# Rights and freedoms in Latvian constitutional law

by Giuseppe Franco Ferrari

**Abstract:** The article provides an assessment of the recognition of rights and freedoms in the Constitution of Latvia through an historical perspective. Remarkably, the focus is devoted to the relevance of the introduction of Chapter 8 of the Basic Law following the independence from the Soviet Union in the 1990s'. The text discusses also the issue of the protection of individual rights for non-ethnic nationals, in the context of a country home to minority groups of considerable size.

**Keywords:** Latvian Constitution of 1922; Fundamental Rights; Continuity of the State of Latvia.

## 1. Some historical premises



The history of the Baltic area has been traditionally turbulent: since the middle ages it has been a crossroad of different nations, moving in search of enduring settlements in a strategic position, a sort of junction between northern seas and rich hinterlands. During the centuries the juxtaposition of ethnic groups, overlapping on social, religious and economic evolutions, has been the fertile ground for a unique mix of institutional transformations in a relatively small territory. During the XIII Century up to five different Baltic and Baltic-Finnish groups were settled down in the three areas that presently constitute Latvia, that is Courland (Kurzeme), Latgallia (Latgale) and Semigallia (Zemgale), and also sparsely occupied some land inhabited in prevalence by Lithuanians. Over the centuries some of the languages spoken by some of such ethnic groups have disappeared and it took at least three hundred more years before a Latvian people could consolidate. Meanwhile, a tightly woven texture of Teutonic knights, local aristocracy, bishops and archbishops of Bremen and Riga, merchants living in the port towns, craftsmen belonging to gilds and expansive aspirations of the kings of Denmark made up a patchwork of institutions and a network of social relations.

Only for short periods some provisional agreements provided a temporary consolidation of the coexistence of ethnic groups and political powers: among such events the general Diet of Riga in 1435; the dissolution of Livonia under the pressure of Ivan IV the Terrible in 1582; the approval of the pacta subiectionis between the Teutonic Order and the King of Poland Sigismund II in 1561, which led to the "Union of Lublin" and to a general agreement with the Kingdom of Poland-Lithuania under

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the leadership of the Kettler Princes and to the foudation of colonies in Gambia and Tobago. The Russian domination of Livonia in the XVIII Century, after the peace of Nystad in 1721, was another period of relative stability, above all during the enlightened kingdom of Queen Katherin II (1762-1796), although the treatment of aristocratic benefits and the status of peasants kept on being controversial, along with the problems of the relationship between the urban population, mainly of German ancestry, and nucleuses of Russians in the countryside. The problem of the condition of peasants was only partially solved in 1804 by a famous ordonnance of Czar Alexander I, which formally abrogated the previous condition of serfdom but preserved a bulk of obligations and chores (corvées), transforming a legal dependence into an economic one: therefore, the social tensions were not softened. Such measure somehow paved the way to an industrialization process, that also implied a massive urbanization. Between 1862 and 1913 the population of Riga, for instance, grew five times, and the Latvian component increased from 24 to 40%.

At the same, the XIX century is the period when the growing territorial and social mobility stimulated the perception of a national identity, stirred by the coexistence of several ethnic groups. The Latvian language came to be used as a literary instrument by German and local authors and to be diffused through the recent born newspapers, the cultural societies and academies, and the school teaching, when it was possible to resist the efforts of russification on one side and the economic prevalence of the German middle class on the other.



The idea of a Latvian people and of a separate nationality was born in this period, even if its start is normally identified with the publication back in 1796 of the book "Die Letten" by Garlieb Merkel. Authors such as Johann Georg Hartmann and Johann Gottfried Herder also lived several years in Livonia and contributed to formulate the concept of Latvian people (tauta), that had to overcome the traditional identity difference between residents in Curland, Livonia and Vitebsk.

Even during the hard life of the Latvian Republic, between 1920 and 1934, the extreme fragmentation of the party system, counting up to 27 parties represented in Parliament went hand in hand with the difficult coexistence between ethnic groups. While the national literature was establishing itself thanks to some important emerging authors, the number and dimension of national minorities was really impressive: about one quarter of the population was composed by Russians, Poles, Jews, Baltic Germans and Swedish people. The participation of Latvia to the "sanitary cordon" build up by the Baltic States against bolshevism could only deepen the divide between the Russian minority and the Latvian nationals, at least up until the 1932 non-aggression covenant and again after the 1934 Baltic agreement. In the final years of the democratic system the clash between nationalities became really harsh, preparing the inevitable final confrontation during the incoming war.

The forced deportation of several tens of thousands of Germans towards Eastern Prussia and the so called Warthegau between 1940 and 1941 and the massive migration towards Germany, Sweden and even America after the Soviet occupation in summer 1944 only apparently simplified the national patchwork, because the Soviet Union promptly

forced a massive immigration of a workforce of about 400.000 in order to accelerate the industrialization prescribed by centralized plans. At the same time the national culture was severely repressed by the Soviets at least until the end of the Breznev era, with a possible softening during the leadership of Kruschev (1956-1964), due to the inclusion of many young Latvians in the structure of the local communist party[1].

As of 1989, at the fall of the iron curtain, the number of Russians residing in Latvia, including Belarusians and Ukrainians, had increased from 12.1% of the total population in 1939 to 42.3%, while other minor nationalities had decreased from 11.9 to 5.7%. At that point, Latvia had the highest percentage of residents immigrated from the former Socialist Soviet Republics. Estonia reached the level of 35.2%, although moving from an initial ceiling of 8.2%, while Lithuania was less interested by the problem, having to do only with a minority of 12.1% of Russians on its territory[2].

This excursiveness about Latvian political and social history, focusing on the alternance between (frequent and long) periods of turmoil in the ethnic structure of the country and (rare and short) times of pacific domestic partnership between groups, aims at suggesting that in territorial contexts where different nationalities have been coexisting for centuries, although suffering tensions, clashes, impositions from outside, the care about individual rights, with a peculiar attention to nationality rights, is ordinarily quite sensitive, and even almost pathological. The position of the person confronting public institutions is made even more central, with respect to what is normally predicated in the ordinary theory of democracy. The nationality problems make more acute the effects of the application of the principle of equality, both inducing the individuals to pay more attention at the enjoyment of rights and freedoms and obliging constituents and legislators to define the rights of minorities more precisely. The history of Europe and of the West in general in the XX century has demonstrated that such contexts, where several nationalities have long lived together in apparent peace within the same state entity, at least as long as they can make use of the shelter of multinational empires or are subject to the leaden hood of ideological regimes, finally end up either in sophisticated constitutional instruments that define the enduring partnership between nationalities with extreme precision, such as in the case of Canada, or in drastic separation which can often show the dramatic face of ethnic cleansing, such as in the Balkans after 1989.



The Latvian case is peculiar, from this viewpoint, because the Latvian constitutional instrument has totally avoided, in its original version, confronting the issue.

[1] More details about the history of the Baltic in R. Tuchtenhagen, Geschichte der baltischen Länder, München, 2005. Some constitutional references in R. Balodis, The Constitution of Latvia, Rechtspolitisches Forum, No. 26, 2004.

[2] Source: M. Garlett, Die baltischen Länder. Estland, Lettland, Litauen, vom Mittelalter bis zur Gegenwart, Regensburg, 2001, 172.

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## 2. The original text of the Satversme and the implicit signs of a theory of rights

It is well known that the seven Sections and 88 articles of the Satversme do not include a part explicitly dedicated to individual rights or to the relationship between individuals and the State. It is reported that the final vote of the Constitutional Assembly[3] only reached a majority on the text concerning the forms of State and of government, while the motion for the approval of Sections following the VII was rejected, having obtained 62 votes in favour and only 6 against, with 62 abstentions. The reasons for the lack of consensus on such an important topic were apparently of different nature: the Social-democrats lamented that many claims, and in particular those qualifiable as social rights, did not reach a sufficient level of concreteness and that the right to strike was too limited; conservative representatives regretted the absence of duties and obligations; others did not appreciate too close an imitation of the Weimar Constitution; full separation of church and State together with a possible ban on religious orders and organizations acting against state interests resulted indigestible to many deputies; the representatives of Latgale requested a formal proclamation of autonomy for their region. The sum of vindications and dislikes led to a refusal to adopt Section VIII, which had been titled "Fundamental human rights".

The unfortunate impossibility of reaching a reasonable compromise around the definition of this important area of constitutional law represented a unique case in the wave or generation of constitutions or the period following World War I. Constitutional provisions concerning the status of citizen, his/her position before the public institutions of the country and possibly the condition of international law norms were at that time particularly necessary in order to create and consolidate civic feelings, loyalty to newly formed States, identification around national symbols. As a matter of fact, no other constitutional charter of that period lacked a part dedicated to rights and freedoms, above all where the fall of the empires had given way to the formation of new states.



No single explanation is possible for such a choice. However, it is possible that the excessive heterogeneity of ethnic groups, religious affiliations, social layers and the shortness of time for the preparation of the new statehood might have slowed the pace of the consolidation of a common national identity. Estonia and Lithuania, on the contrary, were more successful in the drafting of their respective constitutional instruments from this viewpoint: it is conceivable that their ethnic and territorial compactness was higher, due to specific historical circumstances. In effect, Lithuania at that time counted only a 2.5% of Russian population and Estonia an 8.2%, while Latvia reached a more robust 12.1%. But Lithuania had other different minorities of a dimension close to 17%. It would take a sociological analysis of the political structure of Latvia and of

[3] See e.g. A. Kucs, J. Pleps, Latvia: Second Part of the Constitution as a project for next generations, in M. Suksi, K. Agapiou-Josephides, J.-P. Leners, M. Nowak (Eds.), First Fundamental Rights Documents in Europe, Commemorating 800 Years of Magna Charta, Cambridge-Antwerp-Portland, 2015, 329-336.

the composition of the Constitutional Assembly, not limited to ethnic considerations, to achieve plausible considerations about the incapacity to formulate a reasonably shareable text.

Among other things, during the preparatory works of the Satversme that had taken place between the late 1918 and 1922, several well-drafted propositions had been put forward. Even in earlier stages of the pre-constitutional phase, it is reported[4] that the Political Platform of the Latvian National Council, prepared as back as on November 17, 1918 by the People's Council, the first revolutionary body created immediately after the end of the war, dedicated a Section to the national minorities, with the commitment to their involvement in the constitutional process on a proportional representation basis in free and secret elections, and another one to the freedoms of press, speech, meeting, assembling and return to homeland after one's emigration. The Proclamation Act of the Republic of Latvia, on November 18, was presented by Prime Minister Ulmanis with a speech where demanding words mentioned both the rights of nationalities and the definition of Latvia as a "democratic, socially oriented country". And again, the Declaration on the state of Latvia of May 27, 1920 and the Provisional Regulations on the Latvian State System of June 1, 1920, both approved by the Constitutional Assembly, recognized freedoms, adding the right to person protection, domicile, correspondence and strike to those already proclaimed in 1918. Art. 9 of the Provisional Regulations, including such short declaration, in the 1920s has been interpreted by the courts, in particular by the Senate, as applicable law, at least when consistent with current legislation[5]. These efforts to interpretively integrate the Satversme with previous norms belonging to the pre-constitutional era, together with some proposal to approve a new Section VIII, were brought to an end by the authoritarian involution of 1934.



However, the discussion in the Constitutional Assembly had focused on topics such as the protection of minority languages besides Latvian as official language, the abolition of aristocratic titles and privileges, full gender equality, the State ownership of railroads and other means of transportation, postal service and telegraph. It would have been really interesting to see such a bunch of provisions at work.

A few principles of the Satversme, anyway, do refer more or less directly to the sphere of political rights: for example art. 2 (sovereign power vested in the people), arts. 72-74 (popular referendum), art. 82 (equality before the law and the courts of justice), art.83 (independence of judges). Ordinary statutes were later approved, in the next decade, in order to make up for the lack of constitutional provisions concerning some freedoms, such as minority rights, press, political parties. The fall of the democratic regime obviously cut short all the efforts towards an integrated coherent system of liberties[6].

[4] Ibidem, 330 ff.
[5] Ibidem, 337.
[6] A discussion of the constitutional proceedings and a comment of the constitutional evolution in the first years in M. Laserson, Die Verfassungsrecht Lettlands, Jahrbuch des öffentichen Rechts des Gegenwart, XII, 1923/1924 and P. Schiemann, Act Jahre lettländische Verfassung, 18 Jahrbuch des öffentlichen Rechts der Gegenwart, 1930.

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## 3. The 1998 introduction of Chapter 8

Only the downfall of the Soviet Union could seriously reopen a discourse about the admission of rights and liberties to the threshold of constitutional relevance. The old genuinely democratic roots of the State could come out to the open air; at the same time, the ambitions of the newly independent States of being admitted first to the Council of Europe, then to the European Union and may be to the Nato needed to be supported by an image of full identification with the tenets of liberal democracy.

Therefore, it was the Supreme Soviet of the Latvia SSR to approve the Declaration of the Renewal of the Independence of the Republic of Latvia and a Declaration on the Accession of the Republic of Latvia to International Instruments Relating to Human Rights, as early as May 4, 1990: the meaning of the two Declarations was to open the Latvian legal system to the international law of human rights strait away and to earn Latvia the admission to the community of democratic States: among various proclamations, these acts included the promise of equal enjoyment of rights to Latvian citizens and to foreign residents declining to obtain the Latvian citizenship. Then, in December 1991, came a constitutional statute named "The Rights and Obligations if a Citizen and a Person", incorporating into the legal system at its highest level the protection of the person, his/her existence, liberty, honour and rights as fundamental values. Other ordinary laws have been approved with regard to press (1990) and ethnic minorities (1991).



The passport for the entrance into the best fora of Western culture was almost ready. Some more international pressure and domestic considerations finally led to the addition of a Section 8, titled "Fundamental Rights Chapter", to the old Satversme, recalled to life and modernized, on November 15, 1998, while the other two Baltic countries preferred to opt for a brand new Charter.

The text of articles 89 to 116 is no stereotype, contrary to the opinion of some German authors who spoke of "constitutional xeroxing" describing the constitutional cycle of the 1990s[7]. It obviously takes into account the legal heritage of Western constitutionalism since World War II in all its phases, it is fully aware of the experience of the Council of Europe and of the case-law of the Strasbourg Court, it contains clear signs of the hopefully imminent admission to the European Union, it even foresees some of the problems connected to the interaction of different sophisticated legal systems. Some similarities with previous and contemporary texts are inevitable. Some of the rights enshrined in the new Section belong to the third generation that was at that time consolidating both at scholarly and normative level and that could not be set aside. However, no fake imitation of other constitutions can be ascribed to the Latvian text. To the contrary, it includes some provisions which clearly fit the peculiar geo-political position of the country and remind of unique historical circumstances.

[7] See e.g. H. Schreiner, Grundrechte und Landesverfassungen, in 54 Zeitschrift für öff. Recht, 1999, 89 ff.

## 4. The text of Chapter 8

The Chapter starts with the recognition and protection of fundamental human rights according to Constitution and international agreements (art.89). Such provision shows a measure of ambiguity, but it could hardly be read in the sense that conventional international law is put in the hierarchy of sources on the same step than the Constitution itself. The reading of the Tiesa and the courts has been since the beginning oriented towards an interpretation that prudently recognizes the Constitution a higher standing, prevailing on international law.

The catalogue of rights is then preceded by some general guarantees, whose importance is clearer to peoples that have experimented the Soviet yoke: the right to know about one's rights (art. 90) and the right to defend one's rights in court (art. 92). The list of civil rights includes the rights to life (art. 93), to liberty and security of person (art. 94), to honour and dignity including the prohibition of torture, cruel or degrading treatment and inhuman or degrading punishment (art. 95), to the inviolability of private life, home and correspondence (art.96), to free movement and choice of the place of residence (art. 97), to depart from Latvia and to return (art. 98), to freedom of thought, conscience and religion (art. 99), of expression and information (art, 100).

The constitutional revision has introduced some law reserves, such as in arts. 92 and 94, but this instrument of delegation to Parliament does not appear in the regulation of every right: the idea must have been that of entrenching most rights, without leaving the legislature free of limiting the content of them. This is an advanced interpretation of the use and role of law reserves, in less recent constitutionalism frequently used to create room for legislative interventions on claims only formally set down at constitutional level.



Some provisions feel the effect of former versions of similar norms or of strict judicial interpretations: this is the case of the meaning of honour and dignity in art. 95, where the authors of the constitutional revision have inserted some public law aspects of the possible content of such concepts, since in the 1920s all interpretive efforts had to concentrate on the private law profiles[8]. Such reinforcement of the value of dignity is also confirmed by the preamble, in the version integrated in 2014, which refers emphatically to the "respect for human dignity and freedom", thus consolidating the relevance of the public side of the value. The emphasis on information in arts. 90, 100 and 115 (environmental information) also depends both on recent formulations and on the harsh attitude of the Soviet regime towards the circulation of news of sanitary or security nature.

The catalogue of rights regarding the different forms of participation include the freedom of peaceful meetings, street processions and pickets (art. 103), the right to form and join associations (art. 102), the right to participate in the work of State and local government (art. 101), the last one extended to EU citizens permanently residing in Latvia, to address

[8] See e.g. D. Pepa, J. Pleps, Human Dignity in Latvia, in P. Bianchi, K. Mathis (Eds.), Handbook of Human Dignity in Europe, Berlin, 2019, 479 ff., 483-5.

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submissions to public institutions and to receive a materially responsive reply (art. 104).

Property is protected within the limit of uses not contrary to the interests of the public and subject to restrictions in accordance with law (art. 105): here the law reservation is finalized to a kind of social interpretation of the right.

Social rights include the free choice of employment according to abilities and qualifications, with the exclusion of forced labour (art. 106), the claim to commensurate remuneration (art. 107), the rights to collective labour agreement and strike (art. 108), to social security for events causing diminution of the working capacity (art. 109), to education (art. 112). The protection of human health and the guarantee of a basic level of medical assistance are not declined as a formal right, but as a directing principle (art. 111), probably in the track of the Spanish Constitution. Family rights of parents and children are also protected, with a special emphasis on disabled children, children left without parental care or who suffered violence (art. 110). Marriage is defined as a union between a man and a woman.

The final provision of the Section, modified lately in 2005, concerns the possibility, according to law, of limiting many of the listed rights in order to protect the rights of other people, the democratic structure of the State, public safety, welfare and morals (art. 116). This norm is drafted in very wide terms and evidently betrays some moralistic attitude. However, the amendment, probably suggested by the wave of terrorism at the beginning of the millennium, was timely, considering the new crises, of economic and sanitary nature, that were incoming.



## 5. The enduring problem of citizenship, territory and ethnic minorities

The Soviet occupation and the consequent massive immigrations of Russians, Ukrainians and Belarussians, the greater part of whom is still living in the country, heavily conditions the treatment of ethnic minorities even in the constitutional revisions that have taken place after 1998 and up till 2019. Similar problems are present in most former communist countries, from the Baltic to the Balkans, where the downfall of the USSR has left room for ethnic tensions that the Soviet superpower had bunged for decades, but that have come to the surface again in the new context.

In terms of constitutional provisions, therefore, it has become common, in the Charters adopted in the '90s and later on, to find norms devoted to the ethnic problem from several viewpoints.

In the case of Latvia, the tension between a rightly proud feeling of national identity, the concern about a strong minority that could work as a bridgehead in case of international turbulence, the honest care about the standards of application of the principle of equality converge toward normative provisions that betray the difficulty of reaching a convincing balance.

The long and somehow wordy preamble, in the 2014 version, for instance, mentions altogether the respect of ethnic minorities in the same

paragraph where national independence and territorial integrity are reaffirmed; in the following proposition the identity of Latvia is emphatically proclaimed on such premises as national tradition, folk wisdom, language, local and Christian values. Loyalty to Latvia is again invoked together with other moral values that seem to surround it. The official character of the Latvian language appears both in the preamble and art. 1.4. The correspondent provision concerning ethnic minorities is to be found in art. 114, where it is stated that they "have the right to preserve and develop their language and their ethnic and cultural identity". It is apparent that the troublesome existence of a powerful and irksome neighbour does not leave the draftsmen of the constitutional revisions undisturbed, or better makes them unsecure. Such an impression is confirmed by the provision in art. 37, that prevents a person with dual citizenship from being elected President: an obvious self-defence measure against possible cases of double dependence and suspicious loyalty.

Summing up, if possible, the remnants of the Soviet occupation, together with the unhappy memories of German invasiveness first, and then of Nazi invasion, contribute to the elaboration of a sort of defensive constitutionalism, which is historically justified and makes the Latvian Constitution distinguishedly peculiar.

It is no coincidence, anyway, that many Constitutions of ex-Soviet States, adopted or adjusted after 1989, include preambles where the self-determination of their peoples is connected to an explanation of their peculiar constitutional history[9]; provisions declaring the integrity, inviolability and inalienability of their territory[10], eventually founding such prerogatives on international law and its relationship with the internal sources[11]; norms that emphasize the concept of citizenship as a bunch of rights and duties[12], the right to obtain it on basis of birth or other requisites, the prohibition, sometimes limited, on double citizenship[13]; rights to ethnic identity[14], carried out even in a negative form through the refusal to declare one's affiliation[15], to language[16] and even alphabet[17]. In several cases, such provisions are integrated by detailed norms concerning the status of foreigner compared with that of the citizen[18].



## 6. Some notes on the case-law

Despite the mentioned measure of emphasis on sovereignty, generated by its national history, Latvia, together with the other two Baltic States, has moved towards the integration of its legal system into the continental sets

[9] E.g. Belarus, Ukraine, Estonia, Lithuania, Slovakia, Slovenia.
[10] E.g. Belarus, Ukraine, Lithuania, Bulgaria, Macedonia, Slovakia, Croatia, Montenegro, Czechia, Serbia, Albania, Romania, Lithuania.
[11] E.g. Slovenia, Belarus, Moldova.
[12] E.g. Poland, Lithuania, Estonia.
[13] E.g. Lithuania, Moldova.
[14] E.g. Bulgaria, Macedonia, Slovenia, Serbia.
[15] E.g. Belarus, Albania, Moldova, Ukraine, Lithuania, Estonia.
[16] E.g. Poland, Belarus, Bulgaria, Slovakia, Slovenia, Ukraine, Lithuania, Estonia.
[17] E.g. Macedonia, Bosnia, Croatia, Montenegro, Serbia, Moldova.
[18] E.g. Poland, Slovenia, Belarus, Moldova, Ukraine, Estonia.

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of norms with thorough determination. The ratification of the European Convention on Human Rights and the adhesion to the European Union have been prudently preceded by the constitutional revision of arts. 68 and 79 of the Satversme and the addition of art 89. The amended art. 68 took care about the procedure necessary upon entering into international agreements implying the delegation of competences to international institutions, prescribing a deliberation of the Saeima adopted in presence of two thirds of its members and with a two-thirds majority, while the new art. 79 imposed the resort to a referendum regarding the membership of the EU and all substantial changes to it. Art. 89 was concerned about the use of Constitution, laws and international agreements as parameters in the recognition and protection of fundamental rights, apparently adopting a fully monistic attitude towards supranational law in preparation of the entry into the European systems. The amendments to arts. 68 and 79 were approved in May 2003, while the adhesion to the EU came exactly one year later.

From the procedural viewpoint, it is well known that the Latvian Constitutional Court (Satvermses Tiesa), in the same way than the Estonian one, had to manage some complaints about the regularity of the procedure followed and that again in 2009 it had to reject a challenge by private litigants both on the procedural method and the merits of the ratification of the Lisbon Treaty[19]. It is also alleged by several authors[20] that even before 1998, that is the date of the massive integration of the Satvermse, the Latvian courts, led by the Constitutional Court, started to line up to the case law of the Strasbourg and Luxembourg Courts, above all when rights were concerned. That trend has obviously contributed to the removal of most residues of the Soviet domination and at the same time has helped to build up the minimal homogeneity necessary to get the pass for the formal entry into the continental institutional organizations.



After the accession to the EU the Constitutional Court has quickly begun to use the precedents of the ECJ and of the Tribunal of first instance[21], and this approach has become even more evident after the Lisbon Treaty. Therefore, the Tiesa had to confront soon with the problem of the position of EU law and of the acquis of the EU courts in the domestic hierarchy of legal sources. Its choice has been to stick to the lines of precedents of the Luxembourg Court in the interpretation of national laws in the sectors of EU competence, avoiding conflicts whenever it is possible. However, it has also declared that bounds must be set to such primacy if "the fundamental principles incorporated in the Satversme are affected"[22]. It has thus shared a sort of "counter-limit doctrine" of the kind already elaborated by other European Constitutional Tribunals, keeping the door open to the selection of the principles to be identified as fundamental. However, the Tiesa has pointed out that "the EU cannot affect the rights of citizens to decide upon the issues that are essential to a

[19] Judgement of April 7, 2009.
[20] See I. Jarukaitis, Report on Estonia, Latvia and Lithuania, in G. Martinico, O. Pollicino (Eds.), The National Judicial Treatment of the ECHR and EU Laws, A Comparative Constitutional Perspective, Groningen, 2010, 167 ff., 177.
[21] Judgements of July 7 and October 25, 2004.
[22] Judgement of January 17, 2008, No. 2007-11-03.

democratic State" and that "Latvia will have the rights and the abilities to block changing in the decision-making procedure that are undesirable for Latvia"; at the same time it has stressed that the growing devolution of powers to the EU must not be regarded as a dilution of sovereignty but as an exercise of sovereign power in the perspective of the cooperation towards the common aims of a united Europe. Furthermore, as early as in 2009 has the Constitutional Court started to evaluate the possibility of a reference for a preliminary ruling by the Luxembourg counterpart, while the lower courts started this practice right after the adhesion.

The ECHRs is not specifically mentioned in the Satvermse, being included in the reference to international law in art. 89. Yet, it obviously enjoys that status in the Latvian legal system. Chapter VIII of the Constitution was drafted in 1998 keeping carefully into account the Strasbourg case-law. Several modifications were inserted in the criminal and criminal procedure codes in order to make them consistent with the ECHRs before its ratification. Immediately thereafter the Tiesa has openly recognized its debt towards the acquis of the ECHRs, both by following the practice of application of human rights international norms in the interpretation of the national Constitution and by feeling bound when interpreting the norms of the Convention itself[23]. In other words, the Convention was initially used as a source of inspiration and soon was transformed into the paradigm of the standards to be applied not only by the Satvermse Tiesa but also by the other civil and criminal courts, from the Supreme Court to the lower tribunals. It is alleged[24] that the areas where the most influential impact of the Strasbourg case-law has been displayed are those of arts. 5 and 6 of the Convention.



In order to describe and evaluate the jurisprudential production of Latvian courts in the sector of rights and freedoms, a foreign observer should enjoy the full knowledge of their case-law, which on the contrary is available in other European languages only in a small part. For example, some authors[25] have drawn an accurate portrait of the shifting of human dignity in the constitutional interpretation from a typically private law concept, concerning mainly honour, reputation and good name to a fully-fledged idea, belonging to the wider sphere of constitutional law in all its applications.

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[23] Judgement of August 20, 2000, No. 2003-03-01.
[24] See I. Jarukaitis, Report, cit., 194.
[25] D. Plepa, J. Pleps, Human Dignity in Latvia, cit., 479 ff.