

# THE RESTITUTION OF INDIVIDUAL AND COMMUNAL PROPERTIES IN LATVIA AFTER 1990

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## Abstract

*Latvia dealt with over 50 years of nationalization and forced seizure of properties. In the present paper I intend to approach property restitution in Latvia, after the 1990s, in the context of the law's configuration factors, as well as the social and political framework. The first part of the paper will present aspects regarding the socio-historical context in Latvia up until its independence, the second part Latvian laws on individual and communal property restitution, while the last part is reserved for particular aspects that were noticed in the policy of property restitution.*

*The present paper has a heuristic value, being, together with a series of other such papers, proof of the manner in which the process of property restitution in former communist countries involves both the adoption of an adequate legislation and a mobilization, a restructuring of societal resources in order to apply the adopted laws.*

**Keywords:** individual property, communal property, Latvia, general law theory, restitution laws, ECHR.

## 1. Introduction

The 90s independence marked for Latvia a crossing from a totalitarian regime where private property was nationalized, the economy centralized, to a new social and political model that intended to be founded on the rule of law, a market economy, respect for private property and for individual/collective rights. This desideratum could not have been fulfilled without the application of certain packages of reparation measures. Among these packages of reparation measures, laws that aimed at the restitution of properties that were abusively seized by the former regime had to be adopted.

The general law theory covers the conceptual ensemble through which the science of law explains the judicial reality and tries to capture the personal characters of the judicial phenomenon in the context of the socio-historic system that it is a part of<sup>1</sup>. In other words, approaching the policies for property restitutions from the perspective of general law theory demands a holistic approach and taking into account the configuration factors of law such as social, cultural, political, and economic factors. This will be further explained below.

In the case of a totalitarian regime such as the one in Latvia before 1990, the serious human rights violations did not represent exceptions but a generalized act. The expectations regarding reparations are not reduced to redress particular cases but include the very preconditions for the reconstruction of a new rule of law, an objective that carries with it a public, collective dimension.

The former regime's actions to dispossess of properties were not isolated, but concerted and had a systematic and generalized character, an expression of a structural violence imposed by a repressive state apparatus. The instalment of the new regime outlined the context for the official recognition of prejudice and sufferings created for the victims. In this context, reinstatement, meaning property restitution, represents both a correction of injustices and a measure to legitimize the new form of society, the new type of governing. Property restitution is considered, in this sense, a component of the rule of law [...] which could lead to „public healing and legitimizing new democracies, establishing moral principles, by identifying abuses and correcting them.”<sup>2</sup>

Moreover, property restitution engages processes such as the adoption of a legislative framework, the activity of administrative authorities, the activity of the courts, which are responsible for creating reparation programmes. Not least, it involves the final result, namely restitution itself, reparations themselves. The

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<sup>1</sup> N. Popa, *Teoria generală a dreptului*, 6<sup>th</sup> ed., C.H. Beck Publishing House, Bucharest, 2020, p. 9.

<sup>2</sup> J. Borneman *apud* L. Stan, *The roof over our heads: Property restitution in Romania*, in *Journal of Communist Studies and Transition Politics*, 22(2), p. 180-205.

implementation of reparatory measures/property restitutions results from society's particularities at a given time, being influenced by a series of factors of the configuration of law, among which the social and political frameworks. Thus, the manner in which the transition to the new regime took place, the political will, the interests of the actors belonging to the civil society, the influence exercises by the international community, all have a determining role in the process of adopting legislation regarding properties and in the process of property restitution for victims or their descendents.

## 2. The socio-historical and political contexts

Latvia became an independent republic on 4 May 1990, after more than 50 years of Soviet and German dominance. The Republic of Latvia has been a member of the European Council since 1995 and a member of the European Union since 2004. Considering that in 1997 Latvia ratified the European Convention on Human Rights, the complaints against it that are formulated based on violations of the Convention can be analysed at the ECHR.

In June 1940, the Soviet Union occupied and annexed Latvia, installing, between 1940-41, what in history has been suggestively entitled the year of terror.<sup>3</sup> There were several measures enforced, such as the nationalization of private businesses and properties, the suspension of religious associations, and deportations, especially of what research calls the Latvian *inteligenzia* of those times.

Statistics show that around 35.000 people were imprisoned, killed and deported (over 15.400 people deported to Siberia, of which 2400 were children under ten).<sup>4</sup> It is estimated that between 100.000-134.000 Latvians managed to flee the country, especially to Germany and Sweden.<sup>5</sup> In the summer of 1941, as a result of the German invasion, Latvia became part of the Reichskommissariat Ostland. At the end of World War II, after approximately 3 years of German occupation (1941-1944), on 13 October 1944, the Soviet Union annexed Latvia, which became the Latvian Soviet Socialist Republic, one of the fifteen soviet socialist republics. The policy/politics of repression, nationalization and deportation continued throughout the entire period while Latvia was under the control of the Soviet Union. For instance, in January 1945, 50.000 Latvians were deported to Siberia.<sup>6</sup>

Latvia was also a country of residence for thousands of Jews starting with the 16th century. Statistics mention that around 94.000-95.000 Jews lived starting with this century in Latvia, the influx being more accentuated in the 19<sup>th</sup> century.<sup>7</sup> For instance, in the case of the aforementioned deportations to Soviet Siberia in 1940 there were also Jews – approximately 5000 according to certain sources.<sup>8</sup> In turn, the German representatives of the Reichskommissariat Ostland deported, between 1941-1942, to the Riga ghetto more than 25.000 Jewish children, women and men from Germany, Austria, Czechoslovakia,<sup>9</sup> and even from Latvia, of which only 4% survived.<sup>10</sup>

Furthermore, the anti-Semitic policies from the first and a half year of German occupation in Latvia lead to the murdering of an overwhelming proportion of Jews.<sup>11</sup> These are the main reasons why, at the end of World War II, there were only a few thousand Jews left in Latvia, approximately 10% of the total from before the war.

<sup>3</sup> A. Spekke et al., *The Soviet Occupation and Incorporation*, at <https://www.britannica.com/place/Latvia/The-Soviet-occupation-and-incorporation>, accessed on 21.04.2025.

<sup>4</sup> WAOP?, *Deportation from the Baltic Countries in 1940-1941*, at <https://deportation.org.ua/deportations-from-the-baltic-countries-in-1940-1941/>, accessed on 21.04.2025.

<sup>5</sup> UCA, Government, *Public Service, and International Studie. Soviet Union/Latvia(1940-1991)*, at <https://uca.edu/politicalscience/home/research-projects/dadm-project/europerussiacentral-asia-region/soviet-unionlatvia-1940-1991/>, accessed on 21.04.2025; Gulag online, *Soviet Repression and Deportation in Baltic States*, at <https://gulag.online/articles/soviet-repression-and-deportations-in-the-baltic-states?locale=pl>, accessed on 21.04.2025.

<sup>6</sup> *Ibidem*.

<sup>7</sup> Word Jewish Restitution Organization, *Latvia*, at <https://wjro.org.il/our-work/restitution-by-country/latvia/>, accessed on 21.04.2025; Holocaust Encyclopedia, *Latvia*, at <https://encyclopedia.ushmm.org/content/en/article/latvia>, accessed on 21.04.2025.

<sup>8</sup> WJC, *Latvia*, at <https://www.worldjewishcongress.org/en/about/communities/LV>, accessed on 21.04.2025.

<sup>9</sup> Yad Vashem, *Yad Vashem*, at <https://www.yadvashem.org/vilna/during/final-days-of-the-ghetto/deportation-to-camps.html>, accessed on 21.04.2025.

<sup>10</sup> Riga Komitee, *Deportation of Jewish Citizens to Riga*, at <https://www.riga-komitee.eu/historie/deportation-juedischer-buerger-nach-riga/deportation-of-jewish-citizens-to-riga>, accessed on 21.04.2025.

<sup>11</sup> The etymology of the Hebrew word shoah/holocaust means *total destruction, complete devastation* (Isaiah 47/11- Bible); see A. Straga, *Research into the Holocaust in the German-Occupied Latvia. New Tendencies and Major Results* at [https://macmillan.yale.edu/sites/default/files/baltic\\_holocaust/PaperStranga.pdf](https://macmillan.yale.edu/sites/default/files/baltic_holocaust/PaperStranga.pdf); accessed on 21.04.2025; A. Plakans, *The Commission of the Historians in Latvia: 1999 to the present*, in *Journal of Baltic Studies*, 49 (1), p. 87-102.

The Roma population was subjected to the same extermination policies, so that the Nazis murdered approximately 2.000 Latvian Romas during the war.<sup>12</sup>

In order to document and make the historical truth public, Latvia created a Truth and Reconciliation Commission, one of the most consistent commissions in the world from the point of the number of members. The commission was created on 13 November 1998, by President Guntis Ulmanis and was called the Commission of Historians (Vesturnieku Komisija). The commission was presided by Andris Caune and included, beside Latvian academics and historians, other 12 international members, professors from the United States, Sweden, Germany, Israel, and Russia. The four independent work groups investigated the crimes and abuses that took place during the 1940-1941 Soviet occupation, the 1941-1944 Holocaust, and the 1944-1956 second Soviet occupation. In 2004, there were changes made regarding the commission's mandate, which was extended to include the entire period of Soviet occupation until 1991.<sup>13</sup>

Another special characteristic, beside the significant number of members, was also that, at the end of its activity, the Commission did not deliver a classic report, as it happens in the majority of cases, but 27 volumes that treat the abuses committed under the Nazi and Soviet occupation. For the sake of making the truth known to as many citizens as possible, conferences opened to the wider public were organized, monographs were published, articles -especially academic ones- regarding the periods investigated by the commission were published. Moreover, a database with the Latvian victims of the 1940-1991 German and Soviet occupations was created.<sup>14</sup>

### 3. The legislative framework regarding property restitution

According to art. 89 from the Constitution of the Latvian Republic, the State recognizes and protects fundamental human rights according to the present Constitution, international laws and accords that are compulsory for Latvia.<sup>15</sup> Furthermore, art. 91, para. 2 stipulates that human rights are guaranteed without discrimination.<sup>16</sup> Article 105 of the Constitution stipulates that:<sup>17</sup>

„Everyone has the right to own property. Property shall not be used contrary to the interests of the public. Property rights may be restricted only in accordance with law. Expropriation of property for public purposes shall be allowed only in exceptional cases on the basis of a specific law and in return for fair compensation.”

The right to access to the courts and the right to compensation are consecrated as fundamental rights. According to art. 92.1: „everyone has the right to defend his or her rights and lawful interests in a fair court”<sup>18</sup>. Under art. 92.3, „everyone, where his or her rights are violated without basis, has a right to commensurate compensation.”

*Individual property.* The 1990s marked the debut of the adoption of legislation regarding property restitution. These laws stipulated the restitution in kind, with the statement that when this is not possible, the former owners are entitled to receive goods with the purpose of replacing the original property or compensatory vouchers.<sup>19</sup> A characteristic of the legislation regarding private property restitution is its *liberal character*, it being conceived for both citizens and non-citizens.<sup>20</sup> According to the Terezin Declaration and the criteria mentioned in the *Guidelines for Best Practices*,<sup>21</sup> *private property* refers to: „... properties held by private individuals or legal persons, who either themselves or through their families owned homes, buildings, apartments or land, or who had other legal property rights, recognized by national law as of the last date before the commencements of persecution ...”.

<sup>12</sup> Council of Europe, *Roma Genocide*, at [https://www.coe.int/en/web/roma-genocide/virtual-library/-/asset\\_publisher/M35KN9VV/oZTe/content/italy-recognition-of-the-genocide](https://www.coe.int/en/web/roma-genocide/virtual-library/-/asset_publisher/M35KN9VV/oZTe/content/italy-recognition-of-the-genocide), accessed on 21.04.2025.

<sup>13</sup> A. Plakans, *op. cit.*, p. 87-102.

<sup>14</sup> *Ibidem*.

<sup>15</sup> Șt. Deaconu *et al.*, *Codex constituțional*, Constituția Republicii Letonia, at [https://cdcip.ro/Codex\\_constitutional\\_vol1%20\(1\).pdf](https://cdcip.ro/Codex_constitutional_vol1%20(1).pdf), accessed on 21.04.2025.

<sup>16</sup> *Ibidem*.

<sup>17</sup> *Ibidem*.

<sup>18</sup> *Ibidem*.

<sup>19</sup> A. Tucker, *Rough Justice: Rectification in Post-Authoritarian and Post-Totalitarian Regimes*, in *Retribution and Reparation in the Transition to Democracy*, in Jon Elster (ed.), Cambridge University Press, Cambridge, 2006, p. 284.

<sup>20</sup> Overview of Immoveable Property Restitution/Compensation Regimes – Latvia (as of 13.12.2016), at [https://wjro.org.il/wp-content/uploads/2020/06/latvia-report\\_12.13.2016.pdf](https://wjro.org.il/wp-content/uploads/2020/06/latvia-report_12.13.2016.pdf), accessed on 21.04.2025.

<sup>21</sup> Supreme Council of the Republic of Latvia, *Law on Land Reform in the Rural Areas of the Republic of Latvia*, 21.11. 1990, at <https://faolex.fao.org/docs/pdf/lat7817ENG.pdf>, accessed on 21.04.2025.

In Latvia's case, we find around 20 laws regarding property restitution, adopted between 1990-1992,<sup>22</sup> of which we will mention some.

*The Law on Land Reform in the Rural Areas from 21 November 1990*<sup>23</sup>. In chapter I, section one, it is mentioned that privatization will be gradual, the purpose being „the renewal of the traditional rural life of Latvia”. The law mentions, in the same chapter, section four, that the property restitution process will take place in two stages, namely: submission of requests between 1990-96 and property restitutions starting with 1993 for a period of 10-15 years.

*The Law from 30 October 1991 on the denationalization of building properties*<sup>24</sup>.

In chapter one, section one, it is mentioned that the law covers building restitutions to former owners. The requests had the submission deadline for 1 June 1994, according to the chapter two, section 3. The law also indicates, in the same paragraph, that the requests for property restitutions had to be submitted to the town council or district council. According to section five of the same chapter from the law, the value and rights of ownership were established by a commission which was formed of public servants from the town, respectively district council and which had three months to resolve the requests (section 6). If this period was exceeded, the law stated that the former owners could address the courts (section 6).

*The Law from 20 November 1991 regarding land reform in the cities*<sup>25</sup>. According to the second section of chapter I, the objective of the land reform is to „reorganize legal, social and economic relationships ... privatisation of unlawfully alienated land properties ... corresponding to the interests of society, protection and rational utilisation of land”. According to section six, chapter II, former owners ... had as a deadline for submitting requests for restoration of ownership rights until 20 June 1992. The law coming into effect obligated local authorities to „discontinue allocation of land for use to natural persons and legal persons without consent of the former owners of land or their heirs, except for the cases when the land is to be granted for the building of objects of national significance by a special law”.

*The Law from 1 September 1992 on land privatisation in rural areas*<sup>26</sup>. According to the first part, section I, it provides „to create the basis and guarantees for agricultural development, to restore the land ownership rights to the former owners of land which belonged to them on 21 July 1940 or to the heirs thereof, to transfer land into ownership with remuneration to the citizens of the Republic of Latvia”. The condition for restitution was for former owners/their heirs to submit the request until 20 June 1991. The situations in which the land could not be restored are stipulated in chapter II, section VI: „... cases when such land until the moment of submission of the request has been allocated for permanent use to another natural person, and also for the maintenance of buildings, structures and sharing objects of a non-producing character belonging to the State governments”.

*The Law from 22 April 1993*<sup>27</sup> *on the renewal of property rights to undertakings and other property objects (also known as the Law on restoration of land ownership to undertakings and other property objects)*.

In chapter I, section one, the law mentions the procedures for the renewal and recognition of property rights of former owners or their heirs for undertakings, hotels, cinematographers, pharmacies, hospitals and other property objects. Section 4, chapter I, stipulates 3 December 1994 as the deadline for submitting requests.

*The Law from 29 October 1998*<sup>28</sup> *on completion of land reform in cities*.

According to the first section, the present law stipulates „the procedures for the completion of land reform in cities, as well as for adjustment of the rights of use of land and the property relationship and examination of disputes in issues related to land reform until the completion thereof”. The requests needed to be submitted until 1 March 1999.

<sup>22</sup> F. Foster, *Restitution of Expropriated Property: Post-Soviet Lessons for Cuba*, in *Columbia Journal of Transnational Law*, 1996, 34(3), p. 621-657.

<sup>23</sup> Supreme Council of the Republic of Latvia, *Law On Land Reform in the Rural Areas of the Republic of Latvia*, 21.11.1990, at <https://faolex.fao.org/docs/pdf/lat7817ENG.pdf>, accessed on 21.04.2025.

<sup>24</sup> Supreme Council of the Republic of Latvia, *On the Denationalization of Building Properties in the Republic of Latvia*, at <https://likumi.lv/ta/en/en/id/70829-on-the-denationalisation-of-building-properties-in-the-republic-of-latvia>, accessed on 21.04.2025.

<sup>25</sup> Supreme Council of the Republic of Latvia, *Law on Land Reform in the Cities of the Republic of Latvia*, 20.11.91, at <https://faolex.fao.org/docs/pdf/lat174361.pdf>, accessed on 21.04.2025.

<sup>26</sup> The Parliament of the Republic of Latvia, *On Land Privatization in Rural Areas*, 09.07.1992, at <https://faolex.fao.org/docs/pdf/lat172875.pdf>, accessed on 21.04.2025.

<sup>27</sup> Supreme Council of the Republic of Latvia, *On Renewal of Property Rights to Undertakings and Other Property Objects*, 30.03.1993, at <https://www.vvc.gov.lv/en/media/1673/download?attachment>, accessed on 21.04.2025.

<sup>28</sup> The Parliament of the Republic of Latvia, *On completion of Land Reform in Cities*, 05.11.1998, at <https://faolex.fao.org/docs/pdf/lat174360.pdf>, accessed on 21.04.2025.

*The Law from 30 October 1997 on the completion of land reform in rural areas*<sup>29</sup>.

According to section I, this law stipulates „the procedures for the completion of the land reform in rural areas, and the rights of use of land and the property relationship shall be adjusted and disputes in issues related to the land reform shall be examined until the completion thereof”. The law also stipulates the procedures that target the evaluation of the availability of the lands, of the priority of the persons (natural and legal) when there are multiple requests for the same land; the necessity to liquidate the activities of local commissions for land service and the situations possible if the lands will not be requested until 1 June 2006.

With the occasion of the 1997 ratification of the Convention for the Protection of Human Rights, Latvia included the following position referring to the peaceful assertion of private property goods<sup>30</sup>: „the provisions of art. 1 from the First Protocol shall not apply to the laws on property reform which regulate the restoration or compensation to the former owners or their legal heirs of property nationalised, confiscated, collectivised or otherwise unlawfully expropriated during the period of Soviet annexation; and privatisation of collectivised agricultural enterprise, collective fisheries and State and local self-government owned property.”

Beside these, Latvia also added, on the list where it expresses its position formulated under *Reservations*, other laws regarding the property that are an exception, among which the Law on Land Reform in Rural Areas; the Law on Land Reform in Cities, the Law on Privatisation in Rural Areas.

In the *Case of Kozlova & Smirnova v. Latvia*,<sup>31</sup> ECtHR examined Latvia’s reservation to the First Protocol.

The plaintiffs, residents in Riga, without Latvian citizenship, born in 1930, respectively 1946, claimed that their right for the respect of goods had been affected as the house where they lived had been returned to the former owner, under the *Law on the Restitution of goods in kind*. The plaintiffs invoked art. 1 from the First Protocol of the Convention to claim that the municipality deprived them of the house in which they lived, which was a family estate since 1948, sold by the municipality to their father. The plaintiffs claimed that the Latvian authorities illegally intervened, altering their right to peacefully benefit from their estate. Moreover, the plaintiffs clearly showed in the complaint submitted that Latvia had formulated, at the moment of ratification - June 1997-, in accordance with art. 57 of the Convention, a *Reservation* through which it is stipulated that art. 1 from the First Protocol does not apply to Latvian laws on property reform that regulate the restitution of property that was nationalised/confiscated/expropriated to former owners.

However, they did not limit themselves to referring to the aforementioned *Reservation* formulated by the Latvian state, but they added that this was formulated in unclear terms, which makes it, in their perspective, come under the *General Reservation*; they appreciated that art. 57 & 1 could refer to *any law*. Thus, they considered that the *Reservation* that covers all land reform and that or property in Latvia has affected the interests of the entire population.<sup>32</sup>

By invoking art. 6 & 1 from the Convention, the plaintiffs claimed that the courts in Latvia erroneously applied the national legislation without respecting the relevant jurisprudence of the High Court of Cassation.<sup>33</sup> They also complained that the Regional Court in Riga did not have the necessary expertise to establish the degree to which the litigated house had been reconstructed. They considered that the courts did not appropriately treat their arguments, especially one of them according to which the 1948 decision of the municipal authorities was equivalent to a contract certified by a notary.

ECtHR considered that the *Reservation* formulated by Latvia to the First Protocol does not have a general enough character for it to be annulled. In regards to the internal decisions contested by the plaintiffs, they were based, according to the Court, on one of the laws regarding property restitution towards legitimate owners which was not part of the *Reservation* formulated by Latvia. Moreover, the Court emphasised that its competence cannot cover the property restitution cases which claim a violation of art. 1 from the First Protocol, for the claims that have at their basis the laws that Latvia mentioned in the formulated *Reservation*.

<sup>29</sup> The Parliament of the Republic of Latvia, *On completion of Land Reform in Rural Areas*, 30.10.1997, at <https://likumi.lv/ta/en/en/id/45729>, accessed on 21.04.2025.

<sup>30</sup> Latvia. Reservations and Declarations for Treaty no. 009 - Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS no. 009), at <https://www.coe.int/en/web/conventions/full-list?module=declarations-by-treaty&numSte=009&codeNature=2&codePays=LAT>, accessed on 21.04.2025.

<sup>31</sup> ECtHR, *Case Kozlova & Smirnova v. Latvia*, at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-23114%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-23114%22]}), accessed on 21.04.2025.

<sup>32</sup> *Ibidem*.

<sup>33</sup> *Ibidem*.

The Court decided that the complaint based on art. 1 from the First Protocol is incompatible *ratione materiae* with the dispositions of the Convention and rejected it under art. 35 & 4. The Court considered that the litigating procedure, in its entirety, was equitable in the sense of art. 6 & 1 from the Convention. As a result, the complaint filed by the plaintiffs on this ground was rejected as clearly unfounded according to article 35 & 3 and 4 from the Convention.

*Communal property.* Communal property is defined according to par. b from *Guidelines and Best Practices*, from the Terezin Declaration as:<sup>34</sup> „...property owned by religious or communal organizations and includes buildings and land used for religious purposes, e.g.: synagogues, churches cemeteries, and other immovable religious sites which should be restituted in proper order and protected from desecration or misuse, as well as buildings and land used for communal purposes, e.g.: schools, hospitals, social institutions and youth camps, or for income generating purposes”.

*The Law from 12 May 1992 on the return of properties to religious organizations*<sup>35</sup>. According to art. 2, „religious properties -synagogues, places of worship- confiscated between 1940 and 1992 will be returned to the registered religious organizations”. If this is not possible, they will be financially compensated, according to art. 3, with the exception of, according to art. 4, properties that „were destroyed during World War II”. The deadline for submitting the requests was established, according to art. 7, for 31 March 1994. The request for property restitution could be made by religious organizations that held the properties in 1940, being registered with the competent authorities, under the condition of having renewed their status after the 90s. A database of the religious organizations that had renewed their status after the 1990s in Latvia can be found on the Official Statistics Portal in Latvia.<sup>36</sup> The revendication was also open to the legal successors whose statute was legitimised by the *central religious* authorities, according to art. 6 from the law. However, such a *central religious authority* to authorise a successor that could reclaim, based on art. 6, the restitution of communal properties, did not exist for Jewish communities.

Moreover, as mentioned in the section dedicated to the socio-historical context, the Jews from Latvia were decimated in their most part, which made it almost impossible to establish a connection between former owners -of communal properties- before the war and their legal heirs, after the war. Entire communities disappeared, and, in these situations, properties (cultural centres, synagogues etc.) could not have been restituted. In certain cities, however, Jewish communities were timidly rebuilt, reports putting forward a number of 200 persons who requested property restitution.<sup>37</sup>

The Latvian government reported that starting with 1991 there were over 20 communal and religious properties that were restituted to the Latvian Jewish communities.<sup>38</sup> However, 52 cemeteries and 263 communal properties were identified as belonging to the Jewish community in Latvia before World War II, many of them being in an advanced state of degradation or found in distant areas.<sup>39</sup>

In order to advance in their policy on communal property restitution, the Latvian government, together with the Council of Jewish Communities of Latvia worked, between 2003-2006, on drafting another law that proposed a clearer and more realistic approach to communal, religious and heirless property restitution.

„The main aim of the law is to provide financial support to the Jewish communities in Latvia, in order to eliminate the unjust consequences of the Holocaust in the period of Nazi Germany and those that arose as a result of the Soviet occupation”.<sup>40</sup>

Considering that over 200 communal and religious properties remained not returned, this new law stipulated a new combined formula for restitution: in rem and compensation. The aim was for communal

<sup>34</sup> US Department of State, *Terezin Guidelines and best Practices*, 2010, at <https://www.state.gov/2010-terezin-guidelines-and-best-practices/>, accessed on 21.04.2025.

<sup>35</sup> The Supreme Council of the Republic of Latvia, *On the Return of Properties to Religious Organizations*, 12.05.1992, at <https://likumi.lv/ta/en/en/id/65537>, accessed on 21.04.2025.

<sup>36</sup> Official Statistics Portal, *Registered religious congregations by denomination at the end of year 1990 – 2021*, at <https://stat.gov.lv/en/statistics-themes/education/culture/tables/kur010-registered-religious-congregations-denomination?themeCode=KU>, accessed on 21.04.2025.

<sup>37</sup> US Congress & Commission on Security and Cooperation in Europe, *Property Restitution and Compensation in Post-Communist Europe: A Status Update*, at <https://permanent.fdlp.gov/lps49954/091003txt.pdf>, accessed on 21.04.2025.

<sup>38</sup> Holocaust Era Assets Conference, Prague, June 2009, *Holocaust-Era Confiscated Communal and Private Immovable Property: Central and East Europe*, p. 16, at <https://wjro.org.il/wp-content/uploads/2015/12/ClaimsOnImmovableProperty.pdf>, accessed on 21.04.2025.

<sup>39</sup> *Ibidem*.

<sup>40</sup> *Ibidem*.

properties – buildings, churches, synagogues, cemeteries, cultural centres etc., to be returned and for a compensation equivalent to 60.000 million dollars (restitution fund) to be awarded to the local Jewish community for the properties for which there is no possibility for restitution *in rem*/in nature<sup>41</sup>. However, this law was rejected by Parliament.<sup>42</sup> As a consequence, two years later, another work team was established, this time coordinated by the Ministry of Justice, but without the participation of representatives from the Jewish community. This team presented in 2010 a report regarding the situation of the 80 communal, including religious, properties.<sup>43</sup> In 2012, as a response to the Prime Minister's request to the Minister of Justice to create a work team in which to also integrate members of the Jewish community, the latter quit. This is the moment when the Prime Minister considered that it was necessary for Parliament to notify the government regarding the problem of restitutions, an indispensable step in the restitution strategy.<sup>44</sup> The task of the new work group was to clarify which properties could be restored in nature/in rem and for which compensations were requested.

The laws were introduced in Parliament and forwarded to the Commission for foreign affairs in order to be examined in 2015, so that, in September of that year they were accepted for a first reading.<sup>45</sup> The laws stipulated: the restitution of five properties to the Council of Jewish Communities of Latvia -in Riga, two former schools, an old persons home, a synagogue in Jūrmala and another one in Kandava.<sup>46</sup> They took into consideration the elimination of certain limitations that would impede the recovery of properties by the Jewish community, among which the one referring to the latter's obligation to return the property back to the Republic of Latvia if it ceased to exist.<sup>47</sup> Moreover, the representatives of the Jewish community proposed a more ample approach to restitution, having as an argument over 270 communal properties for which there is still no regulation.<sup>48</sup> Having as a starting point the failed law of 2006 that proposed a fund for managing properties, the representatives of the Jewish community reiterated the necessity to establish this fund.<sup>49</sup> Parliament adopted on 25 February 2016 the package of restitution laws that stipulated the restitution of five communal properties. A special foundation for managing restituted properties was also founded in 2016.<sup>50</sup>

*The Law on goodwill reimbursement to the Jewish community*<sup>51</sup>. On 10 February 2022 the *Law on goodwill reimbursement to the Jewish community* in Latvia was adopted after the third reading. According to the Press Office of the Latvian Parliament: „the law has been adopted to eliminate the historically unjust consequences that arose as a result of the Holocaust implemented by the Nazi totalitarian regime and the activities of the Soviet communist totalitarian regime in the territory of Latvia.”<sup>52</sup>

Arkady Sukhareenko, the director of the Council of the Jewish Community considered that this law was a historical step, mentioning that, after 77 years from the Holocaust, it is not too late for justice to be done.<sup>53</sup> Dmitry Krupnikov, Head of the Latvian Jewish Community Restitution Fund approached the issue with openness and oriented towards practical solutions, the aim being the completion of this process.

<sup>41</sup> *Ibidem*.

<sup>42</sup> US Department of State, *Property Restitution in Central and Eastern Europe*, at <https://2001-2009.state.gov/p/eur/rls/or/93062.html>, accessed on 21.04.2025.

<sup>43</sup> M.J. Bazyler et al., 'Latvia', *Searching for Justice After the Holocaust: Fulfilling the Terezin Declaration and Immovable Property Restitution*, Oxford Academic, New York, 2019, pp. 213-224.

<sup>44</sup> *Ibidem*.

<sup>45</sup> WJRO, *Overview Of Immovable Property Restitution/Compensation Regimes – Latvia* (As Of 13 December 2016), at [https://wjro.org.il/wp-content/uploads/2020/06/latvia-report\\_12.13.2016.pdf](https://wjro.org.il/wp-content/uploads/2020/06/latvia-report_12.13.2016.pdf), accessed on 21.04.2025.

<sup>46</sup> The Baltic Times, *Latvian FM State Secretary: five properties should be returned to Jewish community*, at [https://www.baltictimes.com/latvian\\_fm\\_state\\_secretary\\_five\\_properties\\_should\\_be\\_returned\\_to\\_jewish\\_community/](https://www.baltictimes.com/latvian_fm_state_secretary_five_properties_should_be_returned_to_jewish_community/), accessed on 21.04.2025.

<sup>47</sup> *Ibidem*.

<sup>48</sup> LSM.LV, *Jewish groups push for compensation for lost properties*, at <https://eng.lsm.lv/article/politics/politics/jewish-groups-push-for-compensation-for-lost-properties.a122933/>, accessed on 21.04.2025.

<sup>49</sup> *Ibidem*.

<sup>50</sup> Jewish Community of Latvia, *Latvian Jewish Community Restitution Fund*, at <https://jews.lv/en/latvian-jewish-community-restitution-fund/>, accessed on 21 April 2025.

<sup>51</sup> Likums, *Par labas gribas atļidzinājumu Latvijas ebreju kopienai*, at <https://likumi.lv/ta/id/330185>, accessed on 21.04.2025.

<sup>52</sup> LSM.lv, *Saeima approves 40 million euro Jewish restitution law*, at <https://eng.lsm.lv/article/politics/saeima/saeima-approves-40-million-euro-jewish-restitution-law.a443006/>, accessed on 21.04.2025.

<sup>53</sup> Euronews, *Latvia passes long-awaited Holocaust restitution law*, at <https://www.euronews.com/2022/02/10/latvia-passes-long-awaited-holocaust-restitution-law>, accessed on 21.04.2025.

„We're not going to ask the properties to be returned ...It is impossible to return them 25 years after privatization was finished. Somebody's been using them, somebody's been renovating them. Taking that property from them would be incorrect.”<sup>54</sup>

In the process that preceded the adoption of this law, there were legal experts, lawyers, researchers, historians, representatives of political structures, of government but also international organizations that came together over a 20 year period and under the constant push from Council of the Jewish Communities.<sup>55</sup> During this entire endeavour, besides the deepening of procedural and technical aspects of the law, there were also activities to inform and make aware of the manner in which a society can recover after periods of systemic and generalized abuses.

Art. 3 stipulates that: „... the compensation will be paid from the state budget, the value being of EUR 40.000.000 -forty million euros-, and it is calculated based on the basis of the cadastral value of properties belonging to the Jewish community on 16 June 1940 and not restored, as part of property rights ...”.

According to art. 1 para. 3: „the compensation provided for in the present law is definite and ends any right to restoration for the Jewish community in Latvia regarding properties that were not restored during the process of ownership restitution”. According to art. 4 para. 2, „payment of compensation begins on 1 January 2023 and is finalised on 31 December 2032”. Art. 5 mentions that: „compensation is paid to the *Latvian Jewish Community Restitution Fund* foundation, registration number 40008252290, and the funds allocated to the Fund from the state budget are kept in the State Treasury”.

According to art. 6 para. 1: „The financial resources allocated to the Fund, through the annual state budget law, are used for the implementation of events and projects of the Latvian Jewish community, including: for the restoration and conservation of cultural and historical patrimony of Latvian Jews; ... for the support of Latvian museums whose activity focuses on researching the Latvian Jewish community ...”.

The law also stipulates procedures that are at the basis for spending the money, details regarding the audit, the make-up of the members of the Managerial Council etc.

#### 4. Particularities of the policies for property restitution in Latvia

The Latvian official Laila Medina synthesized, during a 2011 conference that took place in Bucharest, the central information regarding the Latvian policy of restitutions and captured part of the limits of this process<sup>56</sup>. The general line of the restitution policy was in rem restitution, but this was not always possible. In these situations, they offered goods that covered the value of the former property or vouchers. Moreover, property ownership rights were not re-established if on the given land there were buildings belonging to the Latvian state or to the territorial administration. Another situation in which these rights could not be restored was when on the lands of the former owners there were natural objectives of national importance. However, another situation arose as a result of the fact that there was a collision, a conflict of interests between *former* owners and *current* users of the property. For instance, on many of the rural lands there were individual houses or industrial undertakings.

Their current users were in turn interested in becoming the owners of the land they had built on, while the former owners from July 1940 wanted the restitution of ownership rights and, in certain situations, the reclaiming of the building found on their land as legitimate possessions<sup>57</sup>. One cannot omit the category of tenants/users of the apartments from the nationalized houses who had to be evacuated as a result of the former owners' desire to have rights restored. In the case of newly built houses, the possibility to use vouchers/privatization certificates useful in the acquisition of apartments was offered.<sup>58</sup>

<sup>54</sup> DW, *Latvian parliament passes Holocaust restitution law*, at <https://www.dw.com/en/latvia-parliament-passes-holocaust-restitution-law/a-60739245#:~:text=The%20bill%20allows%20for%20payments,was%20occupied%20by%20Nazi%20forces>, accessed on 21.04.2025.

<sup>55</sup> A. Suharenko, *Saeima passed the law „On Goodwill Reimbursement to the Jewish Community” of Latvia*, at <https://jews.lv/en/saeima-pienema-likumu-eng/news-and-events/#:~:text=The%20law%20provides%20for%20goodwill,nationalized%20during%20the%20Soviet%20occupation.>, accessed on 21.04.2025.

<sup>56</sup> L. Medina, *The process of land restitution in Latvia*, conference paper, Council of Europe & Ministry of Foreign Affairs, Bucharest, 2011, at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805924b0>, accessed on 21.04.2025.

<sup>57</sup> K. Csongor, *Post-communist Restitution and the Rule of Law*, CEU Press, Budapest, 2009, p. 250-263.

<sup>58</sup> E.-C. Pettai, V. Pettai, *Transitional and Retrospective Justice in the Baltic States*, Cambridge UP., Cambridge, 2015, p. 202.



In the case of lands from the rural area, where in rem restitution was not possible, the proposition was for *substitution* land(s), namely rural land found on Latvian territory, anywhere in the country. However, the replacement properties had to fulfil the condition of a surface equivalent to the original one in July 1940<sup>59</sup>. On the other hand, in the case of the restitutions of urban properties, if the issue of *replacement* was raised, it could not have been fulfilled except if the property was within the perimeter of the given city. The former owners had the right to receive replacement properties with a value equal to the value of the initial properties at 21 July 1940<sup>60</sup>.

Clear calculation formulas were established that entailed the market price from the 40s, the buying price, the cadastral price, the historical area, including the coefficients for calculating the value of a square metre in the 40s. The cadastral value that was proposed to the former owner was equal with the one from July 1940.<sup>61</sup> In the case where the value thus established for the former property was too small when compared to price evolution from December 2007, the former owner/heir had the right to buy the property and, beside it, the difference in privatization vouchers. Another situation was when the property could not be restored and vouchers were awarded, which could be used in several ways: they could be sold, inherited, used to privatize lands, buildings or apartments, for investments in public joint stock company<sup>62</sup>.

As in any such process that is of a particular complexity, there were, in this case as well, inconsistencies and problems. The funds allocated to the procedures of measurement, mapping, evaluation etc. were proved to be insufficient, so that, according to the aforementioned official, Minister of Justice in that period, 7500 properties could not be measured starting with 2011.<sup>63</sup> Apart from this situation, the taxes imposed on former owners or the rents imposed to property users increased. A process that wanted to correct, to repair needed to be fixed as well. The restitution of rural lands in a fragmented manner did not represent an incentive for the development of Latvian agriculture, considering that there is an average of 7.7 hectares needed to start a business in agriculture.<sup>64</sup>

The statistics offered by Latvian officials showed that the properties were restored to the former heirs from 23 different countries around the world, and that the restitution process based on the adopted law package had finalized in 2006<sup>65</sup>. However, the data shows that many of these individuals were not able to act to recover properties due to the deadlines for submitting requests<sup>66</sup>.

## 5. Conclusions

The process of property restitution in Latvia tried, on the one hand, to approach historical injustices and, on the other hand, not to create even more profound hiatuses with the society that was already fragmented after 50 years of Soviet and German occupation. To this end, the restitution process proposed an approach that would be as balanced as possible between the rights of former owners and the needs of the residents from the respective properties. Despite these intentions, the post-communist Latvian society was not exempt from conflicts and ethical dilemmas<sup>67</sup>. On these occasions, it was shown that, despite mobilizing the efforts of the Latvian society, with the central aim of reparations, there also was a category of dissatisfied individuals, namely that of former residents.<sup>68</sup>

Although extreme, the option of not accepting properties was an example of the implicit recognition of the revolution's legitimacy according to the principle of *ex factis jus oritur* – the law derives from actions.<sup>69</sup> At the opposite end is the category of those who obtained compensation/privatization vouchers or money (this preferred to the voucher option).

<sup>59</sup> L. Medina, *op. cit.*

<sup>60</sup> *Ibidem*.

<sup>61</sup> *Ibidem*.

<sup>62</sup> *Ibidem*.

<sup>63</sup> *Ibidem*.

<sup>64</sup> *Ibidem*.

<sup>65</sup> WJRO, *Overview of immovable property restitution/compensation regimes – Latvia*, 2016, pp. 6-7, at [https://wjro.org.il/wp-content/uploads/2020/06/latvia-report\\_12.13.2016.pdf](https://wjro.org.il/wp-content/uploads/2020/06/latvia-report_12.13.2016.pdf), accessed on 21.04.2025.

<sup>66</sup> *Ibidem*.

<sup>67</sup> M. Feldman, *Justice in Space? The Restitution of Property Rights in Tallinn, Estonia*, *Ecumene*, 1999, 6(2), p. 165-182.

<sup>68</sup> A.K. Kozminski, *Restitution of Private Property: Re-Privatization in Central and Eastern Europe*, in *Communist and Post-Communist Studies*, 1997, 30(1), p. 95-106.

<sup>69</sup> J. Rowen, A. Snipe, *The Promise and Perils of Urban Land Restitution in Latvia*, in *International Journal of Transitional Justice*, 2021, 15 (1), p. 47-65.

The restitution scheme in Latvia followed the logic according to which properties return to former owners, meaning to the individuals who owned the lands/properties at the moment when they were abusively seized within the nationalization policy of the Soviet administration – 21 July 1940 – or to their heirs.<sup>70</sup> The documents attesting the status of the former owner were documents such as registries from state or land registry archives.<sup>71</sup>

Even if this type of restitution was preferred and widely accepted, the path taken to recover properties was not one without issues, especially since the property itself went through fundamental changes. A final remark refers to the manner in which the application of laws regarding property restitution could not be approached, as it can be observed from this paper, outside of the social and political framework of the Latvian society. As a result, the restitution policy was profoundly marked by a series of factors, such as: desiderata, projects and mobilization of the resources of the Latvian society, political leadership, civil society, openness towards cooperation and international support. In addition to these there is also a series of aspects that are technical, procedural and regarding the application of the law, which, in certain situations could represent barriers in the recovery process of individual and communal properties. Amongst these we recall: having citizenship at the moment of filling the request; imposing thresholds; the manner in which the competent authorities defined the past, meaning the period covered by the reparations programme; the lack of agreement regarding types of goods – movable/immovable; the initial unrealistic deadlines for submitting the requests and supporting documents etc.

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