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DIRECT DEMOCRACY AS A MEANS OF REDUCING THE GAP BETWEEN THE GOVERNMENT AND SOCIETY IN LATVIA

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Abstract

In 2011, a Referendum on the dissolution of the Parliament was held in Latvia. The Referendum results showed that the majority of the electorate want a change - it is neither satisfied with the previous democracy form of the parties, nor with the manifestation of them in the activity of the state and local governments.

This article looks at the tendency to involve the public more broadly in opinion polls, ballots and referendums on controversial and sensitive issues. The article reveals that the direct democracy forms of using modern information technology lead to the confrontation with the existing administrative system and encourages reforming it.

Key words: *direct democracy, referendum, initiative agenda, public administration reforms*

1.INTRODUCTION

In 2011 for the first time in Latvian history, a referendum on the dissolution of the Parliament was held. Release of the 10th Saeima was supported by 94.3% of the electorate.[1] The referendum result was a vivid protest vote and the proof that the authority has alienated itself from the people. The absence of public confidence is of one of the key problems in Latvia as it is threatens the foundations of the Latvian State.

A large proportion of Latvian society believes that Latvia's development is not carried in the right direction, that the politicians in power do not work for the whole public interest but rather engage in politics to solve their problems, or to represent the interests of businesses or business groups. The situation is further aggravated by the socio-economic situation and the negativism in the media.

As a result, a very large part of population expatriate to other countries in search of a better life and they do not tie their future with Latvia. The remaining part of the public does not believe that the politicians will be able to foster to the country's development after its emerging from the crisis. However, without the restoration of the public confidence in public institutions, stability and growth in Latvia is not possible.

One of the solutions is a broader involvement of the population by giving everyone an opportunity to influence the European, the national or the local events.

Education level of the Latvian population and the broad access to the Internet are the factors which suggest that the form of direct democracy could be one of the ultimate solutions for the public administration reforms. It can be assumed that the cost cutting will address the country's economic

[1] The official website of the Central Statistical Bureau of Latvia <http://www.csb.gov.lv>

problems, and will lead to the public involvement in the decision-making process to enhance the public confidence in the authority. Similarly, the modern information technologies provide opportunities for easier designing and implementation of organizational and technical procedures of direct democracy and to practically demonstrate their capabilities to the people.

As the result of referendum, the interest of politicians in the application of direct democracy instruments has increased. The part of politicians who lost the referendum, wants to use the tools of direct democracy as a political weapon, while the other part of politicians is willing to increase the public confidence in authority. Social and political agenda of using the direct democratic instruments is becoming increasingly topical.

Author of this paper examines the existing and the new instruments of direct democracy, their advantages and disadvantages, as well as the impacts of the new instruments of direct democracy on the existing administrative system.

2. INSTRUMENTS OF DIRECT DEMOCRACY IN LATVIA

In Latvia are two types of referenda – a mandatory referendum, which must be held according to the Constitution, as well as the referendum of the people when, by collecting a certain number of signatures, such a referendum is initiated by the people. The referendum of 2012 on the Russian language as the second official language has brought the question up of what matters it should not be permitted to hold a referendum. Certain public opinion holds a view that it is necessary to define a range of issues that are contrary to the Latvian Constitution.

Currently there is a growing interest in the municipal referenda as well, and the law provides for the government to prepare an appropriate bill. There is some debate about the issues of the introduction of local referenda. The key issues raised are:

- on what matters it may be wise to vote for in the referendum;
- how to make sure before the referendum that the voted will be enforced;
- how to make sure that the issues in dispute are not in conflict with the fundamental principles of the Constitution;
- how to technically ensure reliability of the referendum data, if they are organized electronically or in a hybrid system.

Recently, a new possibility of direct democracy was introduced. Of 1st February 2012, the President announced Amendments to the Saeima's Rules of Procedure[2], which provides a completely new instrument for the citizens - a collective application to influence the parliamentary agenda with. The collective application, as defined in the Saeima's Rules of Procedure, or the initiative agenda ensures that a certain amount of citizens may propose a law or amendments to the law to Parliament, which are to be included in the agenda of the Saeima.

The adopted amendment provides that no less than 10 000 of Latvian citizens, who have reached 16 years of age on the submission date of the application, have the right to submit a collective application to the Saeima. A collective application should include a claim to the Saeima, its brief justification, as

[2] The Saeima's Rules of Procedure < http://www.likumi.lv/doc.php?id=57517>

well as the individual authorized to represent the collective application applicants[3]. Collective application signatures can be collected also electronically, provided that the signatories' identity and the personal data protection are ensured.

When considering amendments to the Law of the Saeima's Rule of Procedure of the collective application implementation, the core subjects under discussion by the MPs were the following:

- the possibility to sign the agenda of the initiative also by the non-citizens and other residents of Latvia;
- the age of citizens who can submit the initiatives;
- that 5000 rather than 10,000 signatures would be sufficient;
- that there will come many unrealistic and populist ideas;
- promotion of the public participation;
- the fact that the parties can use the new instrument of direct democracy as a political weapon.[4]

In Latvia, several ways were previously possible for the public representatives to turn to the Saeima:

- a personal application for the Saeima;
- Meeting with the MPs;
- Attendance at the meetings of the Saeima commissions;
- a legislative initiative.

According to 104 paragraph of the Constitution of the Republic of Latvia, everyone has the right to submit applications to the state and the local government institutions and to receive a substantive reply within 30 days[5]. On average, the citizens submit to the Saeima between 5,000 and 6,000 applications – both to the Saeima as an institution and to certain MPs. Citizens submit relatively active to the legislature, but from experience one can say that mostly the citizens' initiatives are not taken into account by the MPs, and they remain yet within the Saeima's Archive. Transcripts of the meetings rarely bear the references to the initiatives of citizens, but the review of the citizens' initiatives during the Saeima commission meetings remains the responsibility of Chairman of the Saeima, as only the Chair of the Commission may include specific issues in the agenda of the Commission. Up to now, during the MPs office hours and attending the parliamentary sessions of the Commission, the public had the opportunity to participate in the parliamentary work. However, the legitimization of collective application enables to do so by the procedure established by the Saeima's Rules of Procedure that would ensure a real involvement of population in the decision-making process.

Arrangement of Application Review is determined by the Application law and in the case of the Parliament, also by the Saeima's Rules of Procedure. To date, the Saeima considered one person or 10 000 persons' applications according to a single Application Review. To author's view, such an

[3] Ibid.

[4] Plenary agendas. The official website of the Saeima < http://saeima.lv/lv/transcripts/category/17 >

[5] The Constitution of the Republic of Latvia <http://www.likumi.lv/doc.php?id=57980&mode=DOC>

arrangement is not reasonable. If the parties have already joined and have become more motivated, it is reasonable to set the collective application a different Application Review procedure.

An individual's application opposed to the initiative agenda does not enter the Saeima's agenda. Also the argument in favour of a particular application cannot be heard from the Parliamentary rostrum. Similarly, the initiative agenda improves the feedback to citizens, when the citizens really see that their idea is being discussed, as the Saeima in the collective application case is legally obliged to express its attitude in the issue of concern raised by the public. In accordance with the provisions of the Saeima's Rules of Application Procedure, my experience shows that an application is usually processed by the faction or the responsible committee. However, in the collective application case, the public representatives receive the views of the whole Saeima, as the Saeima needs to vote on the bill.

Latvia has yet another tool of direct democracy – the legislative initiative, which provides that one-tenth of the electorate according to the paragraph 75 of the Saeima's Rules of Procedure may submit bills[6]. It should be noted that the draft legislative proposals are not possible to introduce by the members of the public in Latvia.

To submit the bill to the Saeima, 10,000 signatures certified by a notary have to be collected, but after the submission a further one-tenth, which represents approximately 150 000 of citizens' signatures, and only thereafter the bill can be debated in the Saeima. Legislative initiative also provides that in case the Saeima does not accept the bill, a referendum shall be held. The Saeima is also not entitled to change anything in the specific bill. Thus, the bill should be drawn perfectly. On the one hand, the Saeima cannot correct the bill, but on the other hand, to present an already perfectly drawn bill to the public is problematic. For this reason, the legislative initiatives are a virtually untapped tool of direct democracy.

So even before the introduction of the collective application there was the possibility of the legislative initiative. But the focus should be that, unlike the legislative initiative, which also provides an opportunity to submit the bill to the Saeima, the criteria for collecting and submitting to the Saeima the initiative agenda have been eased.

So compared to a legislative initiative, a collective application has several advantages, and a collective application is also much easier to implement:

- The society is asked of just an idea, not a fully prepared and presented bill that would promote community's initiative to really engage;
- Requires only 10 000 signatures rather than 150 000 signatures as for a legislative initiative
- The signature does not need to be notarized, and it has fewer requirements for authentication – both the banking authentication, the electronic signature and, possibly, the ID cards in the future can be used for, since Latvia has not implemented them yet;
- Submission of a legislative initiative is more expensive than the collective application.

It can be concluded that the public already had an opportunity to address the MPs with their views and initiatives, but the introduction of a collective application sees an appropriate procedure for the review of an initiative that, first, eliminates the possibility that the initiative will not be heard and dealt with, and on the other hand, gives the representatives of society the impression that by addressing the

[6] The Saeima's Rules of Procedure < http://www.likumi.lv/doc.php?id=57517>

Saeima the processes can be affected in the country that could improve the public involvement in the decision-making process.

3. COMMUNITY INITIATIVES PLATFORM – THE PORTAL ”MANA BALSS”

Collection of signatures for a collective application cannot be actually achieved if there is no chance for the potential applicants (through a portal or a meeting place) to discuss various initiatives and to quickly and easily collect the required number of signatures. In Latvia according to the initiative of two young people - Janis Erts and Kristofs Blauss - a portal ”Mana Balss” (“My Voice”) was set up. The above mentioned persons addressed the Saeima with an application for such an initiative, and they were heard, which led to a conference by the Saeima, and their idea gained support. As a result, the work on the preparation of amendments to the Saeima’s Rules of Procedure was started. As already mentioned above - the Saeima reviewed the Amendments in 3 readings and the amendments were adopted of January 19, 2012.

Population has mostly a number of ideas on how to change the processes in the country, which are presented in the portals, and brought up in daily conversations. These are the people who feel the consequences of laws and their amendments in their everyday life best and they probably have their own ideas of what should be changed in current legislation. A vast majority of the population is not familiar with the complex processes in the country due to the lack of knowledge about the state and local government processes and the opportunities to influence them. This can be explained by deficiencies in the education system. The author's opinion it would be appropriate to establish a school subject on the state and the local government institutions’ work and the public opportunities to participate in it.

Society believes that the government hears only the "right" ideas, resulting in the suppressed desire of population to get involved. In turn, the newly created portal ”My Voice” is simple from the user point of view; in fact, no understanding is required from people on how proceed with the application. They can simply sign an initiative, but if they have a desire to initiate a proposal, then there is the opportunity to consult with the experts involved in the portal, whether the particular initiative is consistent with the requested Saeima’s Rules of Procedure on which initiative to submit and whether any legal obstacles might occur. On the one hand, it makes easier to engage, but on the other hand, it educates the population to the government-related issues.

”Mana Balss” is a platform for community initiatives, where the identity of every voter is confirmed by a registered online bank in the Latvian Republic. Initiatives can be proposed and signed by every Latvian citizen from 16 years of age. Every initiative that signed by at least 10 000 citizens in a paper form or electronically and that meets the Saeima’s legal criteria, reaches the Saeima. To sign, the users connect to their online bank and the banking system determines the person's identity. The safety issues are the responsibility of the banking systems. After a successful authentication, the online bank sends the person's name, surname and identity number to www.ManaBalss.lv, where the personal data is stored in protected databases and a person can take one vote on any initiative. Publicly available is only the person’s name and surname. At the request of the Saeima, the signatories’ database is compared to the public records, which will be able to verify the authenticity of all the signatories by using its personal database. Similarly, each proposal is evaluated by experts (lawyers) in the group. This portal provides an opportunity not only to sign the collective applications, but also to discuss and to justify their own views, as well as to engage in discussions with other users of the portal.

As of now, from the moment of ”Mana Balss” creation, 3 initiative agendas have already been signed:

- Opening of Offshore (the bill is passed), which provides an obligation for the companies with at least 25% of their owners hidden in offshore mailbox firms, to disclose their beneficial owners;
- Opening of the Saeima (the law is passed), which seek to guarantee the possibility when collecting 10 000 signatures on the Internet, the public has an opportunity to submit a variety of ideas, proposals and initiatives to the Saeima for the review on agenda;
- Responsibility for the deputy's perjury (not yet relegated before the Saeima), which aims at defining a specific responsibility for the MP's oath (solemn oath) termination[7].

Looking at the other 30 currently unfolding initiatives, one can conclude that they relate to the key public issues, such as a ban of fast crediting, a granting of the Latgalian language a special status, an introduction of elections over the Internet, and others among them. One of the risks to be mentioned is the existence of populist initiatives, but the author's opinion it is logical that the initiatives are going to be different, including those which will not be accepted by the Saeima, but in any case, the parliamentary majority has a choice to accept or to reject an idea by explaining this to the public.

Another risk factor is the lack of funding (see Fig. 1) for the maintenance of the portal, as currently the largest contribution to the Public Participation Fund is drawn from the idea initiators' financial means. Thus the possibility of raising funds from the public funds or from the European Union funds shall be considered that would not only allow maintaining the portal, but also improving it.

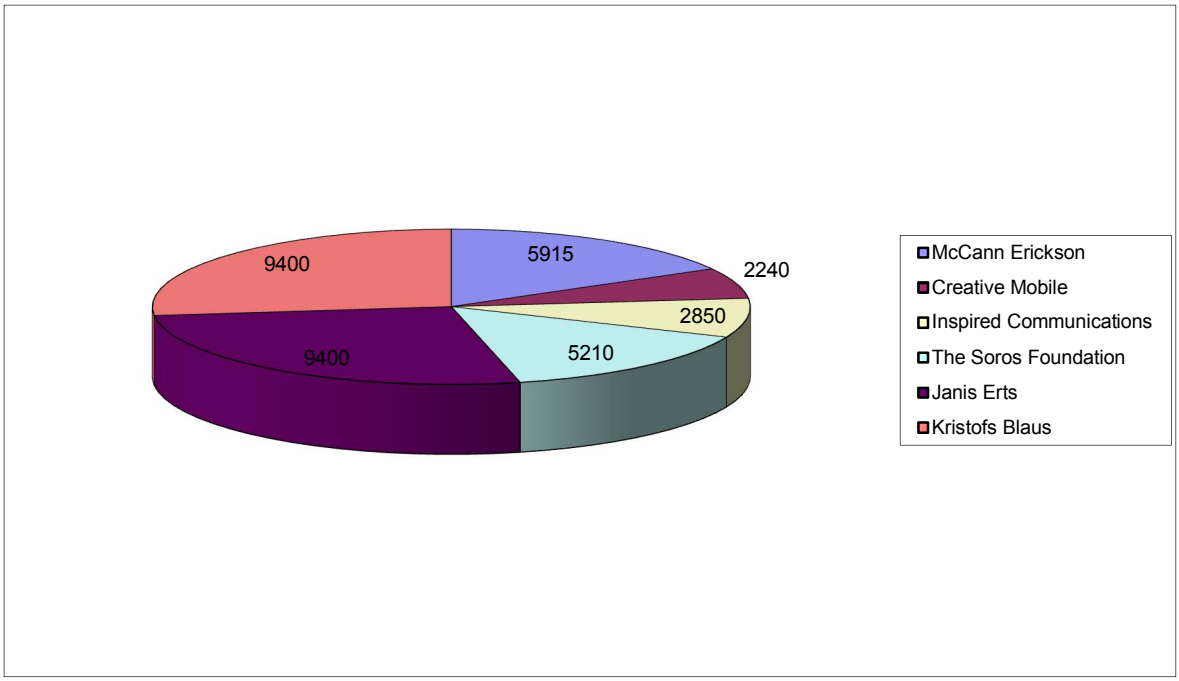


Fig.1. Public Participation Fund supporters, LVL investments[8].

[7] The Internet Portal "Mana Balss" <http://www.manabalss.lv>

[8] Ibid.

The funding issue is also related to the activity in the portal. If there was an opportunity to promote and advertise the portal, then probably a large proportion of population who are not yet aware of this possibility would become informed and possibly get involved.

Portal ”Mana Balss” is a new tool for the e-democracy field worldwide. The German parliament investigates the current Latvian situation; also the United States President Barack Obama during the presentation to the UN meeting refers to Latvia as one of the top examples of open administration, while the British, the American, the Brazilian, the Spanish and the Scandinavian democracy activists are interested both in Latvian and www.ManaBalss.lv experience.

4. CONCLUSIONS

Direct democracy is one of the solutions for bridging the gap between the society and the public authority.

The possibility of a referendum to dissolve the Saeima has awakened the population and the parties' interest in the forms of direct democracy.

Technological progress creates more opportunities for direct democracy applications.

There is a growing interest in local referendums in Latvia, but it is still an ongoing debate as to their implementation problems.

In Latvia a new initiative is being proposed, when a large number of citizens may propose laws or amendments to the laws, which must be considered in the Saeima.

The new initiative - the collective application - is a cost-effective and an easy way to:

- influence the Saeima's agenda;
- make citizens socially and politically active;
- enable the population to submit bills and to feel afterwards the consequences for their decision themselves, which could make the citizens more responsible;
- increase the citizens' knowledge of the fundamentals of the Saeima;
- mark the themes for the MPs which are topical to the public.

The attitude in society and among the politicians to the new possibilities is not unambiguous and thus requires a further research.

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