodokļu likumos ir visaptveroša informācija, piemēram, likums "Par iedzīvotāju ienākuma nodokli" ietver sešus dažādus iedzīvotāju ienākuma nodokļa aprēķinu veidus. Ārpus likuma normām paliek IIN no nereģistrētās saimnieciskās darbības, autoratlīdzības. Sarežģīts regulējums ar daudz un dažādiem Ministru kabineta noteikumiem ir nekustamā īpašuma atsavināšanas procesam u.c.

*3. tabula*

**Iedzīvotāju ienākuma nodokļa struktūra** [6]

| **Iedzīvotāju ienākuma nodoklis** | | | | | | | |
|---|---|---|---|---|---|---|---|
| Algas nodoklis | IIN no saimn. darbības vienkāršā ieraksta sistēmā | IIN no saimn. darbības divkāršā ieraksta sistēmā | IIN no patenta maksas | MUN nodoklis | Sezonas lauk-strādnieka nodoklis | IIN no kapitāla | IIN no citām darbībām |

Ir nodokļu likumi ar ļoti precīzu, skaidru formulējumu, piemēram, Mikrouzņēmumu nodokļa likums: precīzs apliekamais objekts, nodokļa maksātāji, kritēriji, nodokļa pamatlikme, papildus likmes, pārreģistrēšanās kārtība u.c. Deklarācijas aizpildīšana ir vienkārša un ātra.

Katra saimnieciskā vienība (mājsaimniecība, uzņēmums u.c.) cenšas savu darbību organizēt, ievērojot ekonomiskuma un racionalitātes

6 Par iedzīvotāju ienākuma nodokli: Likums (pieņemts 11.05.1993.)// Latvijas Vēstnesis.– Nr. 32 (1993, 1. jūnijs).

principus: ar esošajiem resursiem sasniegt vislabākos rezultātus, maksimālu peļņu. Šo principu atspoguļo iedzīvotāju ienākuma nodokļa no saimnieciskās darbības aprēķins, t.i., 80/20. Izmaksas nepārsniedz 80% no ienākumiem. Prognozētais IIN sastāda 20% no peļņas. Valsts budžeta sastādīšanā minētais princips nestrādā. Analizējot valsts budžetu kopsakarībā ar IKP, valsts ārējo parādu, minimālo darba samaksu, redzam rādītāju savstarpējo saistību:

1) IKP tieši korelē ar darba samaksu. Laika posmā no 2015. gada līdz 2020. gadam redzama bīstama tendence – darba samaksas pieaugums apsteidz valsts ekonomisko izaugsmi, kuru mēra ar IKP.
2) IKP nekorelē ar valsts ārējo parādu. Jo straujāk pieaug IKP, jo mazāku tempu uzrāda ārējo līdzekļu piesaiste.

*4. tabula*

**IKP, valsts ārējā parāda, minimālās darba samaksas pieauguma tempi** (%) [7]

| **Laika periods** | **1990.–1995.** | **1995.–2000.** | **2000.–2005.** | **2005.–2007.** | **2007.–2010.** | **2010.–2015.** | **2015.–2020.** |
|---|---|---|---|---|---|---|---|
| IKP pieauguma temps, % | 11 | 27 | 79 | 23 | – 21 | 19 | 7 |
| Ārējā parāda pieaugums, % | Nav datu | 35 | 64 | 20 | 578 | 27 | 84 |
| Mininālā atalgojuma pieaugums, % | 24 | 79 | 20 | 13 | 50 | 100 | 19 |

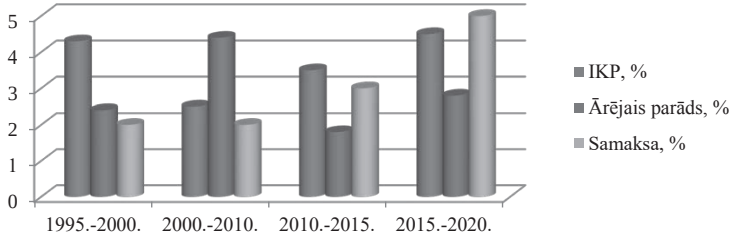
Fiskālo politiku ietekmējošs faktors ir noguldījumu apmērs banku sektorā. 2018. gadā banku sektora kopējo aktīvu apmēra samazināšanos noteica banku īstenotie riska mazināšanas pasākumi. Sākot ar 2019. gadu banku sektora piesaistīto nebanku iekšzemes klientu noguldījumu apmērs turpināja palielināties, vidēji no 0,2% līdz 0,5 % ceturksnī.[8]

7 Latvijas ekonomikas attistības pārskats.– https://www.em.gov.lv/lv/ekonomikas_attistiba/ekonomiska_situacija/latvijas_ekonomikas_attistibas_parskats/.–(Resurss apskatīts 05.02.2020.)

8 Finanšu un kapitāla tirgus apskats.– https://www.fktk.lv/wp-content/uploads/2019/07/Q1_2019_APSKATS.pdf.–(Resurss apskatīts 05.02.2020.)

*2. attēls*

**IKP, minimālās darba algas, valsts parāda attiecība**




2020. gada budžetā vispārējiem valdības dienestiem atvēlēti 1489 miljoni eiro (ap 15%), t.i., vairāk kā valsts ekonomiskai darbībai. Vai tas ir sasaistāms ar valsts dienestu darbības organizācijas efektivitāti un lietderīgumu, t.sk. ekonomisko lietderīgumu?

2009. gadā Valsts kanceleja veica ministriju, valsts finansēto aģentūru u.c. iestāžu funkciju auditu. To uzskaitījums kopumā veidoja 1005 funkcijas, daudzas savstarpēji dublējās, bija pat "mākslīgi radītas". Citas valstis tādā situācijā piemēro etalonrādītāju salīdzināšanas metodi u.c.[9]

Indikatori dažādu procesu mērīšanai:

- Doing Business indekss (par uzņēmējdarbības vidi), Latvija – 19. vietā pasaulē.[10]
- Korupcijas uztveres indekss (nespēja atpazīt korupciju) – 41. vietā.[11]
- Riska indikators (Latvijai ir 13 no 17 riska indikatoriem).[12]
- Finanšu slepenības indekss – 57. vieta.[13;14]

9 Magone I. Funkciju audita attīstības procesa Latvijā metodoloģiskais izvērtējums. LU raksti 754. sēj. 117. lpp.– https://docplayer.net/64199422-Ekonomika-un-vadibas-zinatne.html.– (Resurss apskatīts 05.02.2020.).

10 Latvija Doing Business 2019 saglabā augsto 19. vietu pasaulē.– https://www.doingbusiness.org/en/reports/global-reports/doing-business-2020.– (Resurss apskatīts 05.02.2020.).

11 Korupcijas uztveres indekss.– https://delna.lv/lv/2019/01/29/2018-gada-korupcijas-uztveres-indeksa-rezultati-liecina-par-latvijas-nespeju-mazinat-korupciju/.– (Resurss apskatīts 05.02.2020.).

12 Miezaine Z, Damberga A., Karlsberga A., Rudzīte L. Godīgi nodokļi visiem: Pētījums. (Līguma Nr. DCI-NSAED/2014/338-179) ietvaros.– https://lapas.lv/wp-content/uploads/2017/01/Tax_petijums_FIN.pdf.– (Resurss apskatīts 05.02.2020.).

13 Fadejeva L. Ienākumu nevienlīdzība un nabadzība: kur esam un kā uzlabot situāciju.– https://www.delfi.lv/news/versijas/ludmila-fadejeva-ienakumu-nevienlidziba-un-nabadziba-kur-esam-un-ka-uzlabot-situaciju.d?id=51704933.– (Resurss apskatīts 05.02.2020.).

14 Magone I. Valsts iestādes funkciju audita metodoloģija un tā veikšanas process Latvijā.– https://www.lu.lv/fileadmin/user_upload/lu_portal/zinas/Iveta%20Magone%20promocijas%20darba%20kopsavilkums.pdf.– (Resurss apskatīts 05.02.2020.).

- Ir vēl citi valsts iekšējie rādītāji: reformu skaits dažādās nozarēs, Valsts kontroles ieteikumi, Valsts ieņēmumu dienesta datu bāzēs iekļautā informācija u.c.
- Reformu skaits un to ietekme uz fiskālo politiku.

Kopš Latvijas neatkarības atgūšanas valsts budžets no 2,9 miljoniem rubļu pieaudzis līdz 10 miljardiem eiro. Šai laikā ainījusies nodokļu sistēma: nodokļu skaits (no 9 līdz 15 nodokļiem), nosaukumi, likmes, apliekamie objekti, subjekti, sarežģītība u.c. Taču vienlaikus nav izdevies sabalansēt valsts budžetu. 2020. gadā budžeta deficīts ir 0,3% no iekšzemes kopprodukta.

Nodokļu sistēma ir sarežģīta, smagnēja. Uzsākot saimniecisko darbību, ir jāizvēlas, kā to reģistrēt: kā sabiedrību ar ierobežotu atbildību, kā individuālo komersantu, vai vispār nereģistrēties un kļūt par nereģistrētās saimnieciskās darbības veicēju? Kādu nodokļu maksāšanas režīmu izvēlēties: maksāt mikrouzņēmuma nodokli, iedzīvotāju vai uzņēmuma ienākuma nodokli? Pieņemot lēmumu, ir jāpārzina saimnieciskās darbības riski un ieguvumi, kas jāizvērtē gan ilgtermiņā, gan patreizējā periodā.

Valsts budžets nepieciešams valsts iekšējo un ārējo funkciju veikšanai, kas valstī pasludinātas kā sasniedzamais mērķis, t.i., iedzīvotāju labklājības līmeņa celšana, ekonomiskā izaugsme utt. Kādi tad ir budžeta nesabalansētības iemesli? Mazi nodokļu ieņēmumi – līdz 30% (nevis 38% vai 40%) no iekšzemes kopprodukta vai neprasmīga sadale, nedodot atdevi ilgtermiņā?

## Secinājumi un priekšlikumi

1. Latvijas budžeta deficītam lielā mērā ir politisks raksturs: lai to sabalansētu vai vēl vairāk – veidotu uzkrājumus, nepieciešama radikāla izšķiršanās, kas ne vienmēr būs kompromisa rezultāts.

2. Latvijas ārējais parāds uz 1 iedzīvotāju ir 6500,00 eiro (vai 7870,00 eiro, atkarībā no iedzīvotāju skaita: 2 miljoni vai 1,7 miljoni).

3. Valstij nav ilgtspējīgas stratēģijas, kurā pretī katram izmērāmajam indikatoram būtu norādīts "ceļš", kā to sasniegt, kā kontrolēt sasniegto, kā iztikt bes mākslīgi radītiem uzstādījumiem, kuri neļauj/kavē sasniegt konkrēto rezultātu.

4. Nepieciešams ieviest termina "politiskā atbildība" vietā terminu "materiālā atbildība."

5. Diferencēt atalgojuma un pabalstu sistēmu valstī: piemēram, situācijā, kad vienas augstskolas rektoram atalgojums ir lielāks kā Ministru

prezidentam, vai vecuma pensijas apmērs svārstās no 90,00 eiro/mēnesī līdz 20000,00 eiro/mēnesī.

6. Latvijai pieejamie gan cilvēku resursi, gan darba resursi ir ierobežoti. Nepārdomātas nodokļu reformas darba resursus valstī nevairo.

7. Liberalizējot nodokļu sistēmu, lielāks akcents jāliek uz valsts funkciju un tai piešķirtā finansējuma sasaisti ar gala rezultātu, atstājot finanšu līdzekļus ekonomiskai izaugsmei, piemēram, ceļu infrastruktūras sakārtošanai.

8. Racionālāk pārdomāt Eiropas struktūrfondu izlietojumu.

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# ЛАТЫШСКО-ГРУЗИНСКОЕ ПОЛИТИЧЕСКОЕ СОТРУДНИЧЕСТВО (1988–1991)

# LATVIEŠU UN GRUZĪNU TAUTU POLITISKĀ SADARBĪBA (1988–1991)

***Ключевые слова:*** *национально-освободительное движение, Народный фронт, Балтийский путь, политические и общественные деятели.*
***Atslēgvārdi:*** *nacionālā atbrīvošanas kustība, Tautas fronte, Baltijas ceļš, politiskie un sabiedriskie darbinieki*

С середины 80–х годов XX века в республиках Балтии широкий масштаб приобрело национально-освободительное движение, которое, после второй оккупации этих стран СССР (1945), характеризовалось переменной интенсивностью. Этот важнейший период довольно детально изучен в историографии Латвии.[1] С того же периода довольно интенсивное сотрудничество наметилось между представителями национально-освободительных движений балтийских республик и Грузии.[2]

1 Regaining Independence: Non-violent Resistance in Latvia 1945–1991.– Riga: Latvian Academy of Sciences, 2009; Бутулис И., Зунда А. История Латвии.– Рига: Jumava, 2010; Ģērmanis U. The Latvian Saga.– Riga: Atēna, 2007; Deksnis E. B., Jundzis T. Restoration of Sovereignty and Independence of the Republic of Latvia 1986–1994.– Riga: Latvian Academy of Sciences, 2015.

2 Džavahišvili N. Ieskats Gruzijas un Baltijas tautu attiecību vēsturē.– Rīga: Latvijas gruzīnu biedrība "Samšoblo", 2015; Джавахишвили Н. Очерки истории грузино-балтийских взаимоотношений.– Тбилиси: Тбилисский Государственный университет им. Иванэ Джавахишвили. Факультет гуманитарных наук; Институт истории Грузии, 2019.

Чрезвычайный и полномочный посол США в СССР в 1987–1991 годах Джек Мэтлок пишет: "Когда Горбачев начал ослаблять жесткий контроль над выражением мыслей, по стране прокатились ударные волны национализма... Жители трех балтийских республик, Западной Украины и Молдавии стали требовать вначале автономии, а затем независимости. За ними последовали Грузия, Азербайджан и Армения, ставшие объектом вторжения и поглощения после Гражданской войны в России. Кроме того, эстонцы, латыши и литовцы организовали во всех нерусских республиках Советского Союза целенаправленную кампанию с требованиями независимости."[3]

По оценке Александра Чикваидзе (1932–2012), который в 1967–1991 годах был на дипломатической службе СССР, а с 1992 года стал министром иностранных дел Грузии, "развал советской государственности произошёл не сам по себе, он имел много объективных причин и предпосылок – политических, исторических, национальных, культурных, экономических, корнями уходящих в саму суть того, как было "скроено" государство и как оно управлялось. Вопрос о том, как могло случиться, что великая держава за 70 лет не смогла создать достотачно мощных пластов общества, заинтересованных в ее же существовании, видимо, долго будет предметом политических дискуссий, политологических исследований не одного поколения специалистов и темой для обсуждения "простыми людьми" на протяжении многих десятилетий... Различный уровень социально-экономического и государственного развития, кардинально отличное друг от друга историческое, культурное, религиозное и цивилизационное прошлое, географические и климатические различия породили радикально различное восприятие так называемого единства среди "набранных" в Советский Союз наций и народностей и их будущих взаимоотношений. Не нуждается в доказательствах тот факт, что республики Балтии, например, всегда стремились к независимости и бегству из "советского рая", тогда как Таджикистан и Казахстан склонялись к интеграции. Постоянно думали о восстановлении своей национальной государственности Украина и Грузия."[4]

11 марта 1989 года в Тбилиси начала работу конференция Народного фронта, в которой принимало участие 450 делегатов

3 Мэтлок Д. Сверхдержавные иллюзии. Как мифы и ложные идеи завели Америку не в ту сторону и как вернуться в реальность.– Москва, 2011.– С. 125.

4 Чикваидзе А. На изломе истории: СССР-Россия-Грузия.– Москва: Международные отношения, 2006.– С. 107–109.

из разных политических и общественных организаций. Участники конференции приняли обращение в поддержку справедливых требований Народного фронта Латвии и латышского народа. В обращении была осуждена также шовинистическая деятельность интерфронта. На конференции было принято решение о поддержке и координированном сотрудничестве с народными фронтами балтийских республик.[5]

Определенные взаимоотношения с партнерами в Балтии поддерживали как грузинские политические и общественные деятели, так и ученые, в том числе президент Общества Шота Руставели, критик, литературовед и публицист Акакий Бакрадзе (1928–1999), академик Тамаз Гамкрелидзе (1929) и другие. Т. Гамкрелидзе (депутат Верховного совета СССР) вспоминал: "Во время подъема национального движения, после событий 9 апреля 1989 года, когда возникла необходимость особой активности по ликвидации трагических последствий и наведения порядка в стране, А. Бакрадзе был одним из выдающихся лидеров национального движения... Особо тесным наше сотрудничество стало в мае 1989 года, на I съезде народных депутатов в Москве, который, можно сказать, прошел под знаком событий 9 апреля. Съезд был открыт с призыва депутата Вилена Толпежникова, который неожиданно поднялся на трибуну и потребовал минутой молчания почтить память жертв 9 апреля в Тбилиси. Это было настолько неожиданно для руководства СССР, сидящего в президиуме, что некоторые из них от растерянности, действительно, поднялись на ноги. А. Бакрадзе, бывший свидетелем этого события, как член довольно многочисленной депутации от Грузии, отметил: "Балтийцы сделали то, что должны были сделать мы – грузины", однако, здесь же добавил, что "такое выступление нерусского депутата с политической точки зрения, наверно, было более выгодным для нас".[6]

Упомянутый Вилен Толпежников (1928–2008) являлся врачом-рентгенологом и заведующим рентгенологическим кабинетом Первой Рижской городской клинической больницы скорой медицинской помощи имени Н. Бурденко. 25 мая 1989 года на открытии первого Съезда народных депутатов Верховного Совета СССР

5 Атмода: Информационный бюллетень Народного фронта Латвии.– (1989, 27 марта).– С. 1.

6 Гамкрелидзе Т. Встречи с Акакием Бакрадзе: Сборник, посвящённый в памяти Акакия Бакрадзе.– Тбилиси, 2002.– С. 55-56.

В. Толпежников взбежал на трибуну и прокричал в микрофон: "Прежде, чем мы начнем своё заседание, я прошу почтить память погибших в Тбилиси!" Как только все встали, Толпежников заявил: "Депутатский запрос – назвать имена тех, кто отдал приказ об избиении мирных демонстрантов в Тбилиси 9 апреля!"...

В последние годы существования СССР в союзных республиках формировались культурные общества национальных меньшинств. Так в конце 80–х годов в Латвии были созданы культурные общества национальных меньшиств, целью которых было сохранение собственных языков и популяризация своих культур. Общества поддерживали независимость Латвии.

По данным переписи населения 1989 года в Латвии в тот период проживало 1357 грузин. Грузинское общество, неофициально действовавшее в Латвии с 1988 года, поддерживало независимость этой страны и сотрудничало с местным национально-освободительным движением. Особой активностью выделялись теннисист Нугзар Мдзинаришвили, врач Зураб Кецбая и бизнесмен Виссарион Берадзе.

В масштабной мирной акции "Балтийский путь", состоявшейся в Эстонии, Латвии и в Литве 23 августа 1989 года, приняло участие около миллиона жителей этих стран. В акции принимали участие и специально прибывшие грузинские политики, в частности, лидер Народного фронта Нодар Натадзе, а также Ираклий Шенгелая и Михаил Нанеишвили, которые стояли с грузинским флагом между латышскими и литовскими демонстрантами, публично выражая солидарность грузинского общества с участниками этого события.

Исследователь А. Сытин указывает: "В условиях нарастания центробежных тенденций в последние десятилетия существования СССР республики Прибалтики сыграли роль своеобразного авангарда в движении, приведшем к краху Советского Союза, а в конечном итоге и всей социалистической системы. Несмотря на то, что Латвия, Литва и Эстония были не единственными субъектами центробежных тенденций, наряду с ними за выход из состава Советского Союза боролись Армения, Грузия и Молдова, именно в прибалтийских республиках сконцентрировался узел наиболее острых противоречий, приведших в комплексе к получению ими независимости и выходу из состава СССР. В отличие от остальных советских республик прибалтийские пользовались не только моральной в рамках борьбы Запада за демократические идеалы и права человека, но и прямой политической

и дипломатической поддержкой США, Европейского парламента, отдельных европейских, в первую очередь Скандинавских государств. Непризнание со стороны "западных" держав, прежде всего США, факта инкорпорации Балтии в состав СССР позволяло им чувствовать себя самостоятельными, хотя и не обладающими полным комплексом прав субъектами международных отношений."[7]

С августа по декабрь 1989 года в Республиканской клинической больнице им. П. Страдыня работал врач Рамаз Михайлович Шенгелия. В настоящее время он является доктором медицинских наук, профессором, руководителем департамента истории медицины и биоэтики Тбилисского Государственного медицинского университета, членом Академии медицинских наук Грузии и директором Музея истории грузинской медицины имени Михаила Шенгелия. Отец Р. Шенгелия – профессор Михаил Шенгелия тесно сотрудничал со своими латвийскими коллегами, в том числе и с директором Музея истории медицины имени Пауля Страдыня профессором Карлом Яновичем Ароном. В 1978 году Рамаз и Георгий Михайловичи Шенгелия принимали участие во Всесоюзной конференции истории медицины, проходившей в Рижском музее истории медицины.

В августе 1989 года Р. Шенгелия был отправлен в командировку в Ригу, где работал в Республиканской больнице Латвии, у проф. В. Уткина. Параллельно с этим, под совместным руководством Уткина и проф. Вахтанга Пипия, он работал над своей докторской диссертацией. Р. Шенгелия вспоминал: "Мой первый приезд в Ригу совпал с днем рождения первого президента Латвии Яниса Чаксте, который торжественно отмечало местное население. Вместе со своей супругой я посетил могилу президента и возложил венок. Случилось так, что при освещении средствами массовой информации этого события, я везде был на первом плане. Это обусловило особое уважение ко мне со стороны моих латышских знакомых. В тот период в Латвии постепенно приобретало широкие масштабы национально-освободительное движение, с членами которого я сблизился. Особые дружеские отношения меня связывали и с латышской общественной

7 Сытин А. Страны Балтии на пути к независимости: от единого народнохозяйственного комплекса в составе СССР к рыночной экономике европейского типа: сборник докладов международной научной конференции "Страны Балтии в составе СССР от постсталинизма до перестройки", 1953-1990. Рига, 19 апреля 2012 года.– Рига, 2012.– С. 224–225.

и политической деятельницей и публицисткой Ингуной Эбела и её супругом Ромуальдом Ражукас, активно сотрудничавшими с лидерами грузинского национально-освободительного движения. Благодаря им я встретился с видными фигурами национально-освободительного движения Латвии, в том числе с председателем Народного фронта Дайнисом Ивансом, руководящими лицами этой же организации – с Янисом Шкапарсом и Интом Цалитисом, которые в разное время были председателями правления Думы НФЛ, президентом Общества юристов Валдисом Биркавсом и др.

13 октября 1989 года трагически погиб Мераб Костава. В связи с этим, в Риге с несколькими моими друзьями мы основали Грузинское общество имени Мераба Костава, в состав которого, в основном, вошли грузинские студенты, которые в то время проходили там обучение. Наше общество было довольно активным. Мы систематически проводили встречи с представителями средств массовой информации, которые, в основном, были дезориентированы в отношении событий, происходивших в Грузии и на Кавказе. Мы хотели, чтобы они объективно освещали эти процессы, и не раз нам это удавалось. Ко дню народного праздника – дня Лачплесиса мы на заказ сшили грузинские флаги и на улицах Риги присоединились к грандиозной манифестации латышей. Наше присоединение к демонстрации вызвало всеобщий восторг. Раздавались громкие возгласы: "Грузия! Грузия!"

Осенью состоялся съезд Народного фронта Латвии, в работе которого вместе с другими принимали участие и представители национально-освободительного движения Грузии, в том числе Автандил Имнадзе и Александр (Алеко) Кобулашвили. А. Имнадзе, которого встретили аплодисментами, выступил перед участниками съезда с интересным докладом.

В то время балтийские республики единым фронтом боролись за свою свободу, чего не скажешь о республиках Южного Кавказа. Мы хотели показать, что и представители кавказских республик вместе борются за выход из состава СССР. С этой целью мы провели в Риге пресс-конференцию членов национально-освободительных движений Грузии, Армении и Азербайджана, в которой я принимал участие от грузинской стороны. Я пытался играть роль медиатора между противоборствующими армянами и азербайджанцами, что в тот день мне более-менее удалось. Главной целью моего выступления

было объединение и сплочение представителей кавказских народов в борьбе за свободу, как это было у балтийцев."[8]

Добавим здесь же, что Ингуна Эбела (1953) работала участковым педиатром и преподавала в Медицинской академии Латвии и Латвийском Университете. В годы Атмоды она активно поддерживала связи с Грузией, являлась доверенным лицом Народного фронта Латвии и спецкором Латвийского телевидения в Грузии. В 1990 году она основала и руководила Международной общественной организацией "Спасайте детей" в Латвии. Ингуна Эбела является автором многих научных, научно-популярных и общественно-политических публикаций, фильмов и циклов передач о правах детей.

В октябре 1989 года Общество им. Мераба Костава, основанное в Риге, возглавил Виссарион Берадзе. В рядах этой организации были объединены грузинские студенты, проходившие обучение в Риге: Нона Девадзе, Инга Пайчадзе, Гоча Цкипуришвили, Магда Купаташвили, Марина Джанелидзе, Леван Мчедлишвили, Бесик Жгенти, Гия Сичинава, Автандил Акиртава и др. В феврале 1990 года председателем был избран хирург Зураб Кецбая, проживавший в Риге. Целью общества была популяризация грузинской культуры в Латвии, а также предоставление объективной информации журналистам. Общество выпустило в Латвии первую грузинскую газету под названием "Тбилисский Листок". В том же году, на базе Общества им. Мераба Костава было создано грузинское общество "Самшобло" ("Родина"), целью которого было объединение грузин, проживающих в этой стране, сохранение их культурной индивидуальности, ознакомление латышей с Грузией. В создании общества активное участие приняла именно грузинская молодежь, обучавшаяся в высших учебных заведениях Латвии.

В 1991 году в эфир вышла радиопередача "Иберия", подготовленная членами общества и существующая по сегодняшний день. Создателем и первым ведущим этой радиопередачи был профессиональный журналист, корреспондент Грузии в Латвии Геннадий Дерткин-Деметрашвили. В том же году общество вступило в Ассоциацию национальных культурных обществ имени Иты Козакевич.[9]

8 Джавахишвили Н. Очерки истории грузино-балтийских взаимоотношений.– Тбилиси: Тбилисский Государственный университет им. Иванэ Джавахишвили. Факультет гуманитарных наук; Институт истории Грузии,, 2019.– С. 326–327.

9 Джавахишвили Н. Очерки истории грузино-балтийских взаимоотношений.– Тбилиси: Тбилисский Государственный университет им. Иванэ Джавахишвили. Факультет гуманитарных наук; Институт истории Грузии, 2019.– С. 327–332.

Во время известных событий, происходивших в Латвии, определенная часть грузин, находившихся там, стояла вместе с местным населением на баррикадах.

Активисты национально-освободительных движений республик Балтии активно сотрудничали с национально-освободительным движением Грузии. Среди них были вышеупомянутые Ингуна Эбела и Ромуальд Ражукас, часто приезжавшие в Грузию. И. Эбела была доверенным лицом Народного фронта Латвии в Грузии и публиковала в прибалтийской прессе статьи о ходе процессов в нашей стране. Особо следует отметить её статьи: "Дни пробуждения Грузии", "25 февраля – день траура в Грузии", "Постигнет ли убийц расплата?", "26 мая – день независимости Грузии"[10] и многие другие, в разное время опубликованные ею в издававшемся на русском языке информационном бюллетене Народного фронта Латвии "Атмода" ("Пробуждение"). После распада СССР Р. Ражукас в течение многих лет работал в Грузии как союзный офицер НАТО на Кавказе и многое сделал для углубления сотрудничества нашей страны с этой организацией.

Еще в октябре 1988 года в теле– и радиопередачах И. Эбела обращалась к грузинскому народу. Параллельно с этим в Грузии демонстрировались видеоматериалы из Латвии. И. Эбела и её единомышленники активно работали над созданием Народного фронта Грузии, что успешно завершилось в июне 1989 года. При содействии председателя Союза писателей поэта Мухрана Мачавариани (1929–2010) они привлекали к работе и видных лидеров национально-освободительного движения Грузии. В результате их деятельности в здании Союза писателей Грузии был основан секретариат Народного фронта Грузии. Кроме того, они распространили по всей стране анкеты протеста и, собрав их примерно от миллиона грузин, направили в Москву, в Кремль.

В статье "Дни пробуждения Грузии" И. Эбела отмечала: "Нам довелось встретиться также и с патриархом Грузии. Он дал принципиальное согласие на такое сотрудничество с Народными фронтами Прибалтийских государств и рассказал нам об основных направлениях движения милосердия в Грузии: это организация воскресных школ, работа в тюрьмах, больницах и воинских частях, распространение там библии."[11]

10 Атмода: Информационный бюллетень Народного фронта Латвии.– (1989, 27 февраля; 27 марта; 15 мая).

11 Дни пробуждения Грузии// Атмода.– (1989, 27 марта).

Вместе с грузинскими политическими лидерами И. Эбела и её единомышленники готовили информацию для зарубежной печати, перевозили из Риги в Тбилиси не только прессу на латышском языке, но и тайно отпечатанные газеты грузинских диссидентов. Чтобы обеспечить обратную политическую связь между Латвией и Грузией, организовали митинги в Риге, приглашали и добивались участия представителей крупнейших партий Грузии в международных мероприятиях в Риге, проводившихся одновременно с акцией "Балтийский путь", организованной силами ДННЛ первой международной конференции по вопросу независимости с участием сенаторов и конгрессменов США, учредили Латвийское общество грузинской национальной культуры.[12]

Журналист Элгуджа Лебанидзе, который в 1989 году дважды побывал в Латвии, вспоминал: "Впервые Ингуну Эбела я увидел в Тбилиси, на лекции Акакия Бакрадзе. Весь зал, затаив дыхание, слушал гостью, прибывшую из далекой Латвии, рассказывающую о процессах, происходящих у неё на родине. После этого прошло много времени. Постепенно в Грузии широкий характер приняло движение, которое сейчас мы называем всеобщим пробуждением. Не было у нас ни одного события, к которому бы госпожа Ингуна не проявила бы своего активного отношения. В латвийской прессе все чаще появлялись её очерки и зарисовки о Грузии, корреспонденции, полные гнева по отдельным случаям несправедливости. Ингуна была одной из первых, кто предоставил латышскому народу неопровержимые сведения о трагедии 9 апреля... Осенью судьба опять забросила меня в Латвию… Ингуна предложила мне свечу, и вместе с журналистом Айваром Беркисом я присоединился к морю людей, которые, размахивая национальными флагами, спускались к набережной Даугавы. Это было, действительно, грандиозное, сказочное зрелище. Представьте себе десятки тысяч зажженных свечей, сияющие звезды на поверхности Даугавы, которые несли миниатюрные лодки... Столько улыбающихся лиц я давно не видел. С каждой стороны я ощущал взгляд, полный благодарности грузинскому журналисту, который вместе со всеми кричал: "бриивиибу Латвияй"... В тот вечер на митинге у Памятника свободы Ингуна произнесла пламенную речь. Хоть

12 Эбела И. Взаимоодействие Балтии и Кавказа в процессе восстановления независимости// Балтийский путь к свободе: Опыт ненасильственной борьбы стран Балтии в мировом контексте.– Рига: Zelta grauds, 2006.– С. 393.

я и совсем не понимал латышского, но так часто слышал слово "Грузия", что все понял – Ингуна вновь говорила о Грузии... То, что сегодня слово "Грузия" на языке у каждого латыша, и они жадно ловят каждое известие о Грузии, появляющееся в прессе, в первую очередь, является заслугой Ингуны."[13]

И. Эбела вспоминает: "Атмода на Кавказе началась почти одновременно с Атмодой в Балтии. До того, правда, нерегулярно, уже сотрудничали отдельные политические группы, такие, как "Хельсинки-86", существовали важные двусторонние контакты между политзаключенными как прошлого, так и новейшего времени... Мы, как представители Народного фронта, проделали в Грузии огромную работу – информировали и пробудили к действию сотни тысяч людей, содействовали созданию Народного фронта, который объединил всех политических лидеров Грузии. Мы распространяли среди политиков других стран видеоматериалы о происходившем. В Грузии был демократически избран президент и Грузия провозгласила свою самостоятельность. Всю огромную зажатую энергию – свой гнев, страсть, любовь и патриотизм – я посвятила борьбе за независимость Грузии. Смелость у меня взялась, когда я познакомилась с Итой Козакевич – замечательной польской девушкой, самой яркой личностью балтийской Атмоды. Когда в Балтии начался сбор подписей против новой Конституции СССР, я решилась поехать в Грузию, чтобы и там Атмода поднимала людей на битву века – за свою свободу. Мне казалось нечестным сделать свободу только достоянием Балтии. Меня всегда восхищали искусство Грузии, её природа, сердечность, благородство, гостеприимство и отвага грузин. В 1978 году, когда Латвия еще пребывала в политической дреме, были арестованы сотни грузин, выступавших за придание грузинскому языку статуса государственного языка. С наступлением Атмоды я попросила у Джеммы Скулме рекомендательное письмо в Союз художников Грузии, у Дайниса Иванса получила документ о том, что являюсь полномочным представителем НФЛ в Грузии... Выступления на митингах в Грузии я всегда начинала на грузинском языке, а порой на митингах звучал и подхваченный слушателями латвийский гимн... Привлекали латышскую интеллигенцию к поддержке Грузии, чтобы бороться с привитыми большей части общества, согласно принципу

13 Лебанидзе Э. Наши далёкие близкие// Сакартвелос Кали [Женщина Грузии – журнал, Тбилиси].– № 1 (1990) С. 14–15.

СССР “разделяй и властвуй”, этнопсихологическими предрассудками в отношении кавказцев и наоборот: все балтийцы якобы фашисты, в свою очередь, все кавказцы – спекулянты, торговцы мандаринами.”[14]

В течение последней четверти XX века грузинский народ прошёл сложный путь к восстановлению независимого национального государства. В начале июля 1991 года, в связи с празднованием Дня независимости США, по приглашению посольства США в СССР, президент Республики Грузия Звиад Гамсахурдия (1939–1993) находился в Москве. В представительстве Грузии он провел пресс-конференцию и ответил на вопросы журналистов. Он не исключил, что при содействии внешних сил те же события, которые недавно произошли в Прибалтике, могут повториться и в Грузии. На вопрос журналиста латвийской газеты “Диена” об отношении к республикам Балтии, З. Гамсахурдия ответил так: “С балтийскими странами у нас изначально были замечательные отношения. У нас были контакты с движениями в Литве, Латвии и Эстонии, но есть силы, препятствующие этому процессу. Вот, например, ваша газета недавно... опубликовала, что я, якобы, заявил о том, что Солженицын и Сахаров являются агентами КГБ... Так нельзя. Этим вы же мешаете нормальным контактам между Грузией и Латвией. Мы должны... проверить ходячие слухи и не печатать явные сплетни и клевету. У нас одна и та же судьба, поэтому мы должны считаться друг с другом.”[15]

26 августа президент З. Гамсахурдия и председатель Верховного Совета Грузии Акакий Асатиани направил Верховному Совету Латвийской Республики поздравление следующего содержания: “Уважаемые депутаты! Верховный Совет Республики Грузия, весь грузинский народ приветствуют борьбу латышского народа за свободу и демократию, поздравляют его с независимостью Латвийского государства, объявленной Верховным Советом республики 21 августа 1991 года. Верховный Совет Республики Грузия признает Латвию независимым, суверенным государством, полноправным субъектом международного права. Мы готовы в любое время начать с

14 Эбела И. Взаимоодействие Балтии и Кавказа в процессе восстановления независимости// Балтийский путь к свободе: Опыт ненасильственной борьбы стран Балтии в мировом контексте.– Рига: Zelta grauds, 2006.– С. 392–393.

15 Пресс-конференция президента Республики Грузия Звиада Гамсахурдия в Москве, в июле 1991 года// Руководители грузинского государства. Т. 5: З. Гамсахурдия (1991), официальные документы, обращения, интервью (Часть II).– Тбилиси, 2015. – С. 108–109.

латвийскими властями переговоры об установлении дипломатических отношений между двумя нашими государствами."[16]

Касаясь царившей в Грузии ситуации, И. Эбела отмечала: "Москва делала все возможное, чтобы деморализовать Кавказ и в особенности его авангард – Грузию. Были пущены в дело не только расправа с демонстрантами и отравление, но и подстрекательство грузинских автономий. Так же, как в Латвии, Литве и Эстонии, в Грузии состоялись демократические выборы... Была провозглашена независимость Грузии, президентом государства был избран Звиад Гамсахурдиа. Однако Москва не успокаивалась до тех пор, пока не спровоцировала гражданскую войну на двух уровнях – как между Грузией и её автономиями, так и между грузинами разных политических убеждений... Если в странах Балтии разногласия могли быть вызваны большой численностью русскоязычных, переселившихся сюда в годы оккупации, то в Грузии конфликты коренились в отношениях с созданными... автономиями – Абхазией и Южной Осетией. Обе они в 90–е годы стали требовать себе независимости от Грузии, и время от времени в автономиях вспыхивала настоящая война, в результате чего десятки тысяч грузин были вынуждены искать убежище в других регионах Грузии... Отсутствие поддержки со стороны Европы и США в отношении Атмоды Грузии и остальных народов Кавказа в конце 80–х и начале 90–х годов было решающей причиной того, что эти народы оказались обречены на все те мучения, разруху и нищету, стагнацию и коррупцию, на войны, которые продолжаются на Кавказе по сей день... Поскольку Грузия не получила поддержки Запада, мы, балтийцы, также были вынуждены свернуть свою деятельность."[17]

После распада СССР и восстановления государственной независимости Латвии у национальных меньшиств, проживающих в этой республике, и в том числе у грузин, появилась возможность сохранить и достойно развивать национальную культуру и традиции.

16 Сакартвелос Республика [Республика Грузия – газета Верховного Совета Республики Грузия].–Тбилиси, № 167 (1991, 27 августа).

17 Эбела И. Взаимоодействие Балтии и Кавказа в процессе восстановления независимости// Балтийский путь к свободе: Опыт ненасильственной борьбы стран Балтии в мировом контексте.– Рига: Zelta grauds, 2006.– С. 394-396.

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# COOPERATION AMONG TURKEY AND LATVIA
# TURCIJAS UN LATVIJAS SADARBĪBA

***Keywords**: cooperation, culture, economic, tourism, recognition, market, investment, import, export, entrepreneurs, diplomacy.*
***Atslēgvārdi:** sadarbība, kultūra, ekonomika, tūrisms, atzīšana, tirgus, investīcijas, imports, eksports, uzņēmēji, diplomātija.*

Latvia and Turkey have long bilateral relations. These bilateral relations have been transformed from theory to concrete steps by agreements. The two countries co-operated on the basis of various agreements. These collaborations are often concentrated in the fields of education, language, culture, sports, commercial, military. The fact that there are large distances between these two countries, and that they have been fighting for independence for many years, has prevented them from getting to know each other earlier.

In the field of diplomacy, two countries need to trust each other in order to establish mutual relations. It is important that the two countries know each other well in order to improve the relations between the Republic of Turkey and the Republic of Latvia and to spread them to different areas. Recognition of the profile of the country in every sense will be important in the investments to be made or in the cooperation to be established. In order to increase cooperation between the two countries and expand them into various areas, the countries must first recognize each other`s potential – learning economic resources, production capacity, basic export and import items.

The mission of the countries is to engage in activities that will increase their recognition among other countries. One of the activities that has achieved recognition is to highlight cultural cooperation between countries.

Learning each other`s culture brings these two countries closer together. Acting with the mission of increasing Turkey`s international awareness, credibility and importance, the Yunus Emre Institute is an important institution, engaged in various activities in order to spread Turkish culture, language and art in Latvia and supports Turkology and Turkish language education through cooperation with educational institutions.[1] There are two Turkology departments in Latvia. The first is the "Centre for Turkish Language and Culture" – established by the University of Latvia in 2004 with the support of TIKA and the second is the "Intercultural Relations Programme between Turkey and Latvia" – established within the Latvian culture Academy in the 2011–2012 academic year.[2]

Notably, there are positive steps to increase cultural cooperation between the two countries through such programmes. Erasmus is the most important exchange programme between the two countries. Through this programme, students realise cultural and language traffic between the two countries. Today, thanks to the efforts of the abovementioned institutions, these two countries have come a little closer to each other despite the geographical distance.

Through the common institutions, cultural cooperation between the two countries has developed considerably, and these are positive steps. However, there is no institution in Turkey that would teach the Latvian language and culture. In order to teach the Latvian language and culture in Turkey, cooperation must be made with educational institutions. Language and culture centres should be established. Conferences should be organised so that academics can exchange ideas. The days of culture should be organised and support for projects such as Erasmus should be increased.

Turkey and Latvia can have a good market status for each other. Although bilateral trade volume is low, trade between the two countries gained momentum with Latvia`s accession to the EU in 2004, reaching $ 361 million in 2014. A total trade volume of $ 291 million occurred between the two countries for the year 2018. Turkey`s share is $ 126 million, while Latvia's share is $ 165 million. Various investments are made by Latvia in the context of friendly relations with Turkey. Between 2002 and 2018, the direct investment of the Republic of Latvia into the

1 Yunus Emre Enstitutusu.– https://www.yee.org.tr/tr/kurumsal/vizyon-misyon.– (Accessed 11.11.2019).

2 Turkiye ve Letonya Iliskileri.– http://www.mfa.gov.tr/turkiye-letonya-siyasi-iliskileri.tr.mfa.– (Accessed 10.11.2019).

Republic of Turkey was $ 91 million. Direct investment from Turkey to the Republic of Latvia is worth $ 74 million.[3] The increases in investments are due to the presence of outsourced loans under suitable conditions and the expectation of stability brought about by EU membership.[4]

The legal framework of bilateral economic relations with Latvia is based on the Double Taxation Prevention Agreement and the Mutual Promotion and Protection of Investments Agreement and the Free Trade Agreement.[5] The agreement on the establishment of the "Joint Economic and Trade Commission (JETCO)" with Latvia was signed during Latvian President Andris Bērziņš visit to Turkey on 16–17 April 2014. All these are steps that improve and facilitate trade between the two countries.[6] Turkey is Latvia`s 17th export and 22nd import partner. Turkey`s most important exports are – the automotive industry, synthetic fibre woven fabrics, gold jewellery, apparel, mineral oils, machine-made carpets, central heating boilers, radiators, packaging materials and cables. The main products imported by Turkey from Latvia are scrap iron/steel ingots, oil-derived oils, live cattle, plywood and coated plates.

There are 51 Turkish companies registered in Latvia. Turkish investments are concentrated in tourism, restaurant, education, logistics, construction, airport operations, ground services. These include companies such as THY, TAV and HAVAŞ. In terms of foreign investment in Latvia, Turkey is 45th level. There are 17 Latvian companies registered in Turkey. Investment products in Latvia are tourism, hospitality and restaurant services. At these rates, the two countries trade relations are still not good. In order to achieve close cooperation in the field of economics, the economic resources of their countries, especially import and export items, and production capacities should be known.[7]

In Latvia, the main sectors that need to attract the attention of foreign investors are transportation, infrastructure, food, timber, mechanical

3 Turkiye ve Letonya Iliskileri.– http://www.mfa.gov.tr/turkiye-letonya-siyasi-iliskileri.tr.mfa.– (Accessed 10.11.2019).

4 Hande Turker, Letonya Cumhuriyeti Ulke Raporu,18.09.2019.– http://izto.org.tr/demo_betanix/uploads/cms/yonetim.ieu.edu.tr/5606_1539948261.pdf.– (Accessed 10.11.2019).

5 Double Taxation Prevention Agreement and the Mutual Promotion and Protection of Investments Agreement was signed,18.02.1997.– https://m.likumi.lv/doc.php?id=23020.– (Accesed 10.11.2019).

6 Turkiye ve Letonya arasında Ekonomık Ilıskıler.– http://riga.be.mfa.gov.tr/Mission/ShowInfoNote/121911.– (Accessed 10.11.2019).

7 Ibid.

engineering and the pharmaceutical industry. In this case, advertising and promotional activities should be carried out in order to attract the attention of Turkish investors in these areas. Investors and entrepreneurs should be supported in this regard.

Investments are concentrated in specific areas. Investments should spread to different areas. For example, in 2010 a contract was signed between "Gama and Latvenergo"[8] for the construction of the Riga Power Station. This is a good sign and indicates that investments are diversifying. The task to increase this diversity and enhance trade relations falls to the business councils, associations and joint economic committees to be established between the two countries. In order to provide this, the Turkish – Latvian Business Council was signed between Latvia and Turkey. The Association of Turkish and Latvian businessmen was founded.

The establishment of these institutions is important for the realisation of trade relations between the two countries. These organisations can help and support entrepreneurs who will invest in these regions. They can prepare guidelines for investors by revealing which areas to invest in through Research and Development studies. These organisations can mediate between entrepreneurs and investors and the state and enable foreign investors to make their investments and/or ventures without being subject to intensive bureaucratic procedures.

In addition, congresses, fairs and conferences should be organised in this field of trade and economics so there will be mutual exchange of ideas between the investors of the two countries. They will also be able to contact the intermediary companies that will make their investments.

The way to improve economic relations between the two countries is based on the development of industrial cooperation. Turkey has developed especially in the defence industry. In this context, by creating common industrial zones, the information of countries can be transferred to each other and joint production can be done. In other words, Turkey and Latvia could be production partners in key instruments in the defence industry.

The tourism area is to be developed between these two countries. Already Turkey is an attraction place for Latvian tourists. In 2018, 65 868 Latvian tourists visited Turkey.[9] The procedure for obtaining

8 Letonya Ulke Bultenı, December, 2011.– https://www.deik.org.tr/uploads/letonya-ulke-bulteni.doc.– (Accessed 11.11.2019).

9 Turkiye ve Letonya arasında Ekonomık Ilıskıler.– http://riga.be.mfa.gov.tr/Mission/ShowInfoNote/121911.– (Accessed 10.11.2019).

a tourist visa between Latvia and Turkey can be facilitated. Work can be done to make Latvia a winter tourist destination for Turkish tourists and to make Turkey a summer tourist destination for Latvian tourists. It is possible to increase these numbers by doing strong PR work. Strong advertising strategies can improve these relationships. In this case, duties fall on Chambers of Commerce, business councils and associations. For example, state-sponsored affordable tours can be arranged to contribute to the recognition of the area.

The fact that Latvia is a member of NATO and the EU supports the political between the two countries. Turkey has supported Latvia`s entry into NATO. Latvia continues to support Turkey`s application to the EU. Since December 2018, Turkey has been contributing to the NATO Force Integration Unit (NFIU), based in Riga, Latvia, attending with a military personnel.[10] Visits by the President and the Foreign Minister are also regularly organised by the two countries. Since Latvia is a NATO-affiliated country, there is also a NATO deployment from Turkey to Latvia and from Latvia to Turkey during any NATO training. Cooperation in the military field in order to benefit from the military experience of the two countries, mutual military exchange programmes can be arranged. Thus, there can be an exchange of ideas on issues such as soldier training techniques and army order.

In addition, since 2002, between Turkey and Latvia within the framework of parliamentary diplomacy, there has been the development of mutual understanding of parliamentarians between the countries, the provision of cooperation and consultation on various issues, closer links were established between the two friendly countries` parliaments, members of Parliament and the country by organising official visits for promotion of friendship between peoples, to meet mutual diplomatic relations in order to assist in the development of covers.

## Conclusions

While Latvia and Turkey appear friendly on paper, more is needed in the global world order. In the global world order, states must know each other's characters well. After this follows the cooperation of the countries. Turkey and Latvia treat each other on the principle of friendship. There is no basis for blaming the people here. States have to make their own

10 Letonya ve Turkıye Arasında Sıyası Ilıskıler.– http://www.mfa.gov.tr/turkiye-letonya-siyasi-iliskileri.tr.mfa.– (Accessed 11.11.2019).

introductions, which is a condition of being international. In this context, sources show that the relations between Turkish and Latvian culture are not sufficient, but although various associations, institutes and universities are working with accreditation of Turkish language culture in Latvia, one cannot say the same for Latvian and Latvian culture in Turkey. Latvia needs to show a more active struggle to explain itself to the Turkish society, and part of that can be achieved through Latvian language courses and culture at these universities. It is also clear that exhibition and festival culture must be spread in order to know the art of Latvian and Turkish culture.

Based on trade and economic relations, trade relations between Turkey and Latvia have not been enough in certain areas. The reality is that Turkey and Latvia have the potential to be a good market for each other. Investors or entrepreneurs of these states should do their job by identifying the needs of their countries and taking risks in these areas where necessary. Buffer institutions should be established between investors or entrepreneurs and the state and institutions should be able to bring together investors and entrepreneurs of the two countries.

According to sources, there are good relations concerning tourism with Turkey, and especially Turkey`s Mediterranean region is a tempting tourist destination for Latvian tourists. To achieve higher productivity, Turkey must do its own advertising well. In the military area, Turkey and Latvia are NATO members and have rights and responsibilities arising from international law. Actually, both countries have values to share with each other about military technique, industry and the order of the military, so this relationship can be strengthened by a programme of mutual military exchange.

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# THE DOCTRINE OF CONTINUITY IN THE RESTORATION OF THE INDEPENDENCE OF THE BALTIC STATES IN THE PERIOD OF 1986–1991

# NEPĀRTRAUKTĪBAS DOKTRĪNA BALTIJAS VALSTU NEATKARĪBAS ATJAUNOŠANĀ 1986.–1991. GADOS

***Keywords:*** *continuity, successor, the Baltic States, international law.*
***Atslēgvārdi:*** *nepārtrauktība, pēctecība, Baltijas valstis, starptautiskās attiecības.*

The doctrine of continuity is a concept created by public international law, which recognises the retention of state legal capacity in circumstances where the state capacity has been externally suspended or restricted by occupation or other violent seizure, or the state has been internally reorganised as a result of social revolutions or similar events. In such cases, the doctrine of continuity recognises the legal continuity of the state, and hence the legal continuity of the state's obligations and rights.

This doctrine differs from the concept of state succession in international law applicable to the emergence of new states in the event of the unification or division of states, and as a result of exercising the right of self-determination by nations. In both cases, there is a direct connection with the concept of state identity: in the first case, continuity means the preservation of the identity of the state concerned; in the second case, succession is the result of the loss of state identity. Significantly, the state

continuity is not governed by any international convention, because it is simply not necessary until three conventions are devoted to state succession, of which only one has come into force.

In theory, continuity is easily distinguishable from succession, but in practice it is not a case. For example, after the collapse of the Soviet Union, the Russian Federation was initially recognised as its successor, but soon it was willing to acquire many attractive powers and rights of the former USSR (nuclear weapon, membership in the UN, embassies abroad, etc.). To obtain them, Russia relied on the doctrine of continuity, recognising itself as a continuation (not a successor) of the USSR, which was actually accepted by the international community.[1]

In the case of the Baltic States, the doctrine of continuity is obviously applicable. However, Russia questions the existence of the occupation and denies the illegality of annexation, while some Western scholars see obstacles to continuity in the protracted occupation (51 years), which in international practice could mean legalisation of the situation, if only most countries recognise it.[2]

The ancient Roman principle *ex injuria jus non oritur* (unjust acts cannot create law) is often invoked and recalled in Latvia, especially with regard to the occupation of 1940 and the illegal annexation of the Baltic republics. There is also a less common principle of Roman law *ex factis jus oritur* (the law arises from the facts), which is recognised in contemporary international law and may even, under certain conditions, legalise internationally unlawful conduct. Such conditions are, by their nature, twofold and are consistent with the generally accepted understanding of international legal custom. One of them requires taking into account the long-term nature of the act or inaction, including illegal activities, the assessment of which is a matter for the national and international community. The second condition requires states, at least most of them, to recognise the factual situation as being legal irrespective of its initial or prior assessment.

For five decades, the majority of countries in the world, including almost all Western democracies, except for Sweden, the Netherlands and some

1 Ziemele I. State Continuity and Nationality: the Baltic States and Russia. Past, Present and Future As Defined by International Law.– Leiden, Boston: Martinus Nijhoff Publishers, 2005.– Pp. 45–62.

2 Mälksoo L. Illegal Annexation and State Continuity: the Case of the Incorporation of the Baltic States by the USSR. A Study of the Tension between Normativity and Power in International Law.– Leiden, Boston: Martinus Nijhoff Publishers, 2003.– Pp. 73–77.

other countries, have not recognised the lawfulness of the occupation and annexation of the Baltic States. The position of the United States, which was largely supported by the activities of the Baltic exiles and diplomats, was particularly consistent and influenced other Western countries. However, the situation on the Baltic issue was far from clear. Albania, Bulgaria, Cuba, China and other countries of the socialist bloc of that time, as well as Brazil, India, Egypt, Japan and several other countries recognised the annexation of the Baltic States as legal. The issue of occupation and annexation of the Baltic States never appeared on the agenda of the UN or its institutions, although some countries raised it. Dangerous tendencies also appeared in the unity of the West when, in the summer of 1974, New Zealand decided to change its position and, in order to improve relations with the Soviet Union, recognised the annexation of the Baltic States as legal. The example of New Zealand was immediately followed by Australia, and it would be difficult to say how the process would develop unless the Baltic exiles, not only in Australia and New Zealand but almost all over the world, would make a fuss, so that in December 1975 the new Australian government overturned the decision of the previous Labour Government. Although New Zealand did not do the same, other countries no longer wanted to repeat Australia`s experience and did not support New Zealand`s stubborn stance.

Taking into account the prevailing position in the international system with regard to non-recognition of the occupation and annexation of the Baltic States, the beginning of the Awakening in Latvia was an important international precondition for applying the doctrine of continuity by restoring the Republic of Latvia proclaimed in 1918 on the basis of its 1922 Constitution. However, in the first year of the Awakening, in 1988, the political situation was not yet mature enough. In that year, the newly formed non-governmental organisations, including the Latvian National Independence Movement (LNIM) and the Popular Front of Latvia (PFL) only spoke of greater democracy, sovereignty, and economic independence within the USSR. In order to achieve its goals, the PFL set even a number of dangerous requirements that would distance Latvia from the restoration of an independent state, including the creation of a new Soviet Union treaty, the constitutional strengthening of the citizens` status of the Latvian SSR and admission of the Latvian SSR to the UN and other international organisations. At one time, the Western countries had already rejected the USSR`s proposal to admit all three Baltic republics to the UN in order to

prevent the legalisation of the unlawful annexation. However, 1988 was an important year with extensive discussions on the actual circumstances of losing the independence of the Latvian state, including Mavriks Vulfsons` public statement on the occupation of Latvia in 1940, which had already laid the foundation for applying the doctrine of continuity to the further path to independence.

The second year of the Awakening began with the first Congress of the LNNK on 18–19 February 1989, which clearly and unambiguously set out in its programme the goal of restoring an independent and democratic Latvian state within 1940, based on the 1922 Constitution of the Republic of Latvia. During this time, LNIM obtained the organisational experience of the Estonian Citizens` Movement and the perfect concept of the restoration of the Estonian state using the principles of the doctrine of continuity. Thus, in the spring–summer of 1989, Latvia came to the identification of citizens of still legally existing state and the establishment of citizens` committees on the basis of a consistent and legally sound doctrine of continuity.

Initially, the political leaders of the Latvian Popular Front strongly opposed the Citizens` Movement initiative as politically unacceptable and practically unenforceable. It was explicitly formulated by PFL leaders Pēteris Laķis, Jānis Škapars, Ivars Godmanis, as well as Andris Plotnieks and Juris Bojārs, proposing to form a new independent and democratic state that would continue and develop the parliamentary and democratic traditions of the Republic of Latvia. This position was reinforced by the PFL Congress in October 1989 and the Popular Front`s electoral platform published in February 1990, before the LSSR Supreme Council elections on 18 March. If the PFL won the elections and the newly elected Supreme Council passed the decision on independence, Ivars Godmanis would offer to strengthen it in two referendums – national and general, in which all citizens would participate, as well as to hold new elections of the Constitutional Assembly.[3] The realization of these intentions would permanently exclude the possibility of the restoration of the independent Latvian state founded in 1918. In fact, the offer of I. Godmanis was closely related to the model approved at the meeting of the Council of the Latvian Scientists` Union on 28 September 1989, which, strangely, for some time was supported as a possible compromise even by one of the leaders of Citizens` Movement Māris Grīnblats until it was rejected by the Board of this movement, rightly seeing it as an essential departure from the doctrine of continuity.

3 Atmoda (19 December 1989).

After winning the elections of the Supreme Council on 18 March 1990, the position of PFL changed almost immediately, possibly influenced by the *restitutio ad integrum* (restoration to the previous state) decisions taken by Lithuania on 11 March and Estonia on 30 March. The PFL completely adopted the model of state reconstruction advocated by the Citizens` Movement based on the doctrine of continuity, which was consistently included in the Declaration of 4 May 1990 "On the Restoration of Independence of the Republic of Latvia". The clear commitment of Latvia and the other Baltic States to restore the once lost statehood was, in fact, the basis for the international community to recognise the independence of the Baltic States as subjects of international law through the weakness of power in the USSR after the August 1991 coup attempt. Not all countries recognised the restoration of the independence of the Baltic States and some considered and still consider them to be newly created independent states. Unfortunately, the UN secretaries-general have repeatedly called the Baltic States the new states that have separated from the USSR. In addition, the UN membership fee for the Baltic States until 1996 was calculated as part of the former USSR membership fee.

Some politicians and scientists in Latvia still believe that instead of rebuilding the country, it would have been better to create a new independent state, which would then be the successor of the USSR, allowing for part of the former Soviet Union military weapons and other assets, as well as foreign loans still payable to the Soviet Union. The creation of a new state would also make it impossible to denationalise property in Latvia. This view cannot be accepted because the reestablishment of the state on the basis of the doctrine of continuity has given Latvia much more. First, it respected the self-determination of the Latvian people and did not legalise the Soviet annexation, as well as restored equity and ensured the unity of the Baltic States. Second, Latvia did not have to grant citizenship automatically to all those who had come here during the Soviet era; Latvia did not have to settle the USSR`s foreign debts; it did not have to take responsibility for the crimes of the USSR abroad; Latvia retained the right to restitution and compensation from aggressor states or their successor states; Latvia regained its former embassy buildings and gold from the Western countries; it restored the international treaties already concluded by the Republic of Latvia and important legal acts of that time, and was able to use and still uses the case law of that time. Last but not least, in its current status, Latvia can prosecute those involved in crimes against peace,

humanity and war crimes and activists of the Soviet regime, claiming to be a civilised member of the international system.

## Conclusions

1. The doctrine of continuity, known in international public law and national constitutional law, is based on the concept of state identity. The state can maintain its identity and legal continuity both through occupation and through unlawful annexation or other shocks to ordinary life.

2. The legal continuity of a state may, however, be affected by customary international law and the principle existing therein *ex factis jus oritur* (the law arises from the facts). This means that an unlawful situation (action or inaction) can also be legalised if it has existed for a long time and has been accepted by a majority of states (at least a large number of states).

3. In the case of the Baltic States, the doctrine of continuity is applied and it is enshrined in the constitutional acts of the Baltic States. However, some countries and international legal experts do not recognise the continuity of the Baltic States on the basis of the duration of their illegal annexation.

4. The research and publications with regard to the continuity of the Baltic States are important and topical not only in the context of the past, but even more – in the context of the present and future, to build and implement both domestic and foreign policy and to explain it to international partners and international community.

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# CRIMINAL ACTIVITY AS PREOCCUPATION CHALLENGING THE STATE OF ESTONIA

# NOZIEDZĪGA DARBĪBA KĀ IZAICINĀJUMS IGAUNIJAS VALSTIJ

***Keywords:*** *law enforcement, crimes, corruption, money laundering, narcotics, family violence, Estonia.*
***Atslēgvārdi:*** *likumsargi, noziegumi, korupcija, naudas atmazgāšana, narkotikas, vardarbība ģimenē, Igaunija.*

## Some generalising notes

In connection with the 100th anniversary of the Republic of Estonia it is proper and pertinent to compose a synopsis of infractions of law (criminal activity) committed in those years. Since 2003, that rather complicated but most rewarding work has been the responsibility of the Ministry of Justice, which also releases publications on criminal activity, e.g., Criminal policy surveys "Criminal activity in Estonia 2018".[1]

Society or "civil society", the phrase enamoured by Hegel, as well as the state have a fixed organisational structure, set forth by universal juridical laws. But in every state they operate differently, in regard of the unique nationalist specificity and historical experience indigenous and *sui generis* to every people. One cannot but remember that every historical epoch is the

1 Leps A. Kuritegevus kui üks peamine 101-aastase Eesti riigi ees seisev mure: Criminality is one of the main concerns of 101-year-old Estonian state.– Tallinn: Kesknädal, 2019.– Lk. 8-9.; Criminal activity in Estonia 2006-2018.–Tallinn, 2018; Leps A. Criminology in Estonia: Research and Teaching in a Historical Perspective. The Estonian State Police.– Tallinn, 1993.– Pp. 57-62.

follow-up of the temporal period precedent, even if the subsequent epoch looks like being exceedingly negative with regard to previous temporal periods. Thence the present infractions of law (criminal activity) are *nolens volens* related to bygone infractions of law (criminal activity).

The property relations applying in the process of social production of people underlie the power relation and their change triggers adoption of new juridical laws, their amendment and complementation, which in its turn impinges on criminal statistics, i.e. structure, dynamics and level of criminal activity. Therefore the crimes against people's life, health and property, as a form of activity spearheaded against juridical laws, reflect the time of their perpetration and foundations of social production and exchange, as well as living conditions of members of society.[2]

None of the statistics is "quite" right... It is perhaps through statistics, which is essentially by and large *evidentiary*, that the famed Albert Einstein arrived at his probability theory. As to this short article by the subscriber, it has attempted to convey only the most *important*. Especially "smoothed out" has been statistics of 1919–1938, in particular regarding the infractions of law or misdemeanours (as you may prefer), in order to render them more or less comparable, both within their corpus and with numerical data of other contrasted years. Unfortunately the Penal Law of 1935 rectified that error just partially. I cannot any longer ask my esteemed teachers, why it was like that? Perhaps the busy hands of naughty politicians also contributed to that "confusion"?

In case of this small article the so-called notes might take ca. 50–100 pages. But then this article would lose sense, because in such format, presented in the present so-called more or less compact form, it still carries meaning and shows us criminal activity by statistics, which reflects relations between people and changes, in the light of juridical laws, during 100 years. Whereas one cannot but mention that the lawyer as a member of society, as a contemporary of the historical epoch, possessing certain philosophical, economic, political and other views must be first honest to himself or herself and to science.

## Criminal activity

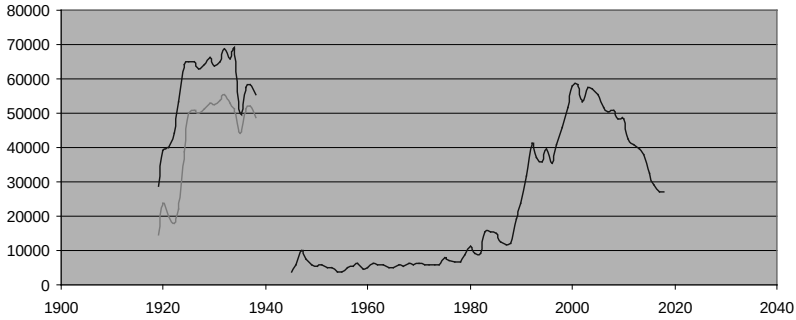
The overview of the change in the number of criminal actions registered in Estonian law enforcement agencies in 1919–2018 (data on time interval 1939–1944 are missing) is provided in Figure 1 (the lower line for 1919–1938

2 Спиридонов Л.И. Теория государства и права.– Москва: [б.и.], 1995.– С. 291–293.

excludes violations of administrative regulations), with criminal activity curve showing in the first place criminal actions committed by employees and unemployed (usually average and poorer layers of population). On the contrary, criminal actions (professional and white-collar criminal actions) of employers, civil servants and municipal officers (usually wealthier layers of population) are not reflected in criminal statistics, more often than not.

*Figure 1*[3]

**Criminal actions registered in Estonian law enforcement agencies in 1919-2018**




The analysis of criminal actions registered in law enforcement agencies reveals that the level of criminal activity in "canonical" Soviet period, i.e. in years 1950–1980, was eight times less than in years 1919–1938 and in Estonia's regained independence period (1992–2000) and nine times lower than in the incipient years of this century. It may be more correct to say that in the aforementioned years it was less by orders of magnitude. The largest ever number of criminal actions in Estonia was registered in 2001 – 58 497 criminal actions. [4] That difference cannot be explained away by possible transmogrification of criminal activity registered in the Soviet period militia (that is the pestilent inherent in all countries), because at that time we were dealing with relatively small income discrepancy due to levelling-off policy and thanks to society almost lacking unemployment. Evidently, the work of militia was not worse either than that of the regained independence period

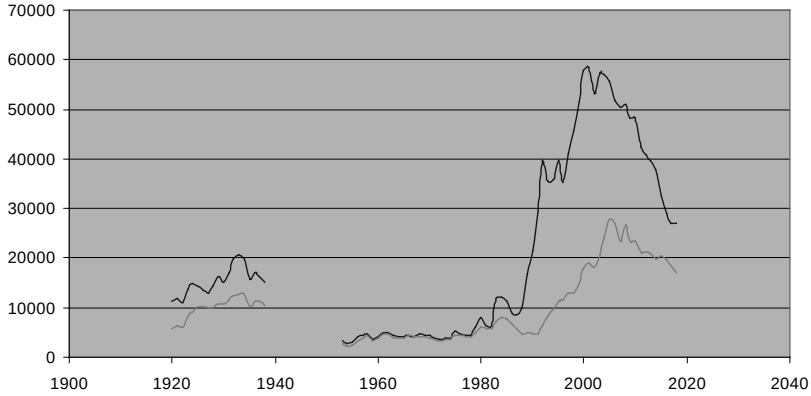
3 All figures have been drawn by Galina Bibikova.

4 Leps A. Crime in Estonia in the period from 1904 to 2007// The fifth year as European Union Member States: Topical Problems in Management of Economics and Law.– Riga: Latvian Academy of Sciences, 2009.– Pp. 329–333; Leps A. The state, dynamics, level and structure of crime in Estonia in 1944-1989// Acta et Commentetiones Universitatis Tartuensis.– Tartu: University of Tartu, 1990.– Pp. 11–27.

police; conducive to discovery of criminal actions (presently police clear-up rate) was also openness of the totalitarian society before the state.

*Figure 2*

**Clearing of crime (a charge being laid) in law enforcement agencies in 1920-2018 (police clear-up rate)**




But in the Soviet period criminal activity nevertheless grew. Because it no longer befitted the dominant ideology, under which the development of socialism was supposed to bring down the level of criminal activity, the data on criminal activity were stamped secret. The author of this article was among the first innovative jurists in the world pioneering in 1991 in taking to use, at contrasting criminal activity of various countries, the most heinous of crimes, i.e. the crime located at apex of "pyramid" of criminal activity – intentional homicide, and compared with its help criminal activity of 95 states of the world (with some states disclosing the data on their criminal activity), as well as criminal activity of continents and different regions. That method can also be used basing on the historical aspect (cf. Figures 1 and 3), and we will notice, that in the "canonical" Soviet period intentional homicides were committed relatively rarely.[5]

Spectacular rise of the number of intentional homicides was evidenced in Estonia in the so-called transitional period (1990–1998). For example,

5 Leps A.. Comparative Analysis of Crime. Estonia, the Other Baltic Republics, and the Soviet Union// International Criminal Justice Review.– Atlanta: Georgia State University, 1991.– Pp. 69-92; Leps A. Kuritegevus Eestis// Eesti Akadeemiline Õigusteaduse Selts.– Tartu: Tartu Ülikool, 1991; Leps A. Kuritegevus kui üks peamine 101-aastase Eesti riigi ees seisev mure// Kesknädal.– (12.06.2019).– Lk. 8–9.

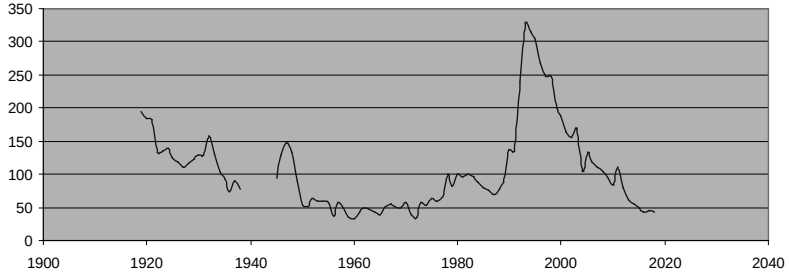
in 1992 there was registered a record number of intentional homicides and attempted murders – 239. It was the flourish of the so-called rapacious capitalism, with one enriching through crime (creating the class of owners, i.e. capitalists!), while juridical laws often "fell silent" like in wartime in ancient Rome. In recent years the number of intentional homicides, first degree murders and voluntary manslaughters has noticeably decreased, however the number of personal criminal actions has soared.[6]

Estonia`s regained independence brought about a lot of problems, besides home rule and freedom: economic hardship, property stratification of population and unemployment. Against that background criminal activity boomed, with the state power struggling to provide security to citizens fearful of being burglarised. True, since 2003 the number of criminal actions has shrunk, but in 2018 it happened mainly on account of property crime – 28 per cent! Essentially, criminal activity is an activity targeted at property in violation of juridical laws, with personal thefts (e.g. smash-and-grab raids) presenting the largest share. Because the theft at ca 200 euro (20 minimum daily rate) is no longer a criminal action, but a mere misdemeanour, criminal activity will naturally drop, because the predominant share of registered criminal actions is constituted by thefts…

## Inmates

*Figure 3*

**Intentional homicides (first degree murders, voluntary manslaughters) and attempted murders registered in Estonian law enforcement agencies in 1919-2018**



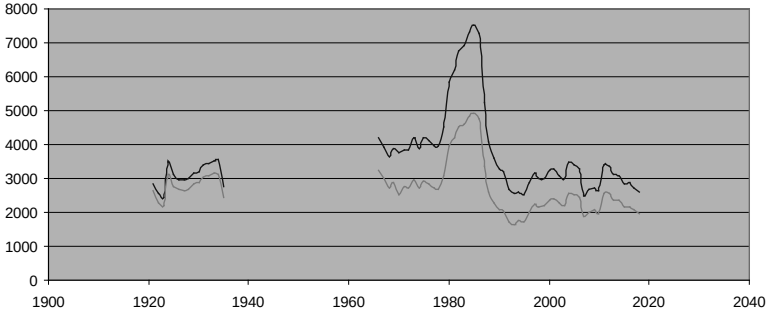

6 Leps A. Kuritegevuse võrdlev käsitlus (2)// Eesti Jurist.– № 2 (2019).– Lk. 120–123; Leps A. Kuritegevus kui üks peamine 101-aastase Eesti riigi ees seisev mure// Kesknädal.– (12.06.2019).– Lk. 8–9; Leps A. Comparative treatment of Crime// Acta et Commentationes Universitatis Tartuensis.– Tartu: Tartu Ülikool, 1991.– Pp. 47–79.

In the Soviet period, the number of inmates was much higher than in other periods (see Figure 4), caused by rather long incarceration terms and also the understanding that in correctional facilities the inmates are "reformed" or re-educate themselves. In the years 1921–1935, inmates averaged 3270 and in the years 1966–1991 – 4800, in the years 1992–2007 they were 2810 individuals, in 2008–2012 – 3480 individuals and in 2013–2017 – 2925 individuals. For clarity only Figure 3 presents numerical data on 10 thous. inmates, which illustrates unidirectional movement of number of inmates and population towards decreasing. Internationally there is used inmates` ratio per 100 thous. residents, whose average ratios in Estonia were: in the years 1921–1935 – 276 individuals, in the years 1966–1991 – 323 individuals, in the years 1992–2007 – 213 individuals, in the years 2000–2008 – 323 individuals and in the years 2012–2018 – 230 individuals. Therefore, as per 100 thousand residents the inmates' ratio has significantly decreased in recent years.[7] In Estonian prisons (penitentiaries) and houses of detention (jails) there were, by the end 2018, 2584 detainees, of whom 2040 were convicted in courts, 530 in custody and 14 apprehended for misdemeanour and placed under arrest.

In 2016, in European Union states there where, as per 100 thous. residents on average 124 inmates, in Estonia that number was 191, in Latvia 224, in Lithuania 254, in Russia 416, but in Finland 57, in Sweden 58 and in Norway 73.

*Figure 4*

**Number of persons convicted by courts in Estonian prisons and their ratio as per 10 000 residents in 1921-2018**




7 Leps A. Kuritegevus kui üks peamine 101-aastase Eesti riigi ees seisev mure// Kesknädal.– (12.06.2019).– Lk. 8–9; Walmsley R. World Proson Population List (twelfth edition); Leps A. Kuritegevus Eestis// Eesti Akadeemiline Õigusteaduse Selts.– Tartu: Tartu Ülikool, 1991.

At the end of 2018, there were 14 minors in prison, of whom 10 were convicted and 4 in custody. The number of minor inmates staying in prison has decreased as per age groups second year running relatively most of all i.e. by end 2018 minor inmates were by half less as compared to two years back. There were no 14-year-olds in prison, there were two 15-year-olds, there were five 16-year-olds and there were seven 17-year-olds. The majority of minors land in prison for property crime. By the end of year 2018, inmates numbered 2461 men (95%) and 123 women (5%). By the end of 2018, inmates numbered Estonian citizens 64% (1662), persons of undefined citizenship 26% (677) and Russian citizens 7% (177).

During the year, the distribution of inmates did not change significantly as per citizenship. From other countries the prisons held Latvian (24), Lithuanian (9), Ukrainian (7), Finnish (4), Serbian (3) citizens; as well as citizens (one from every state) of Afghanistan, Azerbaijan, Georgia, Holland, Kazakhstan, Moldova, Poland, Portugal, Great Britain, Syria, Tunis, Uzbekistan, Belarus. The share of Estonian speaking inmates has kept on the same level, as compared to the earlier data: in 2018 – 40% (1031) and in 2017 – 41% (1037). At the end of year 2018, the share of Russian speaking inmates was 52% (1353). At the end of 2018, Estonian prisons hosted 42 persons sentenced for life (2%), 3% of inmates had to serve over 15 years, 8% of inmates had been put behind bars for 10–15 years, 24% of inmates were incarcerated for 5–10 years, 52% of inmates were only locked up for 1–5 years and 11% were jailed for a period within one year.

In 2018, released from prison as convicted criminals, were 1907 persons. In connection with serving their time 764 convicted criminals or 40.1% of those released from prison were set free. As compared to 2016 and 2017, the share of inmates set free under criminal probation has significantly increased, either set free under suspended sentence (560 persons or 29.4%) or by serving partially the sentenced incarceration i.e. by the so-called shock incarceration (387 persons or 20.3%).

## Summary

*The past.* Law enforcement agencies registered the least number of criminal actions in the "canonical" Soviet period. That fact is corroborated by low numbers of intentional homicides and attempted murders presented on Figure 2. Most importantly that period is characterised by low degree of property stratification and practically non-existent unemployment, resulting in better relations between individuals as compared with the situation evidenced today.

*The modernity.* The early stage of capitalist society, actually rapacious capitalism naturally brought about in Estonia a steep rise in criminal activity; however, in recent years the tide of criminal activity has stemmed, which is caused mainly by decrease of property crime. The number of personal criminal actions has grown, while the number of intentional homicides, first degree murders and voluntary manslaughters has dropped, although within Europe the level of Estonian, Latvian and Lithuanian intentional homicide and first degree murders per 100 thous. residents for 2016 were very high (Russia – 10.8; Lithuania – 5.3; Latvia – 3.4; Estonia – 3.2; Finland – 1.4; Sweden – 1.1; Norway – 0.5), wherefore the levels of criminal activity of those states per 100 thous. residents in 2014: Estonia – 287; Lithuania – 283 and Latvia – 239 seem to be too modest. At the same time, in countries with a high living standard like Finland, Sweden and Norway the level of criminal activity is significantly higher than in Estonia.

Special concerns in Estonia are:

1) Rampant use of narcotic substances, first putting in peril the youth and endangering the existence of the whole nation.

2) The number of corruption criminal actions in 2018 increased as against 2017 by 23%.

3) Money laundering. In 2017, it turned out that the Estonian banks were the "thoroughfare" of dirty money – 1.6 billion US dollars! E.g. through Danske Bank`s Estonian branch 1.8 billion and through Versobank 205 million, through Eesti Krediidipank 121 million, through SEB Pank 32 million, of unknown origin 37 million dollars (Postimees 20.03.2017). But these sums of money are not true.

4) Family violence criminal actions were registered in 2018 by 37% more as compared with 2017.

5) Traffic safety generally and especially traffic criminal actions, often perpetrated by inebriated and intoxicated drivers of motor vehicles.

*The future.* Globalisation, controversial understandings of democracy (the might is power?!), instability of world economy, uncontrollable population growth in the world, terrorism, presenting particular "appeal" for a number of great powers, evidently to divert attention from actual social sore points, consequently also from the causes of criminal activity, like the problems related to the rich and the poor and unemployment, which will evidently also be related to further "developments" in criminal activity in Estonia, if it is proper to formulate it so.[8]

8 Leps A. Kuritegevus kui üks peamine 101-aastase Eesti riigi ees seisev mure.– Kesknädal.– (12.06.2019).– Lk. 8–9.

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# DATU SUBJEKTA PIEKRIŠANAS ESAMĪBAS TIESISKAIS REGULĒJUMS UN PROBLEMĀTIKA

# LEGAL FRAMEWORK AND ISSUES CONNECTED TO THE EXISTENCE OF A DATA SUBJECT'S CONSENT

***Atslēgvārdi:*** *personas neaizskaramība, informētā piekrišana, piekrišana.*
***Keywords****: integrity of the person, informed consent, consent.*

1. Ja fizisko personu datu apstrāde pamatojas uz piekrišanu, pārzinim ir jāspēj uzskatāmi pierādīt, ka datu subjekts ir piekritis savu personas datu apstrādei. "Uzskatāmi" nozīmē – labi uztverami un saskatāmi.

2. Piekrišanas došanas atteikuma gadījumā datu subjekts nedrīkst būt pakļauts negatīvām sekām. Piekrišana nevar būt tāda, ko var tulkot dažādos veidos, tādējādi radot pārpratumus par to, kādam tad mērķim konkrētā piekrišana ir tikusi dota.

3. Pacientu tiesību likums reglamentē, ka informētā piekrišana ir pacienta piekrišana ārstniecībai, kuru viņš dod mutvārdos, rakstveidā vai ar tādām darbībām, kas nepārprotami apliecina piekrišanu, turklāt, dod to brīvi, pamatojoties uz ārstniecības personas savlaicīgi sniegto informāciju par ārstniecības mērķi, risku, sekām un izmantojamām metodēm. Taču, vai pacients saņemot ārstnieciskās personas informāciju par nepieciešamajām manipulācijām apzinās un spēj saprast sekas, un līdz ar to – vai informētā piekrišana būs sniegta nepārprotami?

4. Katram cilvēkam ir tiesības uz dzīvību, brīvību un personas neaizskaramību, tādējādi paziņojums par pacienta datu izmantošanas aizliegumu ir un paliek paša pacienta atbildība.

5. Bērnu personas datu apstrādei piekrišanu pamatā dod to pārstāvji. Vai datu subjektam, kurš ir sasniedzis pilngadību, ir tiesības atsaukt šādu piekrišanu un tiesības tikt aizmirstam? Vai ir nepieciešama jauna piekrišana no datu subjekta, ja turpinās to datu apstrāde, kurai piekrišanu ir devis datu subjekta pārstāvis, tad, kad datu subjekts bija nepilngadīga persona?

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# ĒNU EKONOMIKA UN TĀS APKAROŠANAS SEKAS

# THE SHADOW ECONOMY AND CONSEQUENCES OF ITS COMBAT

***Atslēgvārdi***: *ēnu ekonomika Eiropas Savienībā, IKP.*
***Keywords***: *the shadow economy in Europe Union, GDP.*

Globalizācija un informācijas tehnoloģiju attīstība ir dramatiski mainījusi telpu, kurā ekonomikas vienības veic savas darbības. Tomēr, neraugoties uz mūsdienu tehnoloģiju priekšrocībām, pēdējās desmitgadēs ēnu ekonomika joprojām ir daudzu valstu problēma. Tā bremzē valsts izaugsmi, kaut arī neoficiālais sektors var darboties kā papildu ienākumi, bet ar neoficiālo raksturu saistītās izmaksas ietver izkropļojumus darba tirgū, ieņēmumu zaudēšanu – nepietiekami uzrādītu algu rezultāts. Ierobežotais ražošanas apjoms mēdz kavēt uzņēmumu produktivitāti, procedūru automatizāciju un neveicina elektroniskos maksājumus. Līdz ar to – viens no rezultātiem ir zemāka finansējuma pieejamība noteiktiem iedzīvotāju slāņiem.

Daži novērotāji uzskata, ka ēnu ekonomika tagad ir otra lielākā ekonomika visā pasaulē. Saskaņā ar Starptautiskā Valūtas fonda konstatēto, ēnu ekonomika un korupcija veidojas stingri reglamentētās valstīs ar vāju valsts pārvaldi. Valstīs ar spēcīgām, labi regulētām un efektīvām valdības institūcijām ēnu ekonomika ir mazāk manāma, kā tas secināms, aplūkojot ekonomisko situāciju 90. gadu beigās bijušajās padomju republikās. Toreiz Gruzijas ēnu ekonomika sastādīja 64% no iekšzemes kopprodukta (turpmāk tekstā – IKP), bet Krievijā tā bija aptuveni 44% no IKP. Attīstītajās valstīs ēnu ekonomika parasti ir neliela –

vidēji 10–20% no IKP. Jaunattīstības valstīs tās līmenis ir augstāks, te ēnu ekonomikas īpatsvars ir ap 30–35% no IKP. Ēnu ekonomikas īpatsvars pārsniedz 40% un pat vairāk no IKP lielākajā daļā NVS valstu.

Laika posmā no 2003. gada līdz 2018. gadam vidējais ēnu ekonomikas apmērs 28 ES valstīs samazinājās no 22,6% no IKP 2003. gadā līdz 16,8% no IKP 2018. gadā, taču joprojām tas ir ievērojams, it īpaši Austrumeiropā. Attiecībā uz samazinājumu vai pieaugumu 2018. gadā ēnu ekonomikas apkarošana šajās ES valstīs nav vienota. Lielākajā daļā valstu Eiropā (23 no 28 ES valstīm) ēnu ekonomika sarūk, bet 4 ES valstīs (Bulgārijā, Horvātijā, Ungārijā, Rumānijā) tās apjoms ir palielinājies.[1] Eiropas Savienības dalībvalstīs 2015. gada ēnu ekonomikas vidējais rādītājs bija 18,3% no IKP, 2016. gadā tas samazinājās līdz 17,9% no IKP, 2017. gadā sasniedzot 16,6% no IKP. Visaugstākais ēnu ekonomikas īpatsvars pēdējos trīs gadus saglabājas Bulgārijā – 29,6% no IKP (2017. gadā), savukārt viszemākais tas ir Austrijā – 7,1% no IKP (2017. gadā).[2]

Lielākie ēnu ekonomikas virzītājspēki – attīstītākajās valstīs dominē izvairīšanās no nodokļu maksāšanas un nedeklarēts darbaspēks reģistrētos uzņēmumos. Turpretī jaunattīstības valstīs parasti ir relatīvi lielāks neformālo darbinieku īpatsvars, bezdarbs un pašnodarbinātība, kam seko izvairīšanās no nodokļu maksāšanas, kas lielā mērā atspoguļo iespēju trūkumu oficiālajā nozarē.[3]

Korupcija un ēnu ekonomika ir divas būtiskas problēmas, kas papildina viena otru, radot šķēršļus attīstībai. Korupcija parasti tiek definēta kā publiskā vai privātā sektora resursu ļaunprātīga izmantošana personīga labuma gūšanai, t.sk. kukuļošana un līdzekļu piesavināšanās. Tādējādi korupcijas esamība izraisa neefektīvu valsts resursu sadali vai izšķērdēšanu, palielina uzņēmējdarbības izmaksas, palielina ienākumu nevienlīdzību un nabadzību, vājina valsts un nodokļu sistēmas institucionālo un tiesisko struktūru, mazina sabiedrības uzticēšanos valstij.[4] Ēnu ekonomika apgrūtina

1 Size of the Shadow Economies of 28 European Union Countries from 2003 to 2018.– https://link.springer.com/chapter/10.1007/978-3-030-18103-1_6.– (Resurss apskatīts 12.02.2020.).

2 Size of the shadow economy of 31 European countries in 2017 – macro and adjusted MIMIC estimates. IMW Working paper. Explaining the Shadow Economy in Europe: Size, Causes and Policy Options.

3 Turpat.

4 Corruption and shadow economy in transition economies of European Union countries: a panel cointegration and causality analysis.– https://www.tandfonline.com/doi/full/10.1080/1331677X.2018.1498010.– (Resurss apskatīts 12.02.2020.).

ekonomikas un sociālās politikas plānošanu. Nodokļu ieņēmumu un ēnu ekonomikas apjoma samazināšanās var palielināties, ja valdība paaugstina nodokļu likmes, lai apmierinātu šo nodokļu ieņēmumu samazinājumu, tomēr veiksmīgai ēnu ekonomikas apkarošanai ir nepieciešams visaptverošs reformu komplekss, kas vērsts uz konkrēto valstu raksturīgākajiem virzītājspēkiem. To politikas virzienu izvēlē, kas ir visatbilstošākie Eiropai, ietilpst: normatīvā un administratīvā sloga mazināšana, pārredzamības veicināšana un valdības efektivitātes uzlabošana. Finanšu sektora attīstība un institucionālās kvalitātes uzlabošanās ilgtermiņā arī samazina ēnu ekonomiku.

Latvijā 2008. gadā tika pieņemts Noziedzīgi iegūtu līdzekļu legalizācijas un terorisma un proliferācijas finansēšanas novēršanas likums, kurā līdz 2019. gada 1. jūlijam ir veikti grozījumi 18 reizes, kā arī veiktas izmaiņas Ministru kabineta noteikumos Nr. 237 "Skaidrā naudā veikto darījumu deklarēšanas noteikumi". Minētās izmaiņas normatīvajos aktos Latvijā sāka veicināt ēnu ekonomikas sarukumu pēc ekonomiskās krīzes. Tomēr, kā liecina pētījumi, tad pēdējos trīs gados ēnu ekonomika atkal pieaug (laika posmā no 2016. gada līdz 2018. gadam). Arī Lietuvā ēnu ekonomikas apmērs šajā periodā ir palielinājies par 0,5% līdz 18,7% no IKP, bet Igaunijā turpretī, tas samazinājās par 1,5% (sastādot16,7% no IKP). Baltijas valstīs ēnu ekonomikas galvenā izpausme bija algu samaksa, izmantojot tā sauktos "aplokšņu" vai skaidras naudas maksājumus, tika konstatēts, ka arī Lietuvā un Latvijā ir palielinājies kukuļošanas līmenis.[5]

2018. gadā stājās spēkā vērienīgas nodokļu izmaiņas normatīvajos aktos, piemēram, minimālās algas palielināšanas plāns no 380 eiro uz 430 eiro triju gadu laikā, iedzīvotāju ienākumu progresīvās nodokļu likmes ieviešana un diferencētā neapliekamā minimuma piemērošana par pamatu ņemot algas apmēru, atvieglojumu par apgādājamajiem palielināšana, ienākuma ienākuma nodokļa palielināšana no kapitāla ienākumiem uz 20% u.c.

Kā uzņēmējdarbību veicinošu faktoru mazajiem uzņēmumiem noteikti jāmin tas, ko kaimiņvalsts Igaunija ieviesa daudzus gadus atpakaļ – uzņēmuma ienākuma nodokļa atcelšanu reinvestētai peļņai, to palielinot, savukārt, uz 20% sadalītai peļņai. Nodokļu reformas rezultātā liels uzsvars tika likts arī uz mikrouzņēmumu nodokļu izmaiņām,

5 Latvia's shadow economy growing again, suggests research.– https://eng.lsm.lv/article/economy/economy/latvias-shadow-economy-growing-again-suggests-research.a319056/.– (Resurss apskatīts 13.02.2020.).

samazinot maksimālo apgrozījumu gadā no 100000 eiro uz 40000 eiro, kā arī darbinieku nodarbinātībā. Izveidojot šo nodokli 2010. gadā, pēckrīzes periodā, tā mērķis bija mazināt administratīvo un nodokļu slogu nelieliem uzņēmumiem, lai sniegtu tiešu atbalstu uzņēmējdarbības vides attīstībai Latvijā, īpaši saimnieciskās darbības sākuma periodā, kā arī nozarēs ar zemu ienākuma līmeņa potenciālu, vienlaikus ievērojot sabiedrības kopējās intereses godīgas konkurences un sociālās drošības jomā. Diemžēl, gadu gaitā izveidotais nodoklis uzņēmējdarbības atbalstam sākuma periodā tika izmantots kā nodokļu apiešanas veids un vairs neattaisnoja tā sākotnējo mērķi.

Saskaņā ar jaunākajiem aptaujas datiem ēnu ekonomika Latvijā 2018. gadā pieauga par 2,2%, salīdzinot ar 2017. gadu, veidojot 24,2% no kopējā IKP. Tas ir satraucošs pieaugums. Galvenās ēnu ekonomiku veidojošās komponentes 2018. gadā Latvijā bija aplokšņu algas, neuzrādītie ienākumi un nelegālie darbinieki.[6] Saskaņā ar Latvijas Republikas Finanšu ministrijas prognozēm, ēnu ekonomikas īpatsvaram vajadzēja sarukt par 1% katru gadu sākot ar 2018. gadu līdz 19,9% no IKP 2019. gadā.

Lai arī ēnu ekonomikas rādītāji joprojām ir augsti, Valsts ieņēmumu dienesta apkopotie dati rāda, ka Latvijā nodokļu reformas rezultātā, kopbudžeta ieņēmumi kā 2018. gadā, tā 2019. gadā ir palielinājušies. 2019. gada 1. pusgadā faktiski tika iekasēti 4,77 miljardi eiro, kas ir par 0,12 miljardiem eiro jeb 2,6% vairāk nekā 2018. gada attiecīgajā periodā, tādējādi nodrošinot ieņēmumu plāna izpildi 101,9 % apmērā.[7]

Ieņēmumi no valsts obligātās sociālās apdrošināšanas iemaksas 2018. gadā bija par 14,7% lielāki nekā gadu iepriekš. Savukārt apkopotā informācija par 2019. gada 7 mēnešiem liecina par 10,5% pieaugumu, salīdzinot ar 2018. gada attiecīgo periodu, t.i., tie ir 2 miljardi eiro.

Salīdzinot ar 2018. gada septiņiem mēnešiem, būtiski pieauguši ir arī pievienotās vērtības nodokļa ieņēmumi. 2019. gada septiņos mēnešos šie ieņēmumi ir 1,46 miljardi eiro, kas ir par 0,12 miljardiem eiro jeb 8,9% vairāk nekā 2018. gada attiecīgajā periodā. Visvairāk plānoto ieņēmumu apmēru 2019. gada septiņos mēnešos pārsniedz valsts sociālās apdrošināšanas obligāto iemaksu un iedzīvotāju ienākuma nodokļa ieņēmumi. Iedzīvotāju

6 Ēnu ekonomika aug. Kā to mazināt?.– https://lvportals.lv/norises/304301-enu-ekonomika-aug-ka-to-mazinat-2019.– (Resurss apskatīts 13.02.2020.).

7 VID administrējamie ieņēmumi 2019. gada 1. pusgadā.– https://www.vid.gov.lv/lv/vid-administretie-kopbudzeta-ienemumi-2019gada-pirmaja-pusgada-477-miljardi-eiro.– (Resurss apskatīts 13.02.2020.).

ienākuma nodokļa ieņēmumi 2019. gada septiņos mēnešos ir 1,02 miljardi eiro, kas, salīdzinot ar 2018. gada attiecīgo periodu, ir par 0,08 miljardiem eiro jeb 8,4% vairāk. Minēto nodokļu ieņēmumu pieaugumu nodrošina gan nodarbināto skaita, gan darba ienākumu pieaugums. Iedzīvotāju ienākuma nodokļa ieņēmumus ietekmē atmaksātās summas, kam ir tendence palielināties. 2019. gada septiņos mēnešos no iedzīvotāju ienākuma nodokļa atmaksāti 134,70 milj. eiro, kas ir par 13,04 milj. eiro jeb 10,7% vairāk nekā 2018. gada attiecīgajā periodā.[8]

## Secinājumi un priekšlikumi

Ēnu ekonomika joprojām ir aktuāls jautājums un rada rūpes visu pasaules valstu valdībām. Tās galvenie indikatori ir ekonomiskās sistēmas nepilnības un politikas neatbilstību sekas (ekonomiskā sistēma ar pārmērīgu nodokļu slogu, fiskālais un morālais spiediens, sociālā sistēma, kultūras sistēma, valsts pārvaldes īpatnības u.c).

Lielākie ēnu ekonomikas virzītājspēki – attīstītajās valstīs dominē izvairīšanās no nodokļu maksāšanas, pastāv nedeklarēts darbaspēks reģistrētos uzņēmumos. Ēnu ekonomikas pamatcēloņu identifikācija ir priekšnoteikums, lai izstrādātu efektīvus instrumentus tās novēršanai, atbilstoši katras valsts ekonomiskajai un sociālajai situācijai, jo nav vienotas sistēmas, kas derētu visām valstīm.

Neskatoties uz nodokļu ieņēmumu palielinājumu, Latvijā joprojām pastāv augsts ēnu ekonomikas īpatsvars, salīdzinājumā ar pārējām Baltijas valstīm, kurās ēnu ekonomikas īpatsvars 2018. gada beigās nesasniedza 20% no IKP.

Valdības ierosinājumi ēnu ekonomikas mazināšanai: atsevišķu nodokļu politikas pārskatīšana, skaidras naudas darījumu uzraudzība un ierobežošana. Valsts ieņēmumu dienests turpinās veikt pārbaudes uzņēmumos, lai pārliecinātos, kā tiek ievērota Noziedzīgi iegūtu līdzekļu legalizācijas un terorisma un proliferācijas finansēšanas novēršanas likuma prasību izpilde. 2020. gadā plānotas vairāk kā 2000 pārbaudes.

Uzņēmējdarbības veicināšanai un biznesa ideju attīstībai būtu jāievieš vienkāršāks nodokļu režīms mazajiem uzņēmumiem. Latvijā ir salīdzinoši maiga sodu politika. Ieguvumiem, ko uzņēmējs, maksājot nodokļus, saņem, ir jābūt lielākiem nekā izvairoties tos maksāt.

8 Kopsavilkums par budžeta ieņēmumu daļas izpildi 2019.gada 7 mēnešos.– https://www.vid.gov.lv/lv/kopsavilkums-par-budzeta-ienemumu-dalas-izpildi-2019gada-7-menesos.– (Resurss apskatīts 14.02.2020.).

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# PERSONAL DATA PROTECTION IN LITHUANIA: THEORETICAL AND PRACTICAL ASPECTS

# PERSONAS DATU AIZSARDZĪBA LIETUVĀ: TEORĒTISKIE UN PRAKTISKIE ASPEKTI

***Keywords:*** *personal data, personal data protection, principles relating to personal data processing.*
***Atslēgvārdi:*** *personas dati, personas datu aizsardzība, personas datu apstrādes principi.*

***Abbreviations:*** *GDPR – the General Data Protection Regulation, CAO – the Code of Administrative Offences of the Republic of Lithuania, LLPPD – the Law of the Republic of Lithuania on Legal Protection of Personal Data, SCL – the Supreme Court of Lithuania, SACL – the Supreme Administrative Court of Lithuania, VRAC – Vilnius Regional Administrative Court, SDPI – the State Data Protection Inspectorate.*

In these days, personal data protection is a particularly important area of human rights protection. In the developed countries, human rights and personal data protection, protection of personal privacy form one of the central topics of modern human rights, it is ascribed to modern rights which receive special attention in democratic societies. In a modern legal society, the balance between public and private interests is crucial. This is why *personal data protection* poses the goal of disseminating information and the rights with an emphasis on respect for private and family life.

In Lithuania, personal data are subject to legal protection which is regulated by the Constitution of the Republic of Lithuania and the Law of the Republic of Lithuania on Legal Protection of Personal Data (LLPPD),

the Law of the Republic of Lithuania on Electronic Communications, as well as by the Law of the Republic of Lithuania on the Legal Protection of Personal Data processed in the Framework of Police and Judicial Cooperation in Criminal Matters, the Code of Administrative Offences of the Republic of Lithuania (CAO), and other legislation. In accordance with these laws, personal data protection implies a set of legal, technical and organisational measures designed to protect personal data from unauthorised and accidental processing because it is human constitutional right to privacy.

The State Data Protection Inspectorate (SDPI), which is responsible for ensuring protection of the right to the privacy of the individual and that care would be taken of it when processing personal data in Lithuania, is considered to be the main personal data protection supervisory authority in Lithuania.

The relevance of personal data protection has increased in particular after the implementation of the European personal data protection reform, and once the General Data Protection Regulation (GDPR) has been started to be applied. The Regulation sets out detailed requirements for the collection, storage and management of personal data that apply to companies and organisations. The Regulation applies to European organisations processing personal data of individuals within the European Union (EU), and organisations operating outside the EU whose activities are focused on the EU population. This definitely triggered people's interest in protection of their data and defence of their rights.

In order to protect personal data against unlawful and accidental processing of personal data, it is certainly necessary to know its definition. The GDPR defines *personal data* as any information relating to an identified natural person or who can be identified (data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.[1] Thus, *personal data*, when

1 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), Article 4 (1).– https://eur-lex.europa.eu/eli/reg/2016/679/oj.– (Accessed 3.02.2020).

narrowly interpreted, is any information relating to a living individual who is or can be identified. Different information that, when collected all together, may reveal the identity of a specific individual, is also *personal data*. De-identified personal data, encrypted personal data or personal data that *have undergone pseudonymisation*,[2] but that can be used for re-identification of the individual, remain personal data and are subject to the GDPR.

The protection of personal data under the GDPR is granted irrespective of technologies used to process such data. It is "technology-neutral" and applies to data processing by both automated and non-automated means if data are sorted as per pre-defined criteria (for example, alphabetically). It is also irrelevant how data are stored: in IT system, using video surveillance or in paper form. In all these cases, personal data are subject to protection requirements laid down in the GDPR. In some cases, sector-specific legislation applies, for example, the use of location data or cookies is regulated by the ePrivacy Directive.[3]

It should be stressed that legal entity code, e-mail address (for example, info@įmonė.com), anonymised data are not considered to be personal data. Broader analysis of the definition of personal data according to the Data Protection Directive is given in Article 29 Data Protection Working Party's Opinion 4/2007 on the concept of personal data.[4] In this opinion, the Working Party provides guidance on how the concept of personal data in Directive 95/46 /–EC and related Community legislation should be understood and applied in different situations. The general context is mentioned that European legislators intended to establish a broad concept of personal data,

2 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), Article 4 (5).– https://eur-lex.europa.eu/eli/reg/2016/679/oj.– (Accessed 3.02.2020).

3 Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws.– https://eur-lex.europa.eu/eli/dir/2009/136/2009-12-19.– (Accessed 3.02.2020.).

4 Opinion 4/2007 on the concept of personal data.– https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2007/wp136_en.pdf.– (Accessed 3.02.2020).

but it, however, is not limitless. It should be borne in mind that the purpose of the rules contained in the Directive is to protect the fundamental rights and freedoms of individuals, first of all their right to privacy with respect to the processing of personal data. For this reason, these Rules are designed to be applied in cases where the rights of individuals may be at risk from which they need to be protected. The scope of data protection rules should not be expanded too much. However, on the other hand, an inappropriate restriction on the concept of personal data should also be avoided. The Directive defines its scope, excluding some actions therefrom; the Directive allows to be flexible when applying the rules for actions falling within its scope. Data protection authorities perform an important function in striving for the right balance in the application of the Directive.[5]

Article 5 (1) and (2) of the GDPR[6] provide that personal data must be processed in accordance with the following principles:

1) processed lawfully, fairly and in a transparent manner in relation to the data subject (lawfulness, fairness and transparency);
2) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, for scientific or historical research purposes or statistical purposes shall, in accordance with Article 89 (1) of the GDPR, not be considered to be incompatible with the initial purposes (purpose limitation);
3) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (data minimisation);
4) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (accuracy);
5) 4.5.2016 EN Official Journal of the European Union L 119/35 (1) Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the

5 Opinion 4/2007 on the concept of personal data.– https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2007/wp136_en.pdf.– (Accessed 3.02.2020).

6 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), Article 5 (1), Article 5 (2).– https://eur-lex.europa.eu/eli/reg/2016/679/oj.– (Accessed 3.02.2020).

provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1);

6) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed;
7) personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89 (1) of the GDPR, subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject (storage limitation);
8) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (integrity and confidentiality);
9) the data controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 (accountability).

It should be stressed that, in accordance with the above principles of personal data processing, a company or organisation may process personal data only in the context of the following circumstances:

1) with *the consent* of the persons concerned;
2) when *contractual obligation* exists (under the contract between the company or organisation and the client);
3) for compliance with *a legal obligation* (as laid down in EU or national law);
4) data processing is necessary for the performance of a task carried out *in the public interest* (as laid down in EU or national law);
5) for the protection of *vital interests* of any individual;
6) for *the legitimate interests* of the organisation, but only after verifying that it does not significantly affect the fundamental rights and freedoms of the data subject. Personal data may not be processed for a legitimate interest if the rights of the individual prevail over the interests. Specific circumstances shall be taken into account in assessing whether the legitimate interests of the company and of the organisation to process the data prevail over the legitimate interests of the persons concerned.

Regulation under the GDPR is worth mentioning, i.e. that companies or organisations need to take organisational and technical measures to ensure the protection of personal data in the company or organisation, and in order that other requirements for compliance with the GDPR would be implemented. In the event of failure to take adequate measures to fulfil these requirements, the company or organisation will expose itself to the risk of receiving a corresponding fine and claim for damages. Given that in companies or organisations personal data are usually processed by their employees and in order to manage the risk of personal data security breaches organisations routinely give instructions to their employees to sign agreements (commitments) whereby the employees are informed of the requirements provided for in the GDPR, reasonableness of personal data processing, procedures, fines and the appropriate responsibilities assumed in the area of personal data protection, etc.

Despite many requirements and measures established, that are being taken or that have already been taken by companies or organisations, however, a number of questions are reasonably emerging: whether such measures of the employer are lawful and can be effective in ensuring compliance with the requirements of the GDPR? Whether personal data protection can be ensured in such ways? Even with certain legal requirements and employer procedures and measures in place, there are cases where personal data breaches inevitably occur. What should be done where there are suspicions of a breach of the right to personal data protection?

There are three options:

1) *to lodge a complaint with the national* data protection authority. The authority shall examine the complaint and shall notify within three months on the progress or outcome of its examination;
2) *to take legal actions against the company or organisation*. You can bring a legal action against the company or organisation if you believe that it has breached your rights to data protection. This means that you cannot lodge a complaint with the national data protection authority whenever you want;
3) *to take legal actions against the data protection authority*. If you believe that the data protection authority failed to adequately examine your complaint, you are not satisfied with its answer, or it fails to notify you within three months of the date on which the complaint has been lodged on the progress or outcome of complaint examination, you can bring a legal action against the data protection authority.

Sometimes a company, in respect of whom a complaint has been lodged, processes data in different EU Member States. In such a case, the competent data protection authority shall examine the complaint in cooperation with the data protection authority of other EU Member States.[7] This one-stop-shop mechanism ensures a more efficient examination of complaints. For example, it may help to link your complaint to similar complaints that have been lodged in other EU Member States. The main information point is the data protection authority with whom you have lodged your complaint. For example: *You love running. You recently bought a watch that measures your heart rate and your running speed per kilometre, tracks your route, and collects other related data. You upload all your data on a website. You suddenly realize that your data has been confused with another person's data. In such case, you can lodge a complaint with the security authority against the website.*[8]

It is worth mentioning that in Lithuania, after the entry into force of the GDPR, the SDPI carried out inspections in the following sectors:

1) in leasing companies for implementing the data minimisation principle in processing personal data for the purpose of concluding and executing the lease contract, and informing data subjects of personal data processing (28 October 2019);[9]
2) in hotels for implementing the data minimisation principle in processing personal data of their guests (26 September 2019);[10]
3) in sports clubs for the lawfulness of biometric data processing carried out (29 May 2019);[11]

7 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), Article 60.

8 Data protection.– https://ec.europa.eu/info/law/law-topic/data-protection_en.– (Accessed 3.02.2020).

9 Atlikti nuomos paslaugas teikiančių bendrovių tikrinimai dėl asmens duomenų tvarkymo.–https://vdai.lrv.lt/lt/naujienos/atlikti-nuomos-paslaugas-teikianciu-bendroviu-tikrinimai-del-asmens-duomenu-tvarkymo.– (Accessed 3.02.2020).

10 Viešbučiai patikrinti dėl klientų asmens duomenų tvarkymo registracijos tikslu.– https://vdai.lrv.lt/lt/naujienos/viesbuciai-patikrinti-del-klientu-asmens-duomenu-tvarkymo-registracijos-tikslu.– (Accessed 3.02.2020).

11 Sporto klubai tvarkydami biometrinius duomenis neužtikrina Bendrojo duomenų apsaugos reglamento reikalavimų.– https://vdai.lrv.lt/lt/naujienos/sporto-klubai-tvarkydami-biometrinius-duomenis-neuztikrina-bendrojo-duomenu-apsaugos-reglamento-reikalavimu.– (Accessed 3.02.2020).

4) for the lawfulness of personal data processing for direct marketing and loyalty programme purposes (26 September 2018).[12]

Inspection summaries:

1) Implementation of the data minimisation principle. The inspections revealed that 8 out of 16 lease companies are properly implementing the data minimisation principle, and 8 companies fail to ensure this principle and personal data that they process are inadequate, inappropriate and the data other than those needed to achieve the stated purposes are processed.
2) Processing of customer personal data for registration purposes. Inspections of 18 hotels revealed that 2 hotels failed to implement the data minimisation principle because they did not justify why they needed to gather information about the customer's place of birth. Among other things, 4 hotels had breached an obligation imposed by the GDPR to maintain records of data processing activities.
3) Biometric data processing. Inspections of three company-owned sports clubs for biometric data processing revealed that the companies maintain fingerprinting models, which are known as binary codes, for the purposes of access to sports clubs and workplace control. The SDPI issued instructions to the companies inspected to eliminate identified breaches of the GDPR. One of the companies was ordered to suspend processing of customer fingerprint models until data protection impact assessment will be carried out and compliance with all GDPR requirements will be ensured. Two companies were ordered to discontinue processing of staff fingerprint models. All three companies were ordered to ensure technical and organisational data security measures.
4) The inspections revealed that 11 out of 12 inspected companies process personal data for the purposes of loyalty programmes and direct marketing. The following aspects were assessed during the inspections: legal conditions for the processing of personal data; the scope of the personal data processed; information provided to data subjects; the exercise of the right of the data subject to object to the processing of their personal data for direct marketing purposes; terms of retention of personal data.

12 Asmens duomenų tvarkymo tiesioginės rinkodaros ir lojalumo programos tikslais teisėtumo patikrinimus rezultatu apibendrinimas.– https://vdai.lrv.lt/uploads/vdai/documents/files/Apibendrinimasdeltiesioginesrinkodarosirlojalumo20180926.pdf.– (Accessed 3.02.2020).

It is clear from the analysis of the statistics on the performance of the SDPI for the three quarters of 2019 that the SDPI received 97 data breach notifications, in 83 of these cases there was a loss of confidentiality (unauthorised access or disclosure), in 11 – loss of access (loss, destruction of personal data), 7 – loss of integrity (unauthorised modification of personal data). 14 cases of breach were identified through the inspections.[13]

It is clear from the 2018 and 2019 summaries of court decisions in the field of personal data protection prepared by the SDPI that in 2018, the courts formed case law related to the legal regulation of personal data processing, which was in effect before the GDPR became applicable. The courts also commented on the imposition of a fine under Article 82 of the CAO,[14;15] after the entry into force of the new version of the LLPPD, on the employer`s position when the employees collect personal data on work computers,[16] and on video surveillance for personal use.[17]

During 2019 (until November 25), the administrative courts have examined nine cases (whose judgements or rulings have already taken effect) on the decisions adopted by the SDPI, four of them by the VRAC (no appeals have been brought before the court against them under the administrative procedure), and five by SACL. Seven cases ended in the rejection of appeals, in two cases the court (SACL) repealed the decisions of the SDPI, i.e. instructions of 2017.[18] By the subject, the court judgements and rulings covered the following personal data processing issues:

1) on video surveillance by a natural person when video surveillance is directed to the outside of the data controller's (i.e. person who performs video surveillance) private sphere (VRAC);[19]

13 Naujienos.– https://vdai.lrv.lt/lt/naujienos/2019-m-triju-ketvirciu-valstybines-duomenu-apsaugos-inspekcijos-veiklos-statistika.– (Accessed 3.02.2020).

14 Administrative misconduct case No AN2-411- 315/2018 of Vilnius Regional Court.

15 Administrative misconduct case No eAN2-466-654/2018 of Vilnius Regional Court.

16 Case No I-5312- 142/2016 of Vilnius Regional Administrative Court; the Ruling of the SACL in the administrative case No A-622-525/2018).

17 Case No A-1452-442/2018 of the SACL

18 Summary of the court judgements adopted in 2019 in proceedings for decisions of or omissions by the State Data Protection Inspectorate.– https://vdai.lrv.lt/uploads/vdai/documents/files/Teismu%20sprendimu%202019%20m_%20apibendrinimas%202020-01-08.pdf.– (Accessed 3.02.2020).

19 Administrative case No eI-2126-815/2019 of the VRAC of 2 April 2019.– https://eteismai.lt/byla/25411212458914/eI2126-815/2019.– (Accessed 3.02.2020).

2) on the exact identification of a person who electronically orders food to be delivered to the home (SACL);[20]
3) rejection or termination of examination of complaints that are outside the competence of the Inspectorate:
   3.1. on video surveillance by a natural person for personal purposes (SACL);[21]
   3.2. on the right of the SDPI to assess procedural documents submitted to the court (2 judgements adopted by the VRAC);[22;23]
4) on the disclosure of employee data to an employment agency (VRAC);[24]
5) on the right of police officers to collect data on the family members of the offender in investigating administrative misconduct cases and in drawing up protocols of administrative offenses (SACL);[25]
6) on the lawfulness of submitting personal data of the debtor to third parties and on the requirements for such data submission (SACL);[26]
7) on the lawfulness of the actions of the State Tax Inspectorate in collecting personal data from the Population Register (SACL).[27]

## Conclusions

The relevance of personal data protection has increased in particular after the implementation of the European Personal Data Protection Reform, and once the GDPR has been started to be applied. The Regulation sets out detailed requirements for the collection, storage and management

20 Administrative case No A-327-525/2019 of the SACL of 24 April 2019.– https://eteismai.lt/byla/61542643097729/A-327-525/2019 .– (Accessed 3.02.2020).
21 Administrative case No A-518-525/2019 of the SACL of 8 May 2019.– https://e-teismai.lt/byla/218036081366434/A518-525/2019.– (Accessed 3.02.2020).
22 Judgement of the VRAC of 15 May 2019 in the administrative case No I-822-643/19.– https://eteismai.lt/byla/78733819773806/I-822-643/2019.– (Accessed 3.02.2020).
23 Judgement of the VRAC of 14 June 2019 in the administrative case No I-1024-643/19.– https://eteismai.lt/byla/180185675341950/I-1024-643/2019.– (Accessed 3.02.2020).
24 VRAC, 14 June 2019.– https://eteismai.lt/byla/164682627848380/eI-1345-643/2019.– (Accessed 3.02.2020).
25 SACL, 30 May 2019.– https://eteismai.lt/byla/177061741703523/A-511-822/2019.– (Accessed 3.02.2020).
26 SACL, 28 August 2019.– https://eteismai.lt/byla/91370346567150/eA-728-968/2019?word=a4-1212/2006.– (Accessed 3.02.2020).
27 Ruling of the SACL of 16 October 2019.– https://eteismai.lt/byla/230508935503748/A-1156-822/2019?word=vie%C5%A1a%20tvarkara%C5%A1%C4%8Di%C5%B3%20paie%C5%A1ka.– (Accessed 3.02.2020).

of personal data that apply to companies and organisations. The Regulation applies to European organisations processing personal data of individuals within the EU, and organisations operating outside the EU whose activities are focused on the EU population. This definitely triggered people's interest in protection of their data and defence of their rights.

*Personal data,* when narrowly interpreted, is any information relating to a living individual who is or can be identified. Different information that, when collected all together, may reveal the identity of a specific individual, is also *personal data*. In GDPR Article 29 Data Protection Working Party's Opinion 4/2007 on the concept of personal data, the Working Party provides guidance on how the concept of personal data provided in Directive 95/46/EC and related Community legislation should be understood and applied in different situations. The general context is mentioned that European legislators intended to establish a broad concept of personal data, but it, however, is not limitless. The four main components are closely interrelated and interdependent, and all together they allow determining whether information should be considered to be "personal data", i.e. "any information", "person related information", "natural person", "identified or identifiable".

The GDPR regulates that companies or organizations need to take organisational and technical measures to ensure the protection of personal data in the company or organisation, and in order other requirements for compliance with the GDPR would be implemented. In the event of failure to take adequate measures to fulfil these requirements, the company or organisation exposes itself to the risk of receiving a corresponding fine and claim for damages.

The performance indicators of the State Data Protection Inspectorate, which is the Lithuanian personal data protection supervisory authority, and the case law show that the country's society is becoming more mature, the organisations are paying increasing attention to proper personal data processing. The GDPR helps better protect human rights to the protection of personal data, and the companies have become more transparent.