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Comparison of Emergency State Regulation Experiences in Latvia, France and Belgium

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Abstract

The article analyses the legal framework of emergency state in three countries – Latvia, France and Belgium. The aim of the study is to identify problems thus to improve the national legal framework. Given that the concept of emergency state has gained its relevance in 2020 with the spread of the Covid-19 disease, it has been found that the Emergency State Institute and its legal framework is an important part of every country's national legal system, as it is a mechanism that helps to strengthen national security in case of external and internal dangers. Analysis of the legal framework of emergency state in Latvia in the context of the selected legal framework of two other countries is an effective way to assess whether the national legal framework requires improvements. In the research such methods were used as cognition, monographic, historical, comparative and analytical method, as well as interpretation of legal provisions recognized in scientific law, which contributed to understanding of the scope of legal norms in national constitutions and other related legislation in the context of the topic. In the result of the study differences in national basic laws and special laws were mainly identified, including the aspect of restriction of human rights, thus contributing to reflection and drawing conclusions on the necessary changes to the national framework. Research also outlines functioning and competence of municipality work in an emergency state.

Keywords: Belgium, Covid-19, emergency state, France, Latvia, restrictions on human rights.

Introduction

Research faces three countries – two republics and one Kingdom. There is no doubt that different fates of these countries have created their individual convictions on culture, traditions, religious values, societal well-being, policies, economy, legal system, and other areas. Length of the nation's existence, size of its territory, fights within echelons of power, ethnicity – these are just a few circumstances that have affected their experience stories. Undoubtedly, the greatness of the French Republic has developed for centuries. Most have heard of the dominant dynasties of the history, revolutions with national heroes at the forefront, world-famous writers, and artists. The Kingdom of Belgium, on the other hand, has been a member of several important events – the economic union with the Netherlands and Luxembourg, and was present in the North Atlantic Treaty Agreement Organisation and the establishment of the European Union. And then Latvia, a small but strong-spirited country, which with its basic law preamble multiplied liberty battle victories, Latvian and Liv traditions, Latvian life knowledge, general and Christian values (*Latvijas Republikas Satversme* (Eng. Constitution of the Republic of Latvia), 1922). However, every country's carefully cultivated internal system can be shaken by an unexpected threat or unprecedented situation during which it is necessary to have a working mechanism which ensures continuity of national functions and national security as much as possible, including prevention of effects caused by the danger. That is why the legal framework in the state of emergency is one of the most important components in the national legal system of each country.

Relevance of the research topic is based on the fact that in recent years the number of terror acts has increased, as well as the Covid-19 virus generated pandemic sketched a precursor for the new era – permanent doubts about the surrounding information, opinion collisions, health sector management, financial management, human rights assessment, introduction of the remote work and development of digitalisation; these are just a few of the trends that have developed lately. Consequently, many legal issues, including those that are related to national emergency state regulation, namely, to the ability to effectively apply them, ensuring public security in the case of a threat and simultaneously preventing power abuse. Undoubtedly, the Covid-19 infection has influenced aspects of people's daily life worldwide and has become a national and international problem. Covid-19 situation has changed not only the public's behavioural habits, but also the model of local and international governance (Palkova, 2020). Similarly, during this period, topic of restrictions on human rights and control mechanism for this restriction has become particularly relevant. In addition, emergency state and the restrictions introduced have been a great challenge for public administrations, such as municipalities, that require to restructure their work organisation model and introduce significant changes in everyday work processes.

The aim of the research is to compare the legal framework of emergency state in Latvia, France and Belgium, identifying problems and thus making proposals for the improvement of the national legal framework. In order to facilitate the research

process, the following methods have been used in the course of a research: 1) cognitive method to obtain and accumulate necessary information on the selected topic, summarising rights-based theories, legal historical materials, national constitutions and special laws texts, including judicial decisions and others; 2) monographic method to describe the insights provided in accumulated material, including those raised by other authors, as well as explanations of the concepts and opinions of the author; 3) historical method to provide the reader with an insight into the history of constitutional rights of the nations; 4) comparative method (*comparer* in French, "to compare") – a method to compare national emergency state's legal framework and mechanisms of restrictions on human rights; 5) data analysis method to provide analytical insights for the reader; 6) methods of interpretation of legal norms recognised in scientific laws: grammar-translation method to discover the word composition and meaning of legal norms and concepts used by the author in the course of the study, both explaining concepts related to the research topic and in the further part of the study, translating national legislation norms; a historical method to find out relevant issues in the context of the history of national constitutional rights and to clarify the historical origin and development of specific legislation and its norms; teleological method to detect the true will of the legislator by assessing legislation and constitutional norms of emergency state; systemic approach to define the place of the particular emergency state law in the general legal system, as well as to understand the role of the Constitution's norms in relation to entire text of the Constitution.

Research is based on information from different sources, namely conclusions have been drawn not only based on analysis of national legislations but also on the basis of quotes expressed by law experts in legal literature, both in printed and electronically available resources. The author used a lot of the comments on Constitution of Republic of Latvia, which helped to understand the legal framework of emergency state. On the other hand, regarding the French and Belgian regulation, it is specified that the author has worked with materials in French – national laws, lawyers' opinions, laws, comments, judicial decisions – analysing the application of this regulation in practice and problems that are related to it.

The research topic is rather extensive and can be viewed from several perspectives. Occasionally, an emergency state has been announced during the development of the research, as well as amendments have been regularly made to the legislation. Similarly, the practice of the institution that implements constitutional control, while assessing restrictions on human rights was different, changing, and even controversial. Thus, the research should be updated regularly and be preventively transparent, for example, in a subject to national daily action in the periods of virus outbreak or overcoming the effects caused by the emergency state. In addition, it is essential to point out that during the virus, society encounters new challenges every day, that require appropriate action from the government. Consequently, law enforcement authorities also have an endless task to assess the legal aspect of each new problematic situation.

Emergency State Institute and Its place in the Model of Continental Europe

The author of the research has found that the word "extraordinary" semantically means something that is completely unusual, unexpected, unprecedented; something that has never happened, something that has not been experienced before. The word "emergency" is explained as something what happens beyond the ordinary sequence, arrangement. In turn, the word "extreme" is explained as such that it does not fit into ordinary norms; does not correspond to the usual type; and is special (electronic online dictionary Thesaurus). Consequently, at first look it can be concluded that all explanations of the words are valid and correspond to the nature of the topic. This explanation is also confirmed by the Latvian language explaining dictionary, which indicates that "extraordinary", firstly, is something that takes place beyond the usual arrangement, outside the usual order, for example, an emergency session, meeting, congress, and, secondly, is something that does not match the usual, foreseeable, for example, an exceptional case or events, emergency tasks. In turn, "extreme" is explained as something very unusual, special (*Latviešu valodas vārdnīca* (Eng. Latvian language dictionary), 2006). Also, the Latvian literary language dictionary indicates that the word "extraordinary" means something unusual, unexpected, unmatched, unprecedented, something that has not been experienced before; however, "extreme" means something that does not fit into normal norms, does not correspond to the usual type; something that is particularly big, great (*Latviešu literārās valodas vārdnīca* (Eng. Latvian literary language dictionary), 1972). Thus, the legal framework studied by the author in the context of the research topic is such a legal framework that is related to unusual, unexpected, unprecedented events that were not expected before and do not fit into daily situations. However, despite the indicated explanations of the words, the author has found that in the case of emergency state, the word "crisis" is also often used. This word should be understood as dangerous, complex, severe condition; complex state of transition (electronic online dictionary Thesaurus). Although "crisis" is a versatile word that indicates difficulties in a common situation, the word gets used in another context. Respectively, the term "economic crisis" can be used in the context of a financial situation, "psychological crisis" can be used in relation to mental health, the term of an "energy crisis" also exists. Consequently, it can be noted that the crisis may occur during the period of emergency state, but the crisis itself is not an emergency state. In particular, events that happen in the case of an emergency state may lead to a crisis in a sector or specific area, leaving it with serious consequences, such as the crisis in the health sector or the crisis in the milk production and processing industry, or the crisis in the tourism industry and the like.

It should be remembered that the national law "On emergency situation and state of exception" (*Par ārkārtējo situāciju un izņēmuma stāvokli: Latvijas Republikas likums*, 2013) has clearly distinguished two cases: an emergency situation and a state of exception, so it would not be justified and correct to use the term "emergency state", since it would

not only lead to legal uncertainty in an aspect of its content, but would also confuse the reader, creating misunderstanding about which of the legal regimes is contemplated. First paragraph of Section 4 of the Law determines that the emergency state is a specific legal regime, during which the Cabinet of Ministers has the right to limit the laws and freedoms of public administration and municipal institutions, natural and juridical persons, as well as impose additional obligations on them. In turn, first paragraph of Section 11 of the Law determines that a state of exception is a special legal regime, which can be announced if: 1) the country is threatened by an external enemy; 2) if there is already erupted or is a danger of eruption of civil unrest that threatens national democratic apparatus in a country or in its part.

Looking further in the comments of the Constitution (*Satversme*), and directly, in the commentary on Article 62, it is found that the national territory can be threatened as from land and also from the sea or air. An external threat for the nation can be understood by oral or written statements of foreign state persons, which contain ultimate requirements or threats to use force against the Latvian country, as well as actions that show the possibility of such an action and the campaigns of foreign media, which point to the ideological preparation of invasion. In contrast, civil unrest may take the form of mass disorder, non-compliance and violation of laws, wherein it is not necessary to use an armed force. This should only be done when civil unrest threatens social order or national apparatus and there are no other means to prevent it. Taking into account the abovementioned, and despite the fact that the state of exception is based on exceptional circumstances, it should be recognised that it would not be correct, when talking about the emergency state, to use such word compounds as a "exceptional situation", "state of exception", "emergency state" and the like as synonyms, because the legislator has distinguished two different legal regimes during which, in accordance with the first paragraph of Article 4 and the first paragraph of Article 11, there are legal rights *inter alia* to restrict the rights and freedoms of natural and legal persons in accordance with the procedures specified in the law and to impose additional obligations on them. Similarly, the term "martial law" is often used in the context of a state of exception, which are recognised as synonyms. In the root of this word, the word "war" can be found, which means organised armed fight (electronic online dictionary Thesaurus). This is confirmed by the sixth paragraph of Article 22 of the National Security Law, which determines that war time occurs if an external enemy has committed a military invasion or otherwise turned against the independence of the country, its constitutional apparatus or territorial integrity. Thus, both the "state of exception" and the "martial law" as well as "war time" are not attributable to the emergency state, but a completely different legal regime.

By analysing the given legal explanation of the emergency state, it can be recognised that it does not contain a specific definition, but the second part of the article, despite the separation of two legal regimes, only sets out examples when the emergency state can be declared, namely in the event of such a national threat which is linked to a disaster, its dangers or critical infrastructure threats if nation, societal, environmental, economic

activity, or human health and life is significantly threated. Observing the specified, it has been concluded that the term "emergency state" is an open (flexible) concept, the content of which can be fulfilled with meaning and essence, taking into account existing circumstances and the true will of the legislator. In addition, concepts such as "disaster", "hazard", "threats" also belong to the institute of emergency state, and to understand those a systemic look is necessary. "Relevance" also has a crucial meaning which is an important criterion in the legal basis for announcement of emergency state. Several terms that are associated with an institute of emergency state are open concepts which obtain their content in the way of interpretation, and in order to fulfil them other laws should be studied, such as the already mentioned National Security law or Civil Protection and Disaster Management law. Similarly, other sector laws contain legal provisions indicating to the occurrence of exceptional circumstances, such as the Law on Forests or Energy law.

To prevent legal uncertainty, the author of the study calls for precise use of the concepts, but it is also important not to forget that the key is to focus not only on the use of conservative concepts, but fundamental understanding of them is important, understanding, when limits of each concept's interpretation end. It can also be concluded that these concepts can not only be looked upon with the vocabulary and with help of various comments, but their essence is revealed through the relevant national legal acts in conjunction with the legal system. The national legal system of each country is different; however, the researched countries are participants of Western law circle and belong to the Roman-Germanic law, thus, they must be similar in their legal systems and therefore similar in matter of the legal framework of the emergency state, including the terminology used.

The author of the study has found that the X–XII century can be considered as the high Middle Ages when the map of legal circles and tribes that are typical to modern Europe, began to develop. At the time, by marking trends for further development, England formed a legal and judicial system, continental European laws also continued their revolution. After assimilation of Roman Law in the Middle Ages, the legal circle of Roman-Germanic law and the rights of Scandinavian countries were formed. After the collapse of the Carolingian empire, a new political map started to emerge in continental Europe. Alongside to the German Holy Roman Empire, France was formed. Here two tribes of a Roman-Germanic circle were forming: 1) Roman-French; 2) German in their own German empire and in its vassal states. Continental Europe was divided into the language groups: in Roman countries – France, Italy, Spain, Portugal, but in German – Scandinavian countries and Germany. The Roman-Germanic tribe has developed in the course of shared history and is rooted in the law of Roman Empire (Osipova, 2004). Thus, in the author's opinion, it is presumable that researched countries, based on the common past law development processes, have naturally similar "beliefs" on the principles applicable in the state of emergency, since an assimilation of Roman law took place in those countries, so they have a similar legal framework basis, which is a considerable fact in comparison to the emergency state legal framework.

Significantly, Roman Republic was first to recognise the need for an exact specific legal regime, which was the national apparatus for the possibility of simplifying and militarising the extreme danger of the Republic of Latvia, introducing an extraordinary magistrate-dictatorship for a specified amount of time. The purpose of the transformation of such national apparatus was to facilitate rapid and energy political action for prevention of certain domestic or foreign crisis, giving significant political power to one person. Renaissance policy philosopher Nikolo Makjavelli saw the example of national wisdom in the development of dictatorship Institute in the Republic of Rome, as Romans were able to connect the need for protection of the national apparatus with the preservation of the legal apparatus, as the dictatorship was also subjected to the legal framework. Following the example of the Roman Republic, many countries began to incorporate public authority organisations within the emergency state situations, that would allow to organise better protection of the national apparatus against domestic or external threats. Traditionally, in relation to the organisation of the national apparatus in the state of emergency, the British model and the Continental Europe model, that is based on French national apparatus, are distinguished. Continental European model is characterised by the fact that a special framework is made in advance for the emergency powers and circumstances in which the government is entitled to decide on the use of these powers. Overcoming of the national threat takes place in accordance with the requirements of the law, which has been adopted and regulates general government action in such a situation. Such a model is also embedded in our Constitution (*Satversme*), namely, when national action in the event of a hazard is previously regulated (*Latvijas Republikas Satversmes komentāri. III nodaļa. Valsts prezidents. IV nodaļa. Ministru kabinets* (Eng. *Comments of the Constitution of the Republic of Latvia. Chapter III. State President. Chapter IV. Cabinet of Ministers*), 2017).

Basic Law as a Basis for Announcement of Emergency State

Before exploring the legal framework of national emergency states, it is necessary to find out whether the introduction of the emergency state at all arises from the nation's Legal instrument of highest judicial power – Constitution. In addition, it is useful to find out how the emergency state is strengthened in the basic law of each researched country, namely, whether its justice *expressis verbis* derives from the text of the Constitution or the introduction of such a state is justified by the application of the interpretation methods of legal norms that are recognised in the legal theory, in particular, teleological and historical method. Also, given the fact that the emergency state is related to restrictions on human rights, it is also important to find out how the basic law of each country incorporates rules on restrictions on human rights. That is, whether the country has chosen to incorporate a general clause of restriction on human rights in its constitution, or it has chosen to indicate the amount of each particular restriction or has opted for another variant.

Constitution is the basic law of the nation, a social contract, which unites all citizens and determines foundation of nation and society, and which, on the whole, constitutes one of the key factors of public legitimacy. Most of the nations' constitutions usually determine two ways of exercising public authority – normal and emergency. The text of the Constitution governs the implementation of the public authority under normal conditions where the constitutional facility is not compromised and public authorities are able to implement all the functions granted by the Constitution. Any country must take into account the occurrence of emergency situation, where a country`s existing constitutional apparatus or even the existence of the country is at risk. For this reason, the Constitution provides for the implementation of public authority in case of emergency (extraordinary) state. Mostly, such circumstances are determined, with occurring of which it is possible to decide on the transformation of the public authority organisation, as well as the public authority bodies, which are authorised to act in emergency situations (*Latvijas Republikas Satversmes komentāri. III nodaļa. Valsts prezidents. IV nodaļa. Ministru kabinets* (Eng. *Comments of the Constitution of the Republic of Latvia. Chapter III. State President. Chapter IV. Cabinet of Ministers*), 2017).

The highest law of our country does not literally contain an emergency state's concept. However, although there is no *expressis verbis* (clearly expressed) regulated action during the emergency state in our Constitution, such as the scope of credentials of the Cabinet of Ministers, it contains guidance on the possibility of emergency situations, indicating that such circumstances are considered. Consequently, the justice of emergency state is based on translating the text of the Constitution with the interpretation methods of legal norms recognised in law, as well as applying the principle of unity of the *Satversme*. Understanding the legal framework of the emergency state and the issue of restriction on human rights also derives from Article 62 of the *Satversme*. Its commentary states that the doctrine of *raison d'état*, which recognises that the country's prosperity is placed higher than the freedom of an individual. Similarly, the fact that the Satversme does not contain a separate article on the right to declare an emergency state in the case which is not related to the external enemy threats or domestic civil unrest, immediately does not mean that this question is not constitutionally adjusted at all.

It is important that, despite the abovementioned, *Satversme* is suitable for overcoming the threat in an emergency state and determines all the required minimum that national constitutional bodies, institutions and officials, as well as the society in general could cope with the challenges of emergency state. Experience in an emergency state shows that Constitution (*Satversme*) is a sufficient legal framework for national action, setting the objectives, basic principles and functions of national constitutional bodies (Levits, 2020). During the emergency state, *Satversme* is also in charge and applicable without being violated. It is only the sound attitude and consciousness that it does not restrict on innovative solutions, and it is not necessary to stick to conservative approaches, that is important (Pastars, 2020). Furthermore, in opinion of the Constitution draft author, it is based on the principles of France and England's democracy and traditions, which helps

in turn of the time stream (Dravnieks, 2020). Consequently, it is also appropriate to look at legal provisions incorporated in the Basic Law of the French V Republic.

There is no doubt that the adoption of the Basic Law of each country was influenced by specific historical events and testimonies, public authorities and regimes, experience of other countries, different associations and contemporary ideas and the like. Similarly, the content of its own time modern constitutional rights and examples of other countries have given their influence. If we compare it with Latvia, the Constitution of the French Republic has had a "tough fate", since, overall, from 1789 to 1815, it could be talked about ten different variations of the Constitution. By getting acquainted with the text of the Constitution, the author of the study has concluded that it has not clearly and specifically, i.e. *expressis verbis*, regulated institute of emergency state. However, it has been found that Article 16 of the Constitution plays an important role in the context of the national emergency state legal framework. Namely, the first paragraph of that article provides for a situation where the independence of the Republic's institution, nation, the integrity of the territory or the fulfilment of international obligations is compromised in a serious and immediate manner, and the regular operation of constitutional public authority is terminated, then the President, consulting with the Prime Minister, both Presidents of the Parliament Chamber and Constitutional Council must take appropriate measures required by the given circumstances. The second paragraph of Article 16 of the Constitution determines that the President must make a report about it to the nation. The third paragraph of the relevant article, on the other hand, points out that the measures taken must be based on the desire to ensure the functioning of the constitutional public authorities, as well as these measures must be feasible as soon as possible with the least possible means to accomplish the task. It is essential that the fifth part of the Article contains the concept of "extraordinary powers", namely that the National Assembly must not be eliminated, using existing extraordinary government powers. In addition, the sixth paragraph of the Article states that, after thirty days of extraordinary powers, it is necessary to examine whether Article 16 of the Constitution really being implemented, competent parties giving their views in the form of a shared opinion, which should be done as soon as possible (Assemblée nationale, 1958).

When assessing the Constitution of the French Republic, similar to the Latvian Satversme (Constitution), the author of the research, wishing to find out the way to secure a mechanism of restrictions on human rights in the basic law, has found that the legal literature states that the restriction on human rights is commonly justified by Article 34 of the Constitution of the French Republic. It determines that exactly the law is what determines the rules on human civil rights, foundational basic rights and public freedoms. Consequently, it can be concluded that the number of human rights is also set separately in the law. As the French Constitutional Council has pointed out, the foundational basic human rights are enshrined in law acts given to the preamble to the Constitution – the preamble to 1958 Constitution, that is, the Treaty of human and citizen rights, the Constitution of 27 October 1946 and the Charter for

the Environment of 2004. These foundational rights can be restricted for the purpose of providing the public order; however, whether or not the freedom of persons is being unduly violated, is controlled by the Constitutional Council. It should also be pointed out that the justice of the restrictions on human rights is always based on the Declaration of the Rights of Man and of the Citizen that is added to the annex of the Constitution of French V Republic, to its legal norms, and directly, this Article 4 provides that the freedom consists of the opportunity to do anything that does not harm another person, thus, there are no restrictions on the use of natural rights of each human, except for those who provide to other members of the society an opportunity to exercise these rights. In turn, from the Article 5 of this declaration follows that the law can prohibit harmful actions to the society and no human can be forced to do what the law does not support. It should also be pointed out that, according to the first paragraph of Articles 61 of the French Constitution, if the person claims that the relevant legal act violates the rights and freedoms guaranteed by the Constitution, this issue can be dealt with by the Constitutional Council (Assemblée nationale, 1958).

Thus, the concept of an emergency state in the Constitution of the Republic of France is constitutionalised in Article 16, which sets out two preconditions that must be met in order that the President of the Republic could obtain extraordinary powers. However, to understand the constitution – just like the *Satversme* – interpretation methods of legal norms should be used. Basic laws of both countries point to the need to take all necessary measures required by emergency circumstances but do not *expressis verbis* regulate the greatness of powers nor explain the extent to which these powers may reach. It cannot be argued that the French Basic Law would have constitutional absence of an emergency state's concept, as there are references to the President's extraordinary powers, but there is no reason to claim that the emergency state as a special legal regime would be strengthened by the French Constitution as a separate rule, which would provide for an announcement such a regime. On the other hand, with regard to the restriction on human rights, Article 34 of the French Constitution indicates that restrictions on human rights and their amount are determined by a separate law, but the restriction clause itself is determined by Article 4 of the Declaration of the Rights of Man and of the Citizen.

Regarding the Belgian constitution, differences in the researched countries – Republic and Kingdom – must be indicated. Republic is a country that belongs to the people. It means free apparatus, but democracy in its nature is freedom. In the Republic, all institutions of public authority are directly or indirectly established according to the nation's will and its institutions are established only in elections, and the status of any official does not have a personal privilege. Also, all public authorities are responsible for their activities. Therefore, the word "republican" not only means "non-monarchical", but it also represents a constitutional facility, which is ruled by a nation, not by some separate persons (*Latvijas Republikas Satversmes komentāri. III nodaļa. Valsts prezidents. IV nodaļa. Ministru kabinets* (Eng. *Comments of the Constitution of the Republic of Latvia. Chapter III. State President. Chapter IV. Cabinet of Ministers*), 2017). In contrast,

Kingdom is a monarchical country, and the king is at its forefront. However, in the context of the Belgian country, it is a federal constitutional monarchy. In this regard, it is noted that the 19th century constitutional state was based on either constitutional monarchy or constitutional republic. Usually, these types of countries were distinguished by the fact that in monarchies the nation's public power was inherited, while power authority of the republic was elected. A head of state (the Republic) – the president – is elected for a fixed period, but in monarchies, monarchs are in office for life. The constitutional king is a lifetime president, and the president is a constitutional king only for a certain period (*Latvijas Republikas Satversmes komentāri. III nodaļa. Valsts prezidents. IV nodaļa. Ministru kabinets* (Eng. *Comments of the Constitution of the Republic of Latvia. Chapter III. State President. Chapter IV. Cabinet of Ministers*), 2017). A constitutional monarchy is essentially a gentler form of monarchy because the King's power in it is limited by the national constitution. Consequently, the king's action under the highest basic law of the country is limited.

Significantly, the Belgian Constitution is the synthesis of the French 1830 and Dutch 1815 constitutions, as well as the English constitutional laws. Unlike innumerable French variants of the National Basic Law, the Belgian Constitution during the period from 1831 to 1914 was reviewed only once (de Vischer, 1986). The author, after reading the text of the constitution of the Belgian Kingdom, has concluded that it does not contain any indication of the possibility of emergency state or the use of extraordinary powers. Belgian law researchers also have pointed out that the Belgian Constitution is not suitable for solving crisis situations. It is one of the oldest constitutions, but it should be reviewed to fully regulate the emergency state, including the extent of extraordinary powers and the rule of law. Just as anti-terrorism measures, emergency measures should be defined as well, because formalisation is the first step of democratic control (Verdussen, 2020). Elsewhere it has been recognised alike that the constitutional system of Belgium is particularly poorly prepared for solving emergency situations, since Article 187 of the Constitution is categorical and states that the Constitution must not be completely or partially suspended. Thus, during the time of emergency state, tension between the nature of emergency state and the norms of the supreme basic law have been created (Clarenne & Romainville, 2020). Similarly, to Latvia and France, whether there is a crisis situation or not, restrictions on basic rights in Belgium can only be performed if they have objective and reasonable justification and they are limited on the basis of legal norms in accordance with the vote of parliamentary assembly (Verdussen, n.d.).

It is important that Article 105 of the Belgian Constitution states that the King has no other power except those he has been officially granted by the nation's Constitution and Specific Laws that has been adopted based on the Constitution itself (Belgian House of Representatives, 2014). Consequently, it can be noted that it is not the case when the State's Constitution does not contain any regulation or only points to the possibility of such a situation by translating legal norms but denies the existence of such a situation

entirely. Such a prohibition immediately requires that, in the period of an emergency state such as war on terror, nuclear disaster, deadly heat wave, devastating weather or epidemics, the government cannot adopt emergency measures that stop the application of constitutional rules, particularly its basic rights. Thus, independent of the severity and intensity of events, authorities should work legally and justly, and any cost and citizens should be able to exercise their foundational rights unhindered, and the legal regime must not be modified. All public authorities during the emergency state in accordance with the Constitution are responsible for application of all its rules (Verdussen, 2020). However, in many cases, legal researchers have responded to the concept of "special powers", which is strengthened in certain laws and includes the possibility for the government to issue special Royal Decrees. They have the same status as the bills adopted by the Parliament, but they do not have to go through the long and complex legislative procedure. The purpose of such a mechanism is the speed, efficiency and the possibility of avoiding the situation when a majority of votes in the Parliament will not be reached. Further on, they must also receive the Parliament's approval, but while the evaluation process is taking place, they can start their activities (Messoudi, 2020). This, however, does not mean that these "special powers" provide government with an unlimited power and the government can do everything that it wants. Consequently, it is important to point out that the Belgian Constitutional Court has stressed that, in direct implementation of these "specific powers", it is necessary to comply with a number of the following principles, to respect the principle of division of power: 1) the use of "special powers" should be based on emergency circumstances; 2) restrictions must be limited in time; 3) objectives that are set and tasks that are necessary to achieve them must be clearly defined; 4) the exact amount of measures that are authorised to the king must be indicated (Clarenne & Romainville, 2020).

In view of the outlined, it can be concluded that none of the researched national constitutions do not *expressis verbis* regulate the concept of emergency state. However, the Satversme has been recognised as functionable also in the period of an emergency state as it is able to be both flexible and adapt to the current situation using the translation methods of law norms and filling those norms with a certain content. The authors of the comments of the Constitution (*Satversme*), while explaining the institute of special legal regime in Latvia, i.e. a state of exception, has indicated both the principles applicable in this mode and explained the meaning of a state of exception, which the author of the study has also recognised as eligible during the emergency state. It is also necessary to recognise that the Satversme contains an unusual mechanism of restrictions on human rights, which is not commonly used in constitutions, indicating specific restrictive articles in a single provision. In addition, evaluating the institute of emergency state in Latvia, there are considerable arguments and motivations related to Article 117 that was not adopted in the Satversme.

Regarding the Constitution of the French Republic, it can be noted that it gives extreme powers to the President of the Republic, naming the cases in which these powers

can take place; however, it does not regulate the extent of these powers. Consequently, the basic laws of both countries allow existence of emergency state and its possible modifications and derogations from the usual arrangements but does not precisely regulate it. Thus, in accordance with the principle of unity of the Constitution, these two basic laws have to be looked upon in conjunction with all the rules and must be interpreted according to the "spirit" of the age. The fact that the constitutions do not contain a separate legal provision on the announcement of the emergency state does not mean that this issue is not constitutionally amended. In turn, while evaluating the French model of restriction on human rights, it was found that the justification is found in Article 34 of the Constitution, which provides that it is the law that lays down rules in relation to the human civil rights, foundational basic rights and public freedoms. Similarly, restrictions on human rights are based on the norms of the Declaration of the Rights of Man and of the Citizen, and directly, on the Article 4, which sets limitations on the rights of other members of society. On the other hand, the Belgian Constitution indicates that the King has no other powers, except those that are granted by the constitution and the special laws adopted on the basis of the Constitution itself. Similarly, the highest law of this country states that no derogations from it are allowed; consequently, it is not the lack of legislation but the resulting denial of the emergency state that is found. Regarding the model of restrictions on human rights, it can be noted, that there is no general clause of restrictions on human rights included in the constitution, but the mechanism of restrictions on human rights is incorporated in several ways, including the way of specific derogations. For example, Article 22 of the Constitution determines the rights to inviolability of private and family life, except for certain cases defined in the law. Thus, it can be noted that the legislator has directly included the right of derogation in the norm. However, without legal provisions incorporated into national basic laws, specific regulatory enactments are those that are significant in the context of the institute of emergency state.

Meaning of Law on Emergency State in the Legal System

The author of the study has found that the law "On emergency situation and state of exception" was established on the basis of lack of regulation and deficiencies in the Law "On state of exception" which allowed to issue a specific legal regime only in a situation where the country is threatened by the external enemy or when there are domestic civil unrests that threaten the existing national apparatus or there is a danger of such unrests in a country or in a part of it. The author has also found that all the obligations of a state that result from the international law norms are respected in the law. In addition, it has been found that the law is not contrary to international basic documents on human rights. Regarding the content of broadly defined parts of multiple Articles that are contained in the law, such as the second paragraph of Article 8 which includes the rights of the Cabinet of Ministers to determine the competence

of public administration and municipal institutions in prevention and overcoming of the national threat, or, for example, the third paragraph of Article 19 which determines that measures should be taken only to the extent necessary to normalise the situation, noting that the applicable law should be reasonable and able to fulfil the identified open concepts in the Article, such as "normalisation of the situation" by itself (*Par ārkārtējo situāciju un izņēmuma stāvokli: Latvijas Republikas likums*, 2013). In contrast, if the state unreasonably uses extraordinary powers, a greater danger may occur. At the same time, the author has found that the relevant Articles cannot be clarified, as the purpose of the law is essentially to predict the unpredictable. It is also important that all administrative decisions taken in a state of emergency should have a legitimate aim to be proportionate, non-discriminatory, reasonable and necessary in each particular event of a national threat. The current study recognises that, in general, this law is well applicable in an emergency state.

Simultaneously, it can be noted, that the author of the study works in the municipality of Smiltene county, and it is also essential to emphasise the work of municipality during the state of emergency. In this context, it should be pointed out that an important role in the legal framework of the emergency state was played not only by the abovementioned law, but also statement No. 8 of the Nation's President "Basic principles of operation of nation's constitutional organs in an emergency state" of March 23, 2020. According to its second paragraph, all the country's constitutional bodies, all state institutions, incorporations and officials must exercise their competences and carry out their work so that within the framework of this general national aim their functions and tasks were performed as much as possible. Also, paragraph 4 of the message determines, if necessary, the operating forms of constitutional bodies, corporations, institutions and officials are applicable to the circumstances determined by the emergency state. It also includes the mode of remote working, restriction on direct contacts of people, expanding operation in an electronic environment and other measures that ensure the performance of functions as much as possible. Consequently, also the municipality in which the author of the study works has tried to find a wide range of solutions to fulfil its tasks as effectively as possible in an emergency state. For example, since the prevalence of Corona virus, all sites and meetings have been organised remotely on Zoom platform, which has already become such a mundane and convenient "tool" that it has been decided to organise a weekly employee meeting using this platform also in the future, because it has been observed that more employees participate in this meeting format than visiting it in person. This can be explained by the fact that it is easier and faster to connect to the meeting in Zoom, employees can do it from their office (home, park). It is also noticeable that it would be worthwhile to analyse the internal alarm system during the emergency state in public administration institutions, including municipalities, namely, by examining how much and what kind of report was received directly in connection with non-compliance with the government imposed restrictions in the context of the virus Covid-19.

Regarding France – in legal literature, it is recognised that there are several legal regimes in France: extraordinary powers granted to the President in accordance with the Constitution. State of exception associated with inevitable threat that is caused by war or armed rebellion and the emergency state, associated with "health disaster", namely, the situation where health disaster threatens health of the population by its nature and severity. Thus, it is already possible to state that in comparison with the Latvian legal framework, in which two specific legal regimes are possible – the emergency situation and the state of exception, the French national legal system contains three solutions. Those are two laws which govern the emergency state in the country – 1955 Law "On the Emergency state" and the Code of Public Health. It is precisely in the context of the virus Covid-19 pandemic when the legal instrument integrated in the French National Health Code can be praised, according to which the public health emergency state can be announced throughout entire metropolis or some part of it. Such a situation can be announced based on the Decree of the Council of Ministers, adopted in accordance with the Statement of the Minister of Health, and must be accompanied by all existing scientific data that motivate to make such a decision. In this case, both the National Assembly and the Senate must be informed of all the measures taken by the government. In contrast, the extension of the emergency situation after one month here is only possible by law and can only be performed after the opinion of the Scientific Committee has been received.

On the other hand, regarding Belgium, the author has found that one of the resources used by the state to cope with emergency circumstances caused by the virus Covid-19 is the royal decrees adopted by the Council of Ministers. It was previously established that Article 105 of the Constitution states that the King has no other powers, except those that are granted by the Constitution and the specific laws adopted in accordance with the Constitution. Thus, these extraordinary powers are implemented based on regulatory decrees, using which the executive power can intervene in the legislative power. The author of the study has found that they are similar to the legal system of the Republic of Estonia, where, under Article 109 of the Estonian Constitution, President of the Republic is allowed to issue co-signed decrees of the Head of the State Meeting and the Prime Minister that have the power of the law if the State Meeting cannot occur, in case of urgent national necessity. When the State Meeting occurs, the President submits decrees to it, and the State Meeting immediately adopts the law on their approval or cancellation (Pleps, Pastars, & Plakane, 2014). Similarly, in Belgium the King's special or extraordinary powers, which are implemented through the decrees, are exercised only and exclusively due to emergency circumstances when it is not possible to comply with the ordinary legislative procedure, because there is an urgent emergency and the need for such a legislative act.

Thus, two laws were studied both from March 27, 2020, both titled "The law that authorises the King to adopt measures to control the spread of Covid-19 virus" and it was found that they were adopted so Belgium could respond to Covid-19 virus epidemic and manage its consequences, so they determine the Royal Powers to implement the necessary measures with the decree adopted by the Council of Ministers. They indicate that

the King may take all the necessary measures, observing the principles of independence and impartiality, taking into account the rights of participants of the trial of defence during the proceedings and adapt the competence, operation and procedure of national councils and administrative courts, in such a way as to allow the continuity of these institutions and continued implementation of the mission of these institutions. One law requires that the decree is approved by the law within a period of one year, while the second decree requires that the King is authorised to take all the necessary measures to protect public health and to preserve social order, including organising the necessary measures in the field of logistics, to take supportive measures in the financial and economic sectors, supporting businesses and households that have been affected by the consequences of the pandemic, to protect the consumer, make amendments to labour law and social security law, for example, to guarantee the protection of national economic interests and to protect critical industries. Likewise, the King has given rights to extend the terms that are stated in the laws, has an obligation to guarantee the continuity of legal proceedings to adapt the work of bailiffs, prosecutors, translators (interpreters), notaries, so as they could be able to function in emergency circumstances, to observe the common decisions issued by the European Union member states to overcome the crisis.

Conclusions

1. Concepts relating to the institute of emergency state are used incorrectly and there is an unequal terminology practice found. It is not appropriate to use the concept of "emergency state" and "extraordinary state" or other similar derivatives, as the legislator has clearly distinguished and separated between the two legal regimes – emergency situation and state of exception. It is also not correct to use the concept of "martial law" or "war time" because these concepts have a military character. Regarding the concept of "crisis", this concept does not in itself mean an emergency situation, but the consequences of the emergency situation may have become a reason for the crisis of some sector.
2. Latvia, France and Belgium belong to the continental European model and the Romano-Germanic law system, and their national legal systems are based on the principles of Roman law, so they have a similar legal framework basis. However, despite each country having a different legal framework for the state of emergency, there is a consensus observed regarding questions on emergency issues.
3. The content of the emergency state is not expressed in Latvian *Satversme*, but the principles of law that are applicable in emergency state and the rule of law in restrictions on human rights can be read in accordance with Paragraph 116 of Article 62 of the *Satversme*. Based on interpretation methods of legal norms, it is made certain, that constitutionalism of emergency state in Latvia can be translated (interpreted) in accordance with the principle of unity of the *Satversme*.

4. Like in Latvia, also in France, the justice of emergency state does not *expressis verbis* follow from the Constitution, but the President of the Republic must be awarded with an extraordinary authority in the cases specified in the Basic Law. Only in France, three specific legal regimes have been distinguished, including emergency state in the health sector, which demonstrates its functionality during the Covid-19 virus.
5. The Constitution of the Kingdom of Belgium states that there is no possibility of derogation from the provisions of the Constitution, and it does not provide for a mechanism to announce emergency state. The emergency state in the country is rated contradictory and it would be necessary to revise the Belgian Basic Law to adjust the justice of emergency state. It is not stated that there is a separate law that regulates the emergency state, as it is in the legal systems of Latvia and France.
6. It would be worth considering whether it is necessary to amend the *Satversme*, supplementing it with paragraph 1 of Article 62 which would give the rights to the Cabinet of Ministers to announce an emergency state, as well as also to consider the possibility of incorporating into the *Satversme* such an Article which would state that in the period of these two legal regimes, the Cabinet of Ministers has the right to issue rules that have the power of law, with *Saeima* subsequently reviewing them.

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