The State Border between Latvia and Russia and the Doctrine of Continuity of the Republic of Latvia
International and Constitutional Law in Interaction

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1. Introduction
On 18 December 2007 the foreign ministers of Latvia and Russia exchanged ratification instruments on the conclusion of the State Border Treaty between Latvia and Russia, and thus ended a long period of bilateral negotiations between the two States as well as internal discussions and disagreements in Latvia on a very controversial

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issue in modern Latvian politics. In this context, Latvia for the first time attempted to use such a tool as unilateral declaration of interpretation of a treaty but had to renounce this intention. It is to be recalled that when Latvia seceded from Russia with the entry into force of the 1920 Peace Treaty between the two States, Article 3 determined the borders between them. Since the restoration of the independence of Latvia in 1991 after 50 years of unlawful occupation by the Soviet Union, the position of Latvia has been that the 1920 Peace Treaty continues to apply in the relations between the two States. Needless to say that the position of Russia is different since it does not recognise unlawful occupation of Latvia in 1940.

The issue of compatibility of the Treaty with the Satversme (the Constitution) of Latvia was submitted for adjudication to the Constitutional Court, which rendered its judgment on 29 November 2007. The text of the judgment in English can be found on the Court’s website <www.satv.tiesa.gov.lv/upload/2007_10_0102_Robe-zligums.htm>. The judgment of the Constitutional Court regarding the conformity of the Border Treaty with Article 3 of the Constitution provided the opportunity to enshrine in the Latvian constitutional law the principles pertaining to the theory of State specific to the development of the State of Latvia. It is also an interesting study for international lawyers dealing with issues of State continuity and State succession.

Article 1 of the 2007 State Border Treaty between Latvia and Russia states that the term “State border of Latvia and Russia” in the Treaty describes a line and the space above which divides the territories of two sovereign States. Article 2 in its part one states that in accordance with the norms of international law and based on agreements reached during the negotiations the Parties determined the State border between the Republic of Latvia and the Russian Federation.

Three issues are analysed in this article. First, since the majority of State officials involved in the process leading to the conclusion of the Border Treaty indicated that the Treaty on the State Border of Latvia and Russia of 2007 (hereinafter – the 2007 Treaty) did not challenge or refute State continuity of Latvia, the author will turn to the issue – what State continuity means and in what way, if at all, it is linked with the 2007 Treaty. Second, the author will examine the issue of the special character of the 1920 Peace Treaty between Latvia and Russia and the scope of Article 3 of the Satversme (the Constitution). This part will have to provide a more detailed analysis of a Constitutional Court judgment, even though this article should not be considered as a comment upon a court judgment in the classic understanding of such a comment by legal doctrine. Third, the author will attempt to assess whether Latvia has still

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1 Relevant articles of the Satversme are the following:

Article 2. The sovereign power of the State of Latvia is vested in the people of Latvia.

Article 3. The territory of the State of Latvia, within the borders established by international agreements, consists of Vidzeme, Latgale, Kurzeme and Zemgale.

Article 77. If the Saeima has amended the first, second, third, fourth, sixth or seventy-seventh Article of the Constitution, such amendments in order to come into force as law, shall be submitted to a national referendum.