

Civic Entrepreneurs and "Ratio Legis" During Russia's War in Ukraine: a Case Study of Digital Petitions in Latvia and Ukraine

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Abstract

Civic initiatives that manifest themselves in the legitimate form of electronic petitions (initiatives) in different countries of the world are attracting more and more attention. This is especially true in times of social crisis. The war in Ukraine has become one of the most powerful factors influencing civic activity in both Ukraine and Latvia. A significant number of civic initiatives have emerged as a result of the war. The very content and focus of this activity has changed significantly under the influence of wartime challenges, which requires a separate scientific analysis. These circumstances have actualised the authors' research in this area. This article is the first attempt to study the experience of Latvia and Ukraine in the field of electronic petitions in the context of the war in Ukraine. The purpose of the article is to examine the role and influence of civil society actors on the justification of legislation, or ratio legis, in the legislative processes of Latvia and Ukraine during the crisis caused by the Russian war in Ukraine. To achieve this goal and solve the tasks stipulated by it, the following scientific methods were used: systematic, formal legal, comparative legal, analysis and synthesis, generalisation and critical analysis. The authors have studied Ukrainian and Latvian legislation defining the procedures for publishing electronic petitions and collecting signatures in their support. The analysis shows that during the first two years of the war in Ukraine, the public initiative platform ManaBalss.lv (MyVoice) in Latvia received 165 proposals on wartime issues. Of these, 49 initiatives were published that met ManaBalss.lv's quality criteria. Among them, 10 reached the legally required threshold of signatures and were submitted to the parliament (Saeima) or the respective municipalities as collective submissions. Two of these collective submissions were implemented, in particular, an amendment to the legislation legally obliging employees of state institutions to be loyal to the Republic of Latvia and its Constitution was introduced. The study also examines the history of the 2019

collective submission to the Saeima demanding the demolition of the grandiose Soviet-era Victory Monument, which is protected by an international agreement. The study also includes the Ukrainian experience of civic activism, such as the initiative to legalise same-sex civil unions. It has acquired a new vector of relevance due to the war in Ukraine. This initiative was aimed at creating legal grounds for informing de facto spouses about the injury, captivity or death of the other partner, as well as exercising rights related to the death of a partner. The study revealed the targeted, persistent influence of individual and organised public figures or social entrepreneurs on the current state of legislation in the areas that have proven to be most sensitive to the challenges of war. The study of synergies, especially between civic and political entrepreneurs, aims to improve understanding of the mutually constructive work of policymakers and strengthen democracy. A properly conceptualised and practical experience-based mechanism of digital civic participation contributes to achieving this goal. This area is promising for further research.

Keywords: policy entrepreneurs; civic entrepreneurs; electronic petitions; public initiatives; e-participation in legislation; ManaBalss.lv; ratio legis; war in Ukraine.

Громадські підприємці та «Ratio Legis» під час війни Росії в Україні: на прикладі електронних петицій в Латвії та Україні

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Анотація

Громадські ініціативи, що проявляються в легітимній формі електронних петицій (ініціатив) у різних країнах світу, привертають до себе все більше уваги. Особливо це спостерігається в часи кризових соціальних загострень. Війна в Україні стала одним із найбільш потужних чинників впливу на громадську активність як у самій Україні, так і в Латвії. Насамперед тут з'явилася значна кількість громадських ініціатив, спричинених війною. Сам зміст і спрямованість цієї активності значно змінилися під впливом викликів воєнного часу, що потребує окремого наукового аналізу. Зазначені обставини актуалізували розвідку авторів у цій царині. Пропонована стаття є

першою спробою дослідити досвід Латвії та України у сфері електронних петицій у умовах війни в Україні. Її метою є дослідження ролі та впливу суб'єктів громадянського суспільства на обґрунтування законодавства, або *ratio legis*, у законодавчих процесах Латвії та України під час кризи, спричиненої вторгненням росії в Україну. Задля досягнення поставленої мети та вирішення зумовлених нею завдань використано такі наукові методи: системний, формально-юридичний, порівняльно-правовий, аналізу та синтезу, узагальнення й критичного аналізу. Досліджено українські та латвійські законодавчі акти, що визначають процедури оприлюднення електронних петицій і збору підписів на їх підтримку. У результаті проведеного аналізу визначено, що протягом перших двох років війни в Україні платформа громадських ініціатив *ManaBalss.lv* (*MyVoice*) у Латвії отримала 165 пропозицій з питань, зумовлених воєнним часом. З них було опубліковано 49 ініціатив, які відповідали критеріям якості *ManaBalss.lv*. Серед них 10 досягли законодавчо встановленого порогу підписів і були подані до парламенту (Сейму) або відповідних муніципалітетів як колективні подання. Два з цих колективних подань були реалізовані, зокрема, внесено поправку до законодавства, що юридично зобов'язує працівників державних установ бути лояльними до Латвійської Республіки та її Конституції. Також досліджено історію просування колективного подання до Сейму від 2019 р. з вимогою знести монумент Перемоги радянських часів, який охороняється міжнародною угодою. Крім того, проаналізовано український досвід громадянської активності на прикладі ініціативи легалізації одностатевих цивільних союзів, яка набула нового вектору актуальності через війну в Україні. Саме ця ініціатива була спрямована на створення правових підстав для інформування фактичного подружжя про поранення, полон або смерть іншого партнера, а також на реалізацію прав, пов'язаних зі смертю партнера. Проведене дослідження виявило цілеспрямований, наполегливий вплив окремих та організованих громадських діячів або громадських підприємців на поточний стан законодавства у сферах, що виявилися найбільш чутливими до викликів війни. Вивчення синергії, особливо між громадськими та політичними підприємцями, спрямовано на покращення розуміння взаємно-конструктивної роботи органів, що формують політику, та зміцнення демократії. Належним чином концептуалізований і заснований на практичному досвіді механізм цифрової громадянської участі сприяє досягненню цієї мети і є перспективним для подальших досліджень.

Ключові слова: політичні підприємці; громадські підприємці; е-участь у законотворчості; електронні петиції; громадські ініціативи; *ManaBalss.lv*; *ratio legis*; війна в Україні.

Introduction

Legal grounds and boots on the ground: expanding current "ratio legis"

Eager individuals and organisations, analysed in this research, use favourable situations to expand the legal scope, participating via digital

means and with the assistance of legislators in the further development of laws. This ensures better adaptation of certain norms to their underlying purpose and meaning, or the *ratio legis*.

In the terms of political science, various policy entrepreneurs, including civic entrepreneurs and political entrepreneurs, use windows of opportunity that emerge in the institutionally defined environment, specifically within legislation, to achieve their broadly defined entrepreneurial "profits". For civic entrepreneurs, these "profits" encompass civic and societal rights and norms while for political entrepreneurs, they translate into political capital. These categories are not mutually exclusive, and the roles of the actors can overlap; for example, a political entrepreneur may be driven also by a civic motivation [1].

Regardless their typology, policy entrepreneurs seize windows of opportunity to link their proposed solutions to identified problems [2]. However, problems are not self-evident; policy entrepreneurs are enabled or limited by how problems are defined and how these definitions influence agenda-setting and policy making [3]. Acting as problem brokers, policy entrepreneurs "sell" or actualise and problematise the policy-making issues or in our case – legislative problems, presenting them as tangible and solvable problems, rather than mere "conditions" or institutionalised states of affairs, which exist despite their suboptimal perception by certain actors or social groups.

In the third chapter, *inter alia*, we will delve into how a civic actor seized the onset of the Russia's war in Ukraine to reactivate and problematise the public display of post-Soviet symbols associated with Russia. These symbols had persisted in the "conditions" state of affairs for decades. It is important to note that the successful policy entrepreneurs often possess the characteristic of convincingly brokering existential necessity for a change, thereby expanding the current legal scope and rationale of *ratio legis*.

In Latvia, it goes back as far as the creation of the sovereign state in 1918 at the end of World War I. Latvia is among the first states to enshrine women's suffrage in its Constitution (Satversme). Regardless the accuracy of historic claims by political entrepreneurs, like, Latvian social democrats, it is noteworthy that in Latvia the question of the establishment of the state itself, i.e., an existential necessity, was closely intertwined with the issue of universal suffrage.

Arguably, this laid the legal foundation for an expanded *ratio legis*, especially within constitutional rights, challenging the prevailing conservative legal rationale both internationally and in Latvia. The establishment of a

democratic and lawful state in Latvia in the early 20th century under the military threat right after the WWI, required the involvement of women in parliamentary processes. However, the comprehensive resolution of women's rights, including the right to seek divorce, full legal capacity in contractual matters, and the autonomy to choose their place of residence, awaited windows of opportunity and a more profound development of *ratio legis* over an extended period [4]. The emancipation of women in the field of public law in Latvia as an existential sovereign necessity, occurred much faster than women's emancipation in the field of civil law.

Similarly, the legalisation of same-sex unions in Ukraine during the wartime represents a compromise on achieving full marriage equality [5]. Arguably, the move is driven by an existential necessity and an expanded *ratio legis*, with civic entrepreneurs playing a significant role through a digital civic petition on the Presidential petitions' webpage [6].

To comprehend the phenomenon of civic actors achieving legislative change on the wartime issues or at least enhancing it by means of digital petitions, two research questions are posed:

- 1) in what legal and political context these civic initiatives originated and where perceived by the legislators and officials in the decision-making process?
- 2) Did these civic initiatives arguably contribute in the further development of laws by expanding the *ratio legis*?

The hypothesis of this research posits that civic actors function as civic entrepreneurs, leveraging the situation of Russia's war in Ukraine as a window of opportunity to expand the legal scope of existing norms, i.e., *ratio legis*, and to bring about desired legislative amendments.

Literature review

To understand the tradition of studying entrepreneurial actors striving for institutional, policy, and legislative changes, John W. Kingdon's conceptualization of policy entrepreneurs serves as an excellent starting point. In contemporary scholarly work within this field, J.W. Kingdon's influence is pervasive, even if not explicitly cited, as seen in this research. Additionally, this study briefly incorporates insights from another seminal author in the study of institutional change and institutionalism theory – Peter A. Hall [7]. In the context of this research, which focuses on democratic agility in response to existential challenges, particularly in relation to efficient legislation and the rule of law, the literature on self-defensive democracy (in German: *Wehrhafte Demokratie*) is indispensable. Therefore, the inclusion of perspectives from Peter Niesen [8] and Paulien de Morree [9] in this research.

Materials and Methods

To analyse the abovementioned and other digital civic petitions' cases, the following terms are used in this research:

- Digital or e-participation refers to public involvement in the digital democracy environment, where citizens contribute their concerns, needs, interests, and values to shape parliamentary legislation;
- Policy entrepreneurs: Individuals who allocate resources to advocate their proposals or address specific issues, playing a crucial role in attracting attention from influential individuals and linking solutions to problems within the realm of politics;
- Civic entrepreneur: An individual or an organization that seizes opportunities to influence policy outcomes in the interests of society;
- Political entrepreneur: An individual politician or a political party that takes advantage of opportunities to influence policy outcomes and gain political capital;
- Political capital: Representative or reputational capital, or both, referring to parliamentary rights, legislator attributes, political productivity, and consistent policy positions signalled to the electorate;
- *Ratio legis* – Reason for the law. The policy rationale or underlying purpose of a specific norm, rule, treaty or act of legislation that ensures its application in accordance with the entire system, so that it seamlessly integrates into the overall functioning of the legal system, both in terms of its content, purpose, and meaning, as well as its application.

Due to the limited research on the overall effectiveness of e-participation in legislation and the unique nature of this research subject, this exploratory qualitative case study adopts an inductive approach. It involves the analysis of data from the ManaBalss.lv (MyVoice) platform, a written response by a parliamentary commission and five interviews with the authors of civic initiatives, chairpersons of parliamentary commissions and a former President of Latvia (2019-2023).

The data on the analysed digital civic initiatives are in the Annex.

The words "petition", "initiative" and "collective submission" in the research are used interchangeably, given that the Latvian and Ukrainian legislation and societies use different terms to describe the same phenomenon.

The term "civic" in the research is preferred to the often used "civil" to distinguish between citizens' affairs and activities related to their community, society and state, and general human or civil attitudes, behaviour and norms within a society, like, civil rights stating what every person of the community has the right to.

Results and Discussion

Multisided value of entrepreneurial law-making

In the analysis of legal changes, incorporating the broadest network of involved actors alongside legal professionals, the economic approach using terms such as "entrepreneur", "capital", as well as "value", "investment", and "cost" is a useful simplification. It highlights common characteristics among the involved actors, allowing both in research and for the actors themselves to speak a common language. This is by no means self-evident.

The sentiment "the government doesn't listen to me" is a not less widespread attitude in democratic societies than an inclination towards "the people are not particularly smart; let the professionals work" on the side of bureaucracy, officials, and politicians. Similarly, in democracies, there has always been not only inter-party but also inter-institutional jealousy and competition, stemming from legitimate institutional interests on the side of the executives and public administration. The economic approach, when applied to the analysis of diverse institutional changes, encompassing the scope of legal norms and legislative modifications, enables the observation of these emotionally charged processes in a systemic and neutral manner. Ultimately, this approach can provide emotional relief and more constructive, practical approach also for the involved actors.

All kinds of policy actors operate in the market of ideas, and in this market, there are its own upheavals, such as Covid-19 or the war in Ukraine, fluctuations in demand for specific ideas, and risks to the investments made. Like, the risk for the invested time and energy of the initiative's authors and the attention capital received from the public. There is also fall or, conversely, a sudden surge in value of frozen civic or political investments due to a swing in demand.

Data from ManaBalss.lv indicate a momentary shift in the market of ideas with the onset of Russia's war in Ukraine. Since February 24, 2022, not a single citizen initiative on the topic of Covid-19 has been submitted, although it used to happen regularly. On the contrary, on the day of the invasion, two initiatives on the wartime issues already were published, and within four days until the end of the week, two more followed, but 17 initiative submissions were not published as they were deemed inconsistent with the platform's criteria¹. Most of them duplicated the same demand – the dismantling of the Victory monument in Riga, which was already on the political agenda.

¹ Publicly available quality criteria for an initiative to be published. In Latvian: <https://ej.uz/oi1y>. These criteria as a cornerstone of e-participation efficiency are analysed in Luchenka, Melkis 2022 [10].

In the morning of February 24, protesters began to gather near the Russian embassy in Riga, practically ignoring the then-existing legal norms regarding Covid-19 restrictions. Both the number of protesters and the blatant disregard for Covid-19 norms reached their culmination in Riga on the afternoon of the invasion, including several hitherto law-abiding politicians. It was an extremely rapid, unmistakable and forceful change in the popular perception of the current *ratio legis*, which was soon followed by official legislation. It is mentioned here because it marks a dramatic shift in societal focus and the turnover of the market of ideas, irreversibly overshadowing the previous problem, the value of its themes and solutions, as well as the value of the invested civic activism, political, and in a way, financial capital. In this case, the market of ideas completely, instantly and irreversibly shifted from Covid-19 to the Russia's war in Ukraine.

Both entrepreneurial approach of the civic society and the legitimacy and different kind of a "currency" of the political capital should be understood for a comprehensive analysis of a legislative and legal change ecosystem.

Civic entrepreneurs drove the institutional change in e-participation in Latvia, as well as in Ukraine, during a window of opportunity. In Latvia, it coincided with an economic, social, and political crisis and growing public mistrust in the parliament, Saeima. In 2011, amidst the dissolution of the parliament by the President and a popular movement against the oligarchy, tech entrepreneurs, civic activists, professionals, and aspiring politicians together with the team of the newly established NGO MyVoice advocated for direct societal involvement in the legislative process through digital participation. As a result, the mechanism of collective submissions was introduced in the parliamentary Rules of Procedure [22].

Ukrainians have been able to use the mechanism of collective submissions (e-petitions) since July 2015, when Section II of the Law of Ukraine "On Citizens' Appeals" (in force since 02.10.1996) was supplemented by Article 23-1 "Electronic Petition, Procedure for its Submission and Consideration" [12]. This amendment to the law was initiated by the President of Ukraine with the aim of creating an effective mechanism for communication between citizens and the authorities, including through the use of information and communication tools. Ukrainian society welcomed the new opportunity, perceiving it as a real way to influence government decisions. The readiness of citizens to engage in such a dialogue with the state is evidenced by the number of such appeals, which amounted to several thousand petitions in each of the first months of the law's operation. This was a true manifestation of e-democracy in the broadest sense, which involves community involvement in solving various socio-political problems with the help of modern information technologies [13].

Collective submissions in Latvia require a minimum of 10'000 signatures from citizens aged 16 or older on the day of filing, i.e., in 2024 it is slightly above 0.75% from the eligible to this right [20]. It is a significantly high threshold vis-à-vis population of the state. In Ukraine, the required number of signatures is 25,000 [14], which is a much smaller percentage of the country's population – 0.059%. At the same time, the law does not set a minimum age requirement for a citizen to initiate or sign a petition. Conversely, Article 7 of the Law of Ukraine "On Citizens' Petitions" [12] contains a provision that prohibits refusal to accept and consider a petition based on the age of the citizen.

Most early e-participation platforms in Latvia were built on the assumption "we will build and people will come". Without strong organizational backing or a sustainable financing model, they largely failed to create a wider impact in society. The MyVoice platform is a notable exception in terms of public visibility and policy impact [15]. The governance innovation accomplished in Latvia through collective submissions, with a crucial role played by ManaBalss.lv, enables policy entrepreneurs to capitalize on windows of opportunity. This facilitates a sustained and consistent pursuit of their advocacy, leading to legislative changes independent of electoral cycles (Table 1).

Table 1. Citizens' initiatives data, ManaBalss.lv

Year	Submitted to the platform	Published on the platform	Percentage, published from the submitted	Implemented into law	Elections
2011	215	25	12	1	Yes
2012	223	24	11	2	No
2013	168	15	9	2	No
2014	134	21	16	4	Yes
2015	166	38	23	1	No
2016	154	64	42	4	No
2017	152	70	46	6	No
2018	161	71	44	8	Yes
2019	195	61	31	3	No
2020	279	123	44	7	No
2021	360	115	32	13	No
2022	314	124	39	11	Yes
2023	344	173	50	11	No

Year	Submitted to the platform	Published on the platform	Percentage, published from the submitted	Implemented into law	Elections
2024 ¹	78	33	42	2	No
Total	2943	957	34	75 ²	

Since 2011, ManaBalss.lv has spearheaded 75 civic initiatives resulting in legislative changes spanning a wide spectrum of civic and societal interests, even encompassing a constitutional amendment. In 2018, a constitutional amendment was enacted, introducing an open parliamentary vote for the President of Latvia. This provision took effect in 2019 and, based on our information, stands out globally as a unique instance where citizens, leveraging digital participation, have effectively influenced a constitutional amendment.

Continuous and direct civic participation in shaping the parliamentary agenda presents a fundamental dilemma. This dilemma arises from politicians' necessity to align with the preferences of the electorate to sustain a minimum level of stable political capital, while the parts of this capital – reputational capital and representative capital – tend to be divergent. The representative capital consists of parliamentary rights and legislator attributes that determines political entrepreneur's productivity in influencing a policy. In other words, the real, actual power. Whilst reputational capital determines legislator's standing with the voters and helps the voters to form their expectations, politicians as legislators tend to go against constituent interests and expend the reputational capital to accumulate representative capital [15] or the actual power.

Simultaneously, citizens insist on ongoing checks and balances concerning their preferences, leading to the volatility of political capital. Using economic terminology, politicians adhere to the gold standard of their political capital, while citizens advocate for a perpetual adjustment of both the mandate and values, sometimes including *ratio legis* – akin to a somewhat fiat currency of political capital.

¹ January 1 to March 7, 2024.

² Out of 130 collective submissions that have received the final decision since 2011. On March 7, 2024, there are 50 collective submissions under the review in different stages in Saeima and ministries. In addition, there are nine more initiatives directly submitted to the ministries and government, but their legal status is not defined, so they are omitted in MyVoice statistics. Also, 44 initiatives are in the review process in municipalities, which MyVoice also does not count, as their legal status is legislated only since 2023, and out of those 44 only 24 fall under the new Law on Local Governments. I.e., they are submitted since 2023. Historically, 24 collective submissions to municipalities in Latvia have achieved the demanded change; eight of these – since the Law on Local Governments came into force.

Ukraine's experience is different. The significant activity of Ukrainians in using the mechanism of electronic petitions and the possibility of sending them and placing them on the official resources of the parliament, the President and the government without prior quality checks does not inherently equal high efficiency of such interaction with the authorities. Tens of thousands of published initiatives often duplicate each other, are mostly characterised by a low level of quality, lack of a clearly defined goal and a real idea, which leads to a low level of support from the society. The same initiatives that have received the required 25,000 signatures often do not lead to real consequences in the form of new laws or government decisions [16].

The examination of political entrepreneurs utilizing ManaBalss.lv [1] corroborates that an e-participation system managed directly by civic society significantly streamlines the trial-and-error process inherent in political entrepreneurship. This system empowers political entrepreneurs to choose interest groups and constituents to engage with not only during the peaks of electoral cycles, where e-participation is typically observed [17], but consistently and irrespective of electoral cycles. Hence, it arguably smoothes the dilemma of the gold standard versus fiat currency of the political capital.

To disrupt the cycles of e-participation and amplify the tangible impact of policy entrepreneurs on parliamentary agenda-setting, including the expansion of *ratio legis*, an entrepreneurial approach to e-participation is indispensable. In countries such as Ukraine, Latvia, and Estonia, civic entrepreneurs played pivotal roles as change agents in the establishment of their respective e-participation systems. Notably, only in Latvia did civic entrepreneurs, represented by the NGO MyVoice, sustain their central role post the implementation of the e-participation system [18]. Among these three countries and others with comparable e-participation systems, Latvia stands out as significantly more efficient in civic participation in legislative processes.

A constitutional lawyer and former President of Latvia acknowledges that "in Latvia, the legal opportunities for civic society and individuals to influence the political process, as defined by the law, are among the broadest in the world" [19]. It is crucial to note that these "legal opportunities... defined by the law" are articulated in a soft and horizontally structured manner. In contrast to other comparable countries with vertically integrated e-participation systems, where the offices of presidents, parliaments, governments, and municipalities provide civic participation services, the Rules of Procedure in Latvia do not mandate the parliament to take specific actions [11]. Instead, they stipulate that collective submissions receive preferential legislative treatment when they reach the parliament. In simpler terms, the parliament

acknowledges the importance of deliberating civic initiatives only when substantial groundwork is undertaken by society itself.

The infrastructure for e-participation, campaign support services, legal assistance, and all related financing in Latvia are entirely entrusted to civil society. Structurally, encompassing the underlying legal norms, it is inherently entrepreneurial. Consequently, it empowers a range of policy entrepreneurs, including political entrepreneurs, whose political capital would, in traditional reasoning, be jeopardized by excessively frequent civic disruptions.

Instances of civic initiatives authored by political, profession, and public entrepreneurs on ManaBalss.lv are relatively rare. Limited activity of political and profession entrepreneurs on the platform is largely explained by the publication fee threshold, which can reach up to 4,900 euros plus VAT for political parties, companies and business lobby. In addition, public entrepreneurs may be constrained by the inherent hierarchy and characteristics of the public sector. Public entrepreneurs tend to initiate proposals on ManaBalss.lv when their professional, organisational existence is endangered. E.g., initiatives "Preserve the universities in Latvia's regions" and "Preserve specialized music education in Latvian schools"¹.

There is also a unique case of public entrepreneurship where a municipality initiates legislative change through e-participation². Similar to the interviewed political entrepreneurs [1], this municipality expresses a preference for a civic-run, entrepreneurial e-participation platform that prioritizes efficiency, ease of use, and consecutive preferential legislative deliberation in the parliament, guaranteed by law. The preferential aspect implies that a legitimate collective submission in the parliament must be discussed based on its merits, not merely taken into consideration. Instances of outright dismissal of a collective submission in Saeima are rare – only 18 out of 130 submitted to the parliament in almost 13 years of ManaBalss.lv. Also in these cases, the submitted ideas are deliberated among political fractions' representatives, experts, officials and the author of the initiative during its initial evaluation in the Mandate, Ethics and Submissions Committee. These deliberations before dismissal routinely take the whole working day agenda of the Committee or even a couple of days³.

¹ In Latvian, accordingly – <https://manabalss.lv/i/2006>, <https://manabalss.lv/i/1562>. Both initiatives successfully attained the demanded policy.

² "Legal basis for preventing violence in schools", in Latvian – <https://manabalss.lv/i/2891>. In the parliamentary legislative process, as of March 7, 2024.

³ Deliberation of the dismissed collective submissions can be quickly traced in the red-marked entries on the Mandate, Ethics and Submissions Committee's webpage. In Latvian: <https://ej.uz/13ds>. Further analysis would take going through the audio recordings of the Committee meetings, also available publicly online.

Furthermore, preferential treatment is expressed in the fact, that the succeeding parliamentary term inherits collective submissions as obligatory legislative acts for consideration. No other legislative act that has not passed the final reading carries such rights. The new term, reflecting the political will of the electorate at that time, is not obligated to take over the unfinished work of the previous term. Collective submissions by citizens are an exception.

These and other characteristics provide that political entrepreneurs – the parties – consistently are willing not only to use but also to pay for the service of a civic initiative. Interviews attest that initiatives ease the inter-party jealousy, build otherwise difficult to form of even impossible policy-making coalitions and smooth the final legislative decision.

Regarding the demand to demolish the Soviet Victory monument, the former President of Latvia reasons – "one or two parties initially stood behind the demand as political entrepreneurs, but it became a widespread or majority concern, aligning with the identification of the general populace with these parties. It evolved into a question for the broader society, and, of course, these parties could assert, "We have always said this". However, there was no majority support until now. Now there is a majority, and the remaining parties, I would say, somewhat shyly adhered to it and accepted it" [19].

Likewise, the chairperson of a parliamentary committee observes – "the allure of such initiatives is that they trigger a flow. I would not say an avalanche, but a flow. And being in the flow is always easier" [20].

The chairperson of another parliamentary committee underscores the role of civic initiatives in smoothing political dynamics. "Another thing that played a role was political jealousy – pouring cold water on it. Because to me, it seemed – great; we're making progress! But then the "blanket dragging" began. And all of that happened right before the election year. (...) The initiative played a significant role. If one or another political party were to push it, it would be ascribed to the election year, there would be political resentment. (...) As individual deputies, we can each come up with ideas and visions, but what if you do not have allies?" According to the chairperson, the initiative "is a way to raise a question in public discourse where even like-minded parties and coalitions may have differences, but they don't want to show them publicly. They want to portray that everything is in order" [21].

The author of an implemented initiative observes the same. "Parties reached an agreement, and it can even be said that they somewhat solidified. Although there are already many differences between the parties on various issues, this particular question at that moment – yes, perhaps smoothed out other disagreements... Not disagreements, but other issues that had

been points of contention among the parties were momentarily set aside. In essence, it can be said that, in a way, it brought them together" [22].

In addition to the user-friendly and cost-effective advantages of e-participation, particularly when managed by civic society, the accounts of involved stakeholders highlight the multifaceted value of entrepreneurial law-making. The distinct and focused mandate of civic initiatives sidesteps the otherwise unavoidable inter-party "horse trading" concerning legislative changes. It facilitates the formation of political coalitions that might be otherwise unattainable, mitigates opportunistic grandstanding, and accelerates the process of policy-making and legislation. The latter factor is of particular significance, as a right delayed is a right denied, to borrow the words of Martin Luther King Jr.

No way back: 'status quo' regains its literal meaning

This research identifies two types of civic entrepreneurship in Latvia vis-à-vis wartime digital civic initiatives. One type brokers the problematisation of the actual *ratio legis*, expands its scope, and advocates for concrete legislative changes. The other type lobbies to maintain the problematised issues within the current state of conditions, seeking to uphold the *status quo* in the apparently changing legal environment.

Even when pursuing mutually exclusive aims in some cases, both types of civic entrepreneurs are legitimate. Both have managerial, entrepreneurial behaviour, both exploit opportunity, including utilising legislation on collective submissions and ManaBalss.lv services, to pursue specific values. Both engage in complex social issues or wicked problems, aligning with the principles of civic entrepreneurship [23].

Change advocates strive to broaden the *ratio legis*, pinpointing and addressing solvable aspects within what were previously deemed wicked problems and clearly suboptimal complex conditions. The advocated change does not eliminate suboptimality; instead, it redefines conditions by singling out and brokering solvable problems within the broader context. However, suboptimality and complexity persists. Examples include the demolition of signs of commemoration, representing loss of freedom, humiliation and genocide for one, and sacrificial heroism and greatness over evil for others. Another instance is demand of proficiency in the state language for Russian and Belorussian passport-holding residents, representing the minimum loyalty to the society and the state the person lives in for one, and "let *babushkas* alone!" attitude for others. Similarly, provision of equal civil rights to the same-sex couples, entangled in the tragedy of war and sharing the same existential burden with other subjects of civil rights, contrasts with conservative societal ideals of others, as we see in Ukraine.

For practical reasons, this research focuses on digital civic initiatives in Latvia and extends the observed correlations, mechanisms and conclusions to logically comparable petitions in Ukraine. The process of legalisation of the same-sex civil unions in Ukraine serves as an illustrative example of expanded *ratio legis*, where actors employ similar legislative change mechanisms as observed in Latvia.

A significant difference is that Latvia does not allow several petitions on the same issue to be published simultaneously. Accordingly, this does not create a situation where votes in support of a particular issue are scattered among similar initiatives. For example, the issue of legalising same-sex civil unions in Ukraine was raised in five petitions on the website of the Cabinet of Ministers of Ukraine in 2022 and 2023 alone. Another 18 initiatives raised this issue on the website of the President of Ukraine. Thus, 23 initiatives in 2022 and 2023 addressed the issue of legalising same-sex marriage in Ukraine. Three of these initiatives received over 25,000 votes each. Two out of the three initiatives collected votes in support of the legalisation of same-sex marriage, and one was against it. Responding to the initiatives supported by the required number of votes, the President of Ukraine noted that the issue of legalising same-sex marriage requires appropriate amendments to the Constitution of Ukraine, as Art. 51 [24] of the Basic Law stipulates that marriage is based on the free consent of a woman and a man. At the same time, the Constitution of Ukraine cannot be amended in a state of martial law or a state of emergency (Art. 157 of the Constitution of Ukraine) [25]. Thus, for Ukraine, the resolution of this issue needs to be postponed until the end of the war.

The above example clearly demonstrates one of the differences between the institutions of initiatives of the two states, which is the absence of restrictions in Ukraine on the publication of initiatives on such issues.

Digital participation systems in both countries work for the same end of direct civic participation in legislative and policy agenda-setting. However, both differ on the input criteria of such participation [18]. It results in a vastly greater number of digital petitions in Ukraine, their sometimes-inconsistent argumentation, messier campaigning and administration, as well as difficulties of following through.

For instance, there are several petitions addressing the voluntary dismissal of female servicepersons from the ranks of the Armed Forces of Ukraine, as well as petitions advocating for the development of Ukraine's own nuclear military capabilities [26]. While each petition has garnered a few thousand signatures, determining the true extent of civic support for these ideas remains challenging due to the division among these individual

initiatives. Consequently, it is also difficult to ascertain the eventual impact of these civic entrepreneurship activities. Nevertheless, the principles of civic entrepreneurship behind these initiatives in Ukraine arguably align with comparable ones studied in Latvia within the scope of this research.

The Latvian experience of building an effective petition system points to the expediency of rethinking the institution of electronic petitions in Ukraine. It also indicates possible steps that should be taken in this direction. In general, they could be summarised as follows:

- 1) limiting the use of electronic initiatives at the national level to the Parliament only (the legislative body has universal competence and is authorised to resolve any issue that may be of concern to the public at the level of law);
- 2) introduce preliminary control over the quality of initiatives (the principles of working with initiatives implemented by ManaBalss.lv serve as a good guide, in addition, some of this work can be done using artificial intelligence technologies [27]);
- 3) increase the number of votes required to support a petition to 100,000, while cancelling the time limit within which a petition must collect these votes.

The introduction of the proposed changes could lead to positive changes in the efficiency of the institution of electronic petitions and increase the trust in it on the part of civil society. Moreover, Ukrainian society needs an effective mechanism of influence on the authorities as never before. The recent trend has been a gradual but ever-increasing and tangible restriction of citizens' rights and freedoms. This is mainly due to the challenges of wartime and is a truly necessary measure aimed at ensuring the country's vital activity. However, disproportionate measures, such as the restriction of the right to education by introducing obstacles (additional exams, requirements for additional documents, shorter study periods, etc.), are becoming more common.

A symbolic and representative case of civic entrepreneurship is initiative "Demolition of the Victory Monument". Since its submission to Saeima in 2019, the prevailing argument against its implementation was the Art. 13 "Maintenance of Memorial Structures and Mass Burial Sites" of the "Agreement Between the Government of the Republic of Latvia and the Government of the Russian Federation on Social Protection of Russian Federation Military Pensioners Residing in the Territory of the Republic of Latvia and Their Family Members"¹. In late March 2022, it was still in place when the civic initiative author asked the Foreign Affairs Committee of the Saeima to reactivate the collective submission, and a meeting was held together with the representative from the Ministry of Foreign Affairs of Latvia.

¹ In Latvian: <https://likumi.lv/legislation/lv/lv/treaties/id/625>.

Additionally, a complicating factor was the Russian diplomatic note, which has been attached to the international treaty since the attempted bombing of the Victory Monument in 1997, and remains secret. "Legal argumentation has stemmed directly from bilateral agreements and the infamous notes protected by a restricted access status. The confidentiality period is 25 years. Regardless, we will eventually find out who signed that note and what it contains. Of course, there are Members of Parliament with the relevant clearance who have seen the note, but they cannot comment on it as long as confidentiality is in place. It was the state position that cannot be criticized, as Latvia presents itself as a country responsible for international laws and obligations", says the chairperson of the Foreign Affairs Committee [21].

Based on these grounds, the first initiative in 2016 with a similar demand was rejected in Saeima¹. The occupation of Crimea had already occurred, and the Russian invasion in Georgia predated it. This was sufficient for civic entrepreneurs to comprehend the actual circumstances underlying the established *ratio legis* and to bring attention to them. There were also aware political entrepreneurs, crucial for any substantial institutional change², but they constituted a parliamentary minority, and the compelling window of opportunity that typically accompanies a crisis was absent.

"But then came the atrocities of the Russian army in Bucha and Irpin. After that incident, politicians finally made the decision that we can indeed terminate this agreement with Russia. Against this backdrop, I believe this aspect played the most significant role in the politicians' decision to terminate this interstate agreement", the author of the initiative stated, when commenting on "what happened" [22].

Chairperson of the Foreign Affairs Committee affirms, "The change occurred in the clarity that Russia had grossly violated a series of international laws, commitments, conventions, and treaties. The international principle is that if there are gross violations of international law, the international community must do everything possible to rectify them. For example, preventing genocide. It cannot be ignored; there is a need to react and take action against it" [21]. Indeed, "the *ratio legis* of universal jurisdiction is based on the international reprobation for certain very serious crimes such as war crimes and crimes against humanity" [28, p. 246].

With the civic mandate of the initiative in the background, Saeima suspended the Article 13 of the said Agreement – "we halted its operation,

¹ Point 15 on the Mandate, Submissions and Ethics Committee webpage: <https://ej.uz/13ds>.

² In what Peter A. Hall calls the 3rd order of institutional change with a radical policy shift, politicians play a dominant role, though policy changes not as a result of autonomous action by the state, but in response to an evolving societal debate that soon becomes bound up with electoral competition [8, p. 288].

not the entire agreement. The cessation of the provision's enforcement is based precisely on the goal that it remains in effect until Russia completely withdraws its forces from Ukrainian territory, and territorial integrity is restored within its internationally recognized borders". To avoid eventual rebukes about "cherry picking", "we evaluated all bilateral agreements both with Russia and Belarus. This was not the only agreement of which we partially suspended one provision. There were numerous agreements that we began to denounce through the Parliament and the government. (...) We seriously assessed everything, and there were quite a few – close to 40 agreements, some of which were never implemented. We conducted a thorough audit", the chairperson of the Foreign Affairs Committee describes the "behind the curtains" process in the parliament and the government [21].

Continuously these events triggered expansion of *ratio legis* even further to its arguable limits, as "the question of evaluating the bilateral agreements was not closed, and today – now, a year later – on the agenda is the legal assistance agreement and its denunciation", the chairperson continues. "Since 2022, when we began the assessment, the legal assistance agreement was something we agreed on – okay, let's continue monitoring how the situation develops. Following two or three Foreign Affairs Committee sessions, each of them concluded with the opinion that nothing was improving. In the final meeting on this issue in the Foreign Affairs Committee, all responsible institutions – the Prosecutor General's Office, the Ministry of Justice, and the Ministry of Foreign Affairs – stated that denouncing the agreement was up to a political decision. (...) Thanks to the Parliament – with 71 votes in favour, conceptually, the parliament has supported the denunciation of the agreement"¹.

Before the Victory monument in Riga was torn down as the central element of a wider legislative and policy change, also the very popular civic initiative for "Creating a Photo Exhibition in Victory Park on the Russian-Inflicted War Devastation in Ukraine"² was implemented by the municipality in early May 2022. The chairperson of the Foreign Affairs Committee of the Saeima admits that it raised "the awareness that we can" before the law was accepted on June 16 [29]. Hence, it arguably contributed to the expansion of the *ratio legis*.

The overall factual background of the expanding *ratio legis* is summarised by the chairperson of the Foreign Affairs Committee before the vote on the law *inter alia* prohibiting exhibition of objects glorifying the Soviet Regime. "Russia is purposefully deepening the association between the Russian

¹ Since the interview, the denunciation is enacted on February 3, 2024. See in Latvian: "By denouncing the Latvia-Russia agreement, legal cooperation continues based on international conventions", on <https://ej.uz/vdqq>.

² In Latvian: <https://manabalss.lv/i/2365>.

Federation of today and the Soviet Union – both the rhetoric by state officials and the informative space are full of attempts to justify the actions of the Russian military in Ukraine by the need to eradicate fascism and prevent genocide, equating the so-called ‘special military operation’ with the Soviet Army. The image and symbols of the Soviet Army are now closely and clearly associated with the Russian aggression and the crimes committed by the Russian Armed Forces in Ukraine. Changes in the geopolitical circumstances and international practice determine that Latvia cannot and will not be obligated to maintain such buildings as Soviet occupation monuments" [30].

This reasoning extended well beyond monuments and symbols. The civic and political understanding of the current circumstances, following the Russian invasion in Ukraine, quickly embraced the concept of weaponization as a lens for thorough comprehension of the actual reality. Weaponization entails the adaptation of something previously associated with other spheres for use as a weapon of war.

The concept in Latvia was around for a long time, being used, *inter alia*, to interpret the Russian energy policy and "compatriots' policy" vis-à-vis Russian-speaking diaspora. For decades, this complex phenomenon remained in a state of "circumstances", and only civic and political entrepreneurs perceived it as a range of discernible and solvable issues. The shock from the war in Ukraine, particularly the evident war crimes and brutality by Russia, shattered the previous societal and elite tolerance and patience. The idea that "we must endure 40 years in the desert" and wait for the next generation to bring Latvia's society to full consolidation as a sovereign, democratic Western state with a strong and widely accepted rule of law and common norms, underwent a rapid transformation.

Among other things, this shock transformed individuals into civic entrepreneurs who might not have been in different circumstances. The author of the initiative "Prohibiting Individuals with Pro-Kremlin Sentiments from Holding Positions in State and Municipal Institutions" and two other initiatives represents the movement "For Liberation from Soviet Heritage" spontaneously formed in 2022. When asked, "If there hadn't been the war, would you have pursued these initiatives?" she admits, "Most likely not. I'll be honest" [31].

A longer excerpt from the interview with the former President of Latvia suits here to describe the changing public perception, legislative environment and how it relates to the next analysed civic initiative. "In legal terms, a new law was enacted. However, this law was already a response to public sentiment. The public's evaluation changed. It was bad, but not so bad that it was

time to abandon it now. However, in the changed context, society could no longer tolerate it because the Victory monument is a symbol of Russian imperialism, which, by the way, our fifth column has greatly developed with its May 9 events. In a democratic state, public opinion changed – it could not be tolerated, and a separate law was therefore adopted".

"This only proves that society has a significant impact on state decisions, and a shift in public opinion also leads to decisions that reflect it accordingly – this public sentiment. Also, a threat to the state. A law has just been passed that officials must be loyal. I have always felt that it is necessary, and I wrote an article about it 20 years ago".

"But the counterargument was the freedom of thought and conscience – it was valued higher. In a situation where there is no threat to the state, I would say – yes, it could be possible. But if there is a threat to the state, in such a situation, to assess this complete and far-reaching freedom of conscience, which includes a stance against the state, especially for a government official, it is a significant threat that could no longer be tolerated in this situation. Therefore, the law was accordingly changed" [19].

Evidently, the rationale for *ratio legis* does not aim at restricting freedom of thought, conscience, or expression, but rather at countering the weaponization of these democratic principles against democracy itself. It encompasses the concept of self-defensive democracy (in German: *Wehrhafte Demokratie*) – a democracy capable of defending itself against anti-democratic actors who exploit the democratic process to undermine it [9].

In this line of reasoning, the initiative called for prohibition to individuals with pro-Kremlin leaning to hold any positions and jobs in the public sector¹. As a result, the legislator rephrased the demand in more comprehensive terms, leading to a significant amendment introduced in the State Administration Structure Law – specifically, Art. 102, which now addresses "Duty of Loyalty". It states that "if an employee of a public persona institution has expressed a public opinion or carried out other actions that unmistakably indicate disloyalty to the Republic of Latvia and its Constitution (*Satversme*), and if their continued employment in the respective public persona institution could significantly jeopardize the functioning of that institution or the interests of the state, then the failure to adhere to the duty of loyalty is considered an independent basis for terminating employment relations with any such employee and with persons employed within the framework of state service relations" [31]².

¹ In Latvian: <https://manabalss.lv/i/2436>.

² Unofficial translation. The law is introduced on January 18, 2024, and is still in the translation process during this research.

The National Security Committee acknowledges that it was the collective submission that underscored the absence of a general regulation in Latvia, within the state administration, imposing an obligation on every employed individual to be loyal to the Republic of Latvia and its Constitution [32]. Consequently, the mentioned amendment was introduced.

Democratic self-determination entails a positive self-referential obligation for its reproduction. Civic society becomes not only an actor but also a paradigm in it, because it understands democracy as a horizontal practice of interaction, including legislation, even up to banning a certain political party. Such a case "is conceived not as a democratic contradiction but as an exception, based on a "case-specific historical justification" and vindicated by its constitutive role in understanding the point or purpose of democratic life" [8]. On these grounds, in May 2022 ManaBalss.lv allowed publication of an initiative impossible by its own standards just three months ago – "For a Unified Society Without the Latvian Russian Union".

Initiative gained fast popular approval and was submitted to Saeima in parallel with the National Security Committee already working on amendments in the Law on Political Parties. Consequently, the competencies of law enforcement institutions regarding prohibitions on political party activities were strengthened, and even before receiving the collective submission in the Saeima, a solution had been found to establish a system to halt the activities of anti-state political parties [32].

Still, submission was deliberated in two parliamentary committees, and the chairperson of the Mandate, Ethics and Submissions Committee suggests that the initiative strengthened powers of the National Security Committee, emphasising the monitoring activities of the Latvian Russian Union [20]. On the Mandate Committee webpage, the collective submission is marked as implemented¹, but the author strongly disagrees, as the achieved amendment is general, and Latvian Russian Union still functions. In cases where the official evaluation of an initiative's impact diverges from the author's opinion, MyVoice, in its statistics, respects the author's perspective. Accordingly, in Table 2, No. 13, it is marked as implemented with a disputed status.

¹ Point 105. here: <https://ej.uz/13ds> (in Latvian).

Table 2. Civic initiatives related to Russia's war in Ukraine, published on ManaBalss.lv, and their statuses

0 – no action; 1 – action taken; Dark grey – officially approved as contributing to the implemented legal change (all row); implemented regardless the initiative (a cell); implemented with a disputed status (a cell); Light grey – *status quo* demanding civic initiatives, going against the changing *ratio legis*

No.	Publishing date	Name	Submitted	Final decision	Implemented
1	29.09.2017	Demolition of the Victory Monument	1	1	1
2	24.02.2022	Suspension of Diplomatic Relations with the Russian Federation	0	0	0
3	24.02.2022	Russian Embargo	0	0	0
4	25.02.2022	To Ensure Sports Does Not Serve Aggressor Propaganda	0	0	0
5	27.02.2022	Granting Official or Potential EU Candidate Status to Ukraine	0	0	1
6	02.03.2022	About Anna Politkovskaya Street in Riga	0	0	0
7	04.03.2022	Creating a Photo Exhibition in Victory Park on the Russian-Inflicted War Devastation in Ukraine	1	1	1
8	23.03.2022	Property Rights in Latvia Linked to Our Values and Security	0	0	0
9	19.04.2022	Closure of the Border with Russia and Belarus	0	0	0
10	25.04.2022	Dismantling of a Monument Glorifying the Soviet Army	0	0	1
11	05.05.2022	The Right to Refuse Russian Language in the Primary and High School Curriculum	0	0	0
12	09.05.2022	Renewing the Historical Victory Square as Freedom Park	0	0	0
13	11.05.2022	For a Unified Society Without the Latvian Russian Union	1	1	0
14	13.05.2022	Russians: If You Oppose War in Ukraine and Putin's Government – Speak Up!	0	0	0
15	13.05.2022	Open-Air Swimming Pool In Place of the Victory Monument	0	0	0
16	18.05.2022	Liberation from the Ideological Heritage of the Soviet Era – Monuments and Memorials	0	0	1

No.	Publishing date	Name	Submitted	Final decision	Implemented
17	18.05.2022	Expulsion of Disloyal Individuals from Latvia and Revocation of Latvian Citizenship	0	0	0
18	18.05.2022	Prohibiting Individuals with Pro-Kremlin Sentiments from Holding Positions in State and Municipal Institutions	1	1	1
19	31.05.2022	Latvian Lend-Lease to Ukraine	0	0	0
20	08.06.2022	Equal Rights for Speakers of the EU Languages			
21	03.08.2022	Voluntary and State-Funded Repatriation to Russia	0	0	0
22	03.08.2022	The National Concert Hall Should Be Located at the Victory Monument Site	0	0	0
23	01.09.2022	Confiscation of Assets for Individuals Sentenced for Supporting War and Genocide	0	0	0
24	13.09.2022	Restoring the Order of Lāčplēsis and Awarding It to the Ukrainian Nation	0	0	0
25	13.10.2022	Preventing the Consequences of the Communist Regime and Russification in Street Names	0	0	0
26	18.10.2022	Establishing a United Nations Organization Appropriate for the 21st Century	0	0	0
27	25.11.2022	Dismantling of the Pushkin Monument	0	0	1
28	06.12.2022	From Darkness to Light! On Disconnecting Electricity to the Russian Embassy in Latvia	0	0	0
29	07.12.2022	The Concept of 'Russkiy Mir' is Criminal Extremism	0	0	0
30	19.12.2022	Cease Teasing and Abusing Latvian Residents with Russian and Belarusian Citizenship	1	1	0
31	13.01.2023	At the Song Festival, Let's Sing the Most Powerful Resistance Anthem for Ukraine and Latvia!	1	1	0
32	17.01.2023	Ensuring the Status of the State Language	1	0	0
33	22.02.2023	Suspending State Funding for Political Parties Whose Members Act Contrary to the Constitution	0	0	0

No.	Publishing date	Name	Submitted	Final decision	Implemented
34	07.03.2023	Recognition of 'Old' State Language Proficiency Certificates	0	0	0
35	23.03.2023	Granting Opportunities for Ukrainians to Retain Citizenship	0	0	0
36	04.04.2023	Preserving Monuments to Latvian and World Literature Authors	1	0	0
37	14.04.2023	Recognizing the Private Military Company 'Wagner' as an International Terrorist Organization	0	0	1
38	16.05.2023	Latvianisation of the Work Environment in Latvia for Successful Implementation of the Integration Process	0	0	0
39	24.07.2023	Reducing the Age Threshold for State Language Proficiency Examinations to 65 Years	1	1	0
40	31.07.2023	Opening the List of Companies Exporting to Russia!	0	0	1
41	23.08.2023	Revitalizing Ventamonjaks' Operations without Compromising Sanctions	0	0	0
42	24.08.2023	Revoking the August 22 Agreement on Amendments to the Immigration Law Regarding State Language Proficiency	1	0	0
43	14.09.2023	For Latvian Language for Everyone!	0	0	0
44	05.10.2023	For Koenigsberg	0	0	0
45	10.10.2023	On Public Media Content in Russian Also After 2026	0	0	0
46	12.12.2023	Suspending Payments to the Russian Military Budget	1	0	0
47	04.01.2024	Latvia's Withdrawal from the Ottawa Convention	0	0	0
48	23.01.2024	Termination of Tax Convention with Belarus	0	0	0
49	22.01.2024	Latvia to Remain in the Ottawa Convention	0	0	0
50	16.02.2024	At Least 50% of Books in All Latvian Bookstores Must Be Available in Latvian or Other EU Languages	0	0	0

A whole section of civic wartime initiatives on Manabalss.lv argues for policy *status quo* and not expanding the current *ratio legis*. The most

prominent among them with the widest popular support¹ and persistent civic entrepreneurial activity of the author is the initiative "Cease Teasing and Abusing Latvian Residents with Russian and Belarusian Citizenship".

It demands to "repeal the hastily adopted and inadequately considered amendments to the Immigration Law in 2022, according to which more than 20 thousand permanent residents of Latvia with Russian and Belarusian citizenship must undergo a state language test and prove monthly income of at least 620 euros by September 1, 2023"². Politicians widely acknowledge that the contested amendment was indeed rushed through shortly before the 2022 general elections and was inadequately considered, particularly regarding its implementation and the administrative burden it imposes.

The window of opportunity for the initiative was open – both the legislator and state officials acknowledged the inadequacy of the new legislation and were seeking amendments. A persistent civic entrepreneur was eager to seize the chance. Close scrutiny of the audio record of the Mandate Committee meeting³ reveals a the presence of somewhat reluctant political entrepreneurship. However, the collective submission, in its current form, was rejected with the argumentation that further deliberation in Saeima would send the wrong signal to the subjects of this, even if arguably suboptimal, legislation. In other words, it was acknowledged that the earlier decision was flawed, but it was made in the right context – within the expanded *ratio legis* of the wartime, and there is no way back.

Legislative and civic activism followed back and forth from both relative sides, partly visible in Table 2. However, the newly expanded *ratio legis* was firmly established. It persists as the only feasible legislative direction. This research noted the same earlier in the context of continuous revisions of bilateral agreements between Latvia, Russia and Belarus.

In the wartime situation, with a noticeable contribution from the civic entrepreneurs, there was a successful problematisation of the ongoing weaponization of hitherto civil aspects of the national and international life. Through the expressed self-defensive quality of democracy, this problematisation expanded the scope of the *ratio legis*, where no *status quo ante bellum*, to quote the full literal source of the term, is possible. If anything in the legal reasoning in Latvia is perceived as "before the war", then perhaps only the borders of sovereign Ukraine that have to be restored.

The shift is tectonic and foreseeably irreversible, as exemplified by the respectfully declined civic initiatives. Regardless their argumentative

¹ The necessary 10'000 signatures and more were collected in three days.

² In Latvian: <https://manabalss.lv/i/2605>.

³ Available at: <https://ej.uz/4isg>.

power and popular support, they operate in a different realm of the legal reasoning – the space of the previous or the *status quo*, which is decisively expanded with the "*bellum*" and therefore too narrow for comprehensive legal reasoning.

Conclusion

Russia's war in Ukraine, marked by its atrocities and evident crimes, provides factual grounds to redefine various policies and legislative circumstances in Latvia. Previously motivated by societal and elite tolerance and patience, these circumstances are now reconsidered. Similarly, in Ukraine, there is ongoing work to expand civil rights to factual civil unions, including same-sex couples, which were until recently constrained by socially conservative legal reasoning.

In this research, determined civic actors function as civic entrepreneurs, capitalizing on the situation of Russia's war in Ukraine as a window of opportunity to expand the legal scope of existing norms (i.e., *ratio legis*) and bring about desired legislative amendments. This observation confirms the initial hypothesis.

There is a long tradition of studying entrepreneurial actors working towards their values and advocating for corresponding policy and legislative changes. However, the examination of synergies, particularly between the civic and political entrepreneurs, is a worthwhile theme to enhance the understanding of a mutually constructive policy-making agencies and to strengthen democracy. Seemingly, properly conceptualised and practiced digital civic participation contributes to this aim, and further study in this regard is suggested.

References

- [1] Melkis, D. (July 15-19, 2023). Sustainable Online Political Campaigning and Synergy Between Civic and Political Entrepreneurs: the Case of ManaBalss.lv. *A panel paper for "Online Political Campaigning, Regulations and the Financing of Electoral Ads" in the 27th World Congress of Political Science*. Buenos Aires.
- [2] Schneider, M., Teske, P., & Mintrom, M. (1995). *Public Entrepreneurs: Agents for Change in American Government*. Princeton: Princeton University Press.
- [3] Knaggård, Å. (2015). The Multiple Streams Framework and the Problem Broker. *European Journal of Political Research*, 54, 450-465.
- [4] Smiltēna, A. (March 8, 2022). The Struggle for Equality: How Latvia Achieved Women's Suffrage. *Jurista Vārds*, 10 (1224). Retrieved from <https://ej.uz/ho4h>.
- [5] Glushko, D., & Lobanok, D. (March, 2023). Civil Rights in Wartime: Legalizing Same-Sex Unions in Ukraine. *Eurozine*, 31. Retrieved from <https://www.eurozine.com/civil-rights-in-wartime-ukraine/>.
- [6] Sovenko, A. (June 3, 2022). Electronic petition No. 22/144562-ep "Legalization of same-sex marriages", posted on the Official website the Internet representation of the President. *Electronic Petitions*. Retrieved from <https://petition.president.gov.ua/petition/144562>.

- [7] Hall, P.A. (1993). Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain. In *Comparative Politics*, Vol. 25, No. 3 (Apr., 1993), pp. 275-296.
- [8] Niesen, P. (2002). Anti-Extremism, Negative Republicanism, Civic Society: Three Paradigms for Banning Political Parties. *German Law Journal*, 3(7), 1-32.
- [9] De Morree, P. (2016). The Concept of Militant Democracy. In: *Rights and Wrongs under the ECHR. The Prohibition of Abuse of Rights in Article 17 of the European Convention on Human Rights*. Utrecht: Utrecht University.
- [10] Luchenko, D., & Melkis, D. (2022). Digital Initiatives as an Instrument of Digital Democracy. In *Human rights in terms of the digital transformation of society*. (pp. 88-108). Kharkiv: Yaroslav Mudryi National Law University.
- [11] Saeima. (2006). Rules of Procedure of the Saeima. In: *Official webpage of the parliament of Latvia*. Retrieved from <https://www.saeima.lv/en/legislative-process/rules-of-procedure>.
- [12] Law of Ukraine No. 393/96-BP "On Citizens' Appeals". (October 2, 1996). Retrieved from <https://zakon.rada.gov.ua/laws/show/393/96-вп>.
- [13] Onyshchuk, O., Fedushko, S., & Syerov, Y. (2020). Comparative Analysis of E-Democracy Implementation in Ukraine and Switzerland. *CEUR Workshop Proceedings*, 2654, 629-642. Retrieved from <https://ceur-ws.org/Vol-2654/paper49.pdf>.
- [14] European Parliament. (September 11, 2023). Rules, Procedures and Practices of the Right to Petition Parliaments – A Fundamental Right to a Process. Retrieved from [https://www.europarl.europa.eu/RegData/etudes/STUD/2023/753105/IPOL_STU\(2023\)753105_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/753105/IPOL_STU(2023)753105_EN.pdf).
- [15] Valtenbergs, V. (January 1, 2022). From Online Participation to Policy Making: Exploring the Success Behind Latvian Legislative Crowdsourcing Platform MyVoice. *Engaging Citizens*. In *Policy Making: e-Participation Practices in Europe*, 120-135. <https://doi.org/10.4337/9781800374362.00015>.
- [16] Reshota, V., Burdin, V., Teremetskyi, V., Synchuk, S., Chopko, K., & Burak, V. (2021). Electronic Petitions in European States and Ukraine Solving Social and Economic Problems. *Journal of Legal, Ethical and Regulatory Issues*, 24(1S), 1-9. Retrieved from <https://www.abacademies.org/articles/electronic-petitions-in-european-states-and-ukraine-solving-social-and-economic-problems-11872.html>.
- [17] Khutkyy, D. (2019). E-Participation Waves: A Reflection on the Baltic and the Eastern European Cases. In *Proceedings of Ongoing Research, Practitioners, Posters, Workshops, and Projects of the International Conference EGOV-CeDEM-ePart 2019*. Virkar, S. et al. (Eds.). (pp. 197-203). San Benedetto Del Tronto: IFIP.
- [18] Luchenko, D. (November 25, 2019). The Electronic Petition as a Way to Influence the Power Available to Every Citizen: the Role and Prospects in Ukraine. *Society. Health. Welfare: 7th International Interdisciplinary SHS Web of Conferences*, 68. 01019. (pp. 1-8). Riga, Latvia, <https://doi.org/10.1051/shsconf/20196801019/>.
- [19] Melkis, D. Interview 5 with the President of Latvia (2019-2023) H.E. Egils Levits. *Author's archives*.
- [20] Melkis, D. Interview 4 with the Chairperson of the Mandate, Ethics and Submissions Committee of the Saeima (November 23, 2022). *Author's archives*.
- [21] Melkis, D. Interview 3 with the Chairperson of the Foreign Affairs Committee of the Saeima (November 23, 2022). *Author's archives*.
- [22] Melkis, D. Interview 1 with the Author of the Initiative "Demolition of the Victory Monument". *Author's archives*.
- [23] Leadbeater, C., Goss, S. (1999). *Civic Entrepreneurship*. London: Demos.

- [24] Constitution of Ukraine. (June 28, 1996). Retrieved from <https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text>.
- [25] Response of the President of Ukraine to electronic petition No. 22/144562-еп "Legalization of Same-Sex Marriages", Posted on the Website of the Official Internet Representation of the President of Ukraine on June 3, 2022 by Citizen A.A. Sovenko, Who was Supported by More than 25 thousand Citizens. (August 2, 2022). *Electronic Petitions*. Retrieved from <https://petition.president.gov.ua/petition/144562>.
- [26] Electronic Petitions. (2024). *Official Online Representation of the President of Ukraine*. Retrieved from <https://petition.president.gov.ua/>.
- [27] Van Noordt, C., & Misuraca, G. (2022). Artificial Intelligence for the Public Sector: Results of Landscaping the use of AI in Government Across the European Union. *Government Information Quarterly*, 39(3), art. No. 101714.
- [28] Fellmeth, A.X., & Horwitz, M. (Eds.) (2009). *Guide to Latin in International Law*. Oxford: Oxford University Press.
- [29] Saeima. (2022b). On the Prohibition of Exhibiting Objects Glorifying the Soviet and Nazi Regimes and the Dismantling Thereof in the Territory of the Republic of Latvia. (June 16, 2022) In *Legal acts of the Republic of Latvia*. Retrieved from <https://www.saeima.lv/en/news/saeima-news/31206-saeima-passes-a-law-to-dismantle-sites-glorifying-the-soviet-and-nazi-regimes>.
- [30] Saeima (2022a). Saeima suspends bilateral agreement between Latvia and Russia on memorial buildings and monuments (May 12, 2022). In *Official webpage of the parliament of Latvia*. Retrieved from <https://www.saeima.lv/en/news/saeima-news/31027-saeima-suspends-bilateral-agreement-between-latvia-and-russia-on-memorial-buildings-and-monuments>.
- [31] Melkis, D. Interview 2 with the Author of the Initiatives "Prohibiting Individuals with Pro-Kremlin Sentiments from Holding Positions in State and Municipal Institutions", "Expulsion of Disloyal Individuals from Latvia and Revocation of Latvian Citizenship", and "Liberation from the Ideological Heritage of the Soviet Era – Monuments and Memorials". *Author's archives*.
- [32] Melkis, D. Response 1. Written response by the National Security Commission of the Saeima. *Author's archives*.

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