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EUROPEAN SOCIAL CHARTER

Comments by non-governmental organisations
on the 10th national report
on the implementation of the revised European Social Charter

submitted by

THE GOVERNMENT OF LATVIA

(Article 31 for the period
01/01/2010 – 31/12/2013)

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THE GOVERNMENT OF Latvia
(Article 31)

for the period 01/01/2010 – 31/12/2013)

NGOs COMMENTS

“Association of owners of apartments and tenants of denationalized
and municipal housing”

and

Latvian Human Rights Committee

would like to contribute to the assessment
by the European Committee of Social Rights of the Council of Europe
(ECSR),
of the 10th National Report of Latvia for 2010-2013,
regarding the implementation of the European Social Charter (*Revised*)
in the field of

“THE RIGHT TO HOUSING”

ARTICLE 31

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ARTICLE 31: THE RIGHT TO HOUSING

"With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: to promote access to housing of an adequate standard."

The purpose of this report is to draw the attention to the Latvian reality regarding the special group "tenants of denationalised houses"

Therefore, our organizations would also like to recommend, for endorsement by the ECSR, some specific measures to be taken by Latvia in the following years.

We want to draw your attention to the status of a certain group of Latvian population, which was almost completely ignored in the state report of Latvia, save for some data in the tables, namely, the tenants of denationalized houses. The situation with this category of people living in Latvia calls for a really special explanation and comment.

I Explanations.

1. Restitution processes in Latvia are governed by two Laws which were adopted by the Supreme Council of the Republic of Latvia on the October 30th, 1991:

- "On the Denationalization of Building Properties in the Republic of Latvia"¹

- "On the Return of Building Properties to Their Legal Owners"².

The same day, a Resolution³ was adopted, titled "On the Procedures for the Coming into Force of the Laws "On the Denationalization of Building Properties in the Republic of Latvia" and "On the Return of Building Properties to Their Lawful Owners". The Resolution commissioned the Council of Ministers of the Republic of Latvia to work out the legislative draft on compensation and submit it to the Supreme Council of the Republic of Latvia.

In accordance with the above-mentioned laws during restitution within the period of 1992 - 2002 in Latvia:

- 78,046 flats⁴, or 8% of the whole country's dwelling stock were returned. Some 220,000 people, which was almost 10 % of all people in Latvia, lived in these flats;

- the number of landlords, to whom housing property was returned, amounted to only 14,151 persons⁵.

When returning property to the heirs or some other persons, local authorities did not check very thoroughly submitted documents.

Before 1940, 90% of all dwelling houses had been mortgaged in Latvian banks⁶ as real security and the owners of these houses got loans, which were never paid back.

2. Before 1990, virtually all Latvian tenants obtained the rights for residential lease in municipal and state housing under equal conditions. When the above-mentioned Laws were

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http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Denationalisation_of_Building_Properties.doc (EN)

² <http://likumi.lv/ta/id/70828-par-namipasumu-atdosanu-likumigajiem-ipasniekiem>

³ <http://likumi.lv/ta/id/70830>

⁴ <http://www.csb.gov.lv/statistikas-temas/metodologija/dzivoklu-privatizacija-un-namipasumu-denacionalizacija-36830.html>

⁵ <http://www.csb.gov.lv/statistikas-temas/metodologija/dzivoklu-privatizacija-un-namipasumu-denacionalizacija-36830.html>

⁶ http://www.baltic-course.com/rus/ekonomiceskaja_istorija/?doc=48051

Об истории денационализации недвижимости в Латвии Ольга Павук, БК, Рига, 01.11.2011

adopted, all tenants were divided into two groups, even though they had previously had equal contracts for lease of dwelling premises:

- Tenants of municipal and state housing, who were granted the opportunity to privatize the state apartments where they lived in exchange for privatization certificates (they had to spend just 200 – 500 LVL per apartment).
- Tenants of denationalized houses, who were deprived of such opportunity. The State did not provide these tenants with any mechanisms of legal or social protection to compensate for this deprivation. Thus, the **Resolution “On Coming into Force of the "Law on the Denationalization of Building Properties in the Republic of Latvia" and "On the Return of Building Properties to Their Lawful Owners"**, which stipulates to develop and implement those mechanisms of legal and social protection of denationalized houses tenants, was ignored.

2. Upon denationalization, the tenants living in the houses subject to denationalization, lost not only their rights to dwelling, but many also lost their rights for decent living conditions, having become the hostages of the landlords. They were transferred to new owners like medieval serfs. They were not able to become owners of their housing (as most tenants of public housing did), and thus, they were denied the opportunity to exchange their dwelling, transfer it by succession or sell it. Many were forced to conclude new agreements for rent of the same dwelling but on new conditions – for a short term, after which they were forced to leave the dwelling without being assigned any new dwelling. New owners raised the rent and its amount was considerably higher than the rent in municipal and state houses.

3. The rest of the people living in Latvia got the right to privatize their rented dwelling.

4. New owners, acceding to an estate, often resold the houses to third parties. The latter began to demand ousting of the people living there onto the streets because of the change of ownership. Due to a threat of simultaneous mass eviction of thousands of people onto the streets, legislative provision has been changed and in 1994, an article was included into the above-mentioned laws, according to which effective rental contracts concluded before the process of denationalization (usually without term-limits) remained binding for new owners. However, it contained a number of exceptions, giving the right for evicting tenants.

5. The restitution process was accompanied by massive disregard of law in relation to tenants of denationalized houses and steady reluctance of the parliament and the government to develop any mechanisms to remedy the breach of their rights, which is actually discrimination of this population category.

6. According to the data of the Judicial Statistics Department, during the period from 1995 to April 2009, 38,313 families were evicted by rulings of the courts.

II. Latvian and CoE human rights defenders’ opinion.

Year 2002. National Human Rights Office, Latvia:

«Judging by the number of received applications, issues concerning dwelling remain the most topical problem of Latvia. In 2002, the State Bureau for Human Rights received 194 complaints in writing and gave 869 verbal advice regarding these problems»⁷

On 30.06.2004, Olafs Bruvers, director of National Human Rights Office, in his letter to governmental entities of Latvia draws attention to the necessity of state participation in solving this problem:

⁷<http://www.building.lv/2-zinas/44146-olafs-bruvers-un-andris-kraivalis-parruna-dzivoklu-problemu-risinasanu-riga>

«...at the moment of privatization the tenants of denationalized houses were put in unequal conditions, as they could not obtain into their ownership flats in which they were living, unlike dwellers of state and municipal houses. Today the state should show good will and provide help to these tenants who found themselves in a hopeless social situation and not just to shift responsibility to tenants, landlords and local authorities».

«...state dwelling stock was too limited to enable these people unimpeded privatization of their flats and as a result, opportunities to use privatization vouchers for these two groups proved unequal. »

In 2004, Mr. Alvaro Gil-Robles, Commissioner for Human Rights, Council of Europe, in his special report on Latvia⁸, argues in favour of the necessity on the part of the state to participate in solving this extremely sensitive issue:

«126. On the one hand, former owners or their heirs have been stripped of property without any compensation. For decades they awaited a return to independence in the hope that the injustice would be repaired one day, and that day has now arrived even though many owners unfortunately did not live to see it. On the other hand confiscated accommodation was mostly allocated to people who are in no way to blame for the original dispossession. The fact is that, when it was decided to go ahead with restitution, property was occupied and it is therefore reasonable to raise the question of occupants' rights».

In 2007, Mr. Thomas Hammarberg, the Commissioner for Human Rights, Council of Europe, in his Memorandum to the Latvian Government⁹ :

«According to official statistics, some 25 000 persons still occupy denationalised housing, and 67% of them live in Riga».

III. Measures to solve the problem.

Until 1 January, 2007, the rent in the denationalised housing for pre-restitution tenants was limited by law, with the following “ceilings”, or “rent caps” (although higher than the normal rent in municipal housing):¹⁰

- 1) in 2002 – 0,24 LVL per one square metre;
- 2) in 2003 – 0,36 LVL per one square metre;
- 3) in 2004 – 0,48 LVL per one square metre;
- 4) in 2005 – 0,60 LVL per one square metre;
- 5) in 2006 – 0,72 LVL per one square metre;

After the abolition of the “ceilings” by the Constitutional Court, in September 2007, according to the Central Statistical Bureau, the average rent in denationalised housing in Latvia was 1.01 LVL per one square metre. In Riga, it was 1.16 LVL.¹¹ 1 LVL was worth 1.42 EUR.

In 2005-2006, several regulatory acts were adopted, providing some kinds of assistance in finding a solution to the problem. The main criterion for providing help is based on **the assessment of the material resources of people** (family). Thus, only insignificant part of the tenants of denationalized houses proved to be able to use this opportunity. The majority was left without any protection on the part of the state, although their financial standing did not allow them any chance of obtaining other dwelling.

⁸ <http://www.refworld.org/docid/415971e74.html>

⁹ https://wcd.coe.int/ViewDoc.jsp?id=1134279&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679#P339_57383

Strasbourg, 16 May 2007. CommDH(2007)9. Memorandum to the Latvian Government

¹⁰ <http://www.satv.tiesa.gov.lv/upload/2005-16-01E.rtf> Judgment of the Constitutional Court of Latvia in the matter No. 2005-16-01. See para. 3 and the ending resolutive part (EN)

¹¹ <http://www.csb.gov.lv/dati/e-publikacijas/privatie-ires-dzivokli-2007gada-34888.html> See Para. 4

The program of paying out eviction benefits was implemented from 2006 till the end of 2009. The amount of such benefits cannot be compared with the prices on the housing market.

During this period, 2406 families **or 3,1 % of all those living in denationalized houses received allowances «for vacating the dwelling»**. As a rule, this allowance served as the first credit installment when buying a new dwelling.

The total amount of allowances constituted 17,381,481.27 EUR.

As of the middle of 2009, payment of even of this allowance was terminated.

Year 2012 is considered “a starting point of overcoming the crisis” (the Report of Latvia⁷), nevertheless, the program of payment of allowances is not resumed until this day even for this category of population.

Local authorities generally provide social housing, which is not only unequal to the dwelling which tenants leave in denationalized houses, but it is also provided without the right to privatize it. (For instance, a family of three persons, leaving three-room flat in denationalized house, can only claim one-room flat.)

In 2014 the state adopted legal act, offering local authorities to deal with such matters on their own.

IV. Years 2012. -2014. Judicial statistics for the period of 2012-2014

The practice of judicial evictions «without assigning another dwelling» is still an ongoing process.

Judicial statistics for the period of 2012-2014.

«Eviction without assigning another dwelling»

Year	Number of cases received	Cases adjudicated on merits	Among those in favour of plaintiff
2012	198	267	188
2013	507	306	249
2014	631	283	211

Those evicted by such adjudications often join the ranks of unemployed.

The number of unlawful evictions with infringement of inviolability of a person’s housing and the right for privacy has risen sharply.

Latvian Ombudsman in his annual report for 2014 draws particular attention to escalation of conflicts **«landlord v. tenant»**¹²:

“The Ombudsman received alarming applications from individuals who pointed out to unlawful methods used by house owners to create unfit for living conditions, in particular through non-provision of the basic services: no sewage, heating, part of apartments had no power supply and cold/hot water, waste removal was not ensured in the required amount, and sewage pipes were dismantled. The above-described actions were targeted at making the tenants to vacate the apartments. Consideration of about 300 euro was offered to the tenants for vacation of residential premises. If the tenants did not accept such offer from the house owners, the means to influence their opinion included even illegitimate methods.” The episodes described in some applications include, for example, replacement of door lock or door, without providing a set of keys;

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boarding or welding up the tenants' door and installing a padlock borders in arbitrariness and infringement of inviolability of a person's housing. The tenants often complain that the above-described actions result in preventing their access to personal effects, documents, medicines and cash. In some of described episodes, a pet is left in the apartment or the entrance door is replaced while the tenant is in the apartment. Therefore, the tenants are in fact evicted without court ruling, they are forced to stay on street, in a shelter house or staircase, or ask their acquaintances for accommodation."

V. Recommendations.

The State social benefits system is unable to solve the problems of this population group. The numerous appeals to authorities are invariably ignored. House owners widely practice arbitrary treatment of their tenants such as cutting off electricity, central heating, water supply, as well as trespassing, psychological pressure, threats etc. and get away with it.

For many years we have been trying repeatedly to draw authorities' attention to the necessity to remedy this historical injustice, concerning tenants of denationalized houses. The Ombudsman's 2014 report states the need for a political decision.¹³

"More than 20 years have passed since the launching of denationalization process, however the situation of tenants in denationalized buildings still awaits solution. In the Ombudsman's opinion, solving the problem of tenants in denationalized buildings **is a political decision...**" (*emphasis added*).

In other Eastern European countries, to avoid creating a new «historical injustice» during the process of restitution, the states established special funds for payment of compensations.

We want to draw the Committee's attention to its decision on an analogous situation in Slovenia.

Para. 70 of the Committee's decision on the merits in case FEANTSA v Slovenia¹⁴ (complaint No. 53/2008) reads

"(..) The rules introduced by the 1991 Act to allow former holders of the Housing Right (which the Act abolished) to purchase, at an advantageous price, the flats in respect of which they had previously held this right, and whose ownership had been transferred, on a transitional basis, to public entities, are also deemed to ensure sufficient legal security in the occupation of their dwellings for the parties concerned. The Committee considers, however, that as regards former holders of the Housing Right over flats that have been restored to their private owners, the combination of insufficient measures for the acquisition or access to a substitute flat, the evolution of the rules on occupancy and the increase in rents, are, after the Slovenian Government's reforms, likely to place a significant number of households in a very precarious position, and to prevent them from effectively exercising their right to housing".

We hold the opinion that the same finding of a violation of Article 31 § 1 is applicable to the situation in Latvia.

We kindly request that the Committee persuade Latvia to make a political decision, that is, to:

¹³http://www.tiesibsargs.lv/files/content/zinojumi/Tiesibsarga%20zinojums_2014_ENG_FINAL.pdf (p.111).

¹⁴ [http://hudoc.esc.coe.int/eng#{"fulltext":\["FEANTSA"\],"ESCDcIdentifier":\["cc-53-2008-dmerits-en"\],"ESCDcType":\["FOND"\]}](http://hudoc.esc.coe.int/eng#{)

1. admit that the "historical justice" in relation to former owners of the houses and their heirs resulted in the "historical injustice" in relation to the tenants of the denationalized houses (who make up 10% of Latvian population).
2. Latvian authorities put the burden of all the problems on the shoulders of denationalized houses' tenants. Latvia must follow its Supreme Council Resolution of 30.10.1991 "On the Procedures for the Coming into Force of the Laws "On The Denationalisation of Building Properties" and "On the Return of Building Properties to Their Lawful Owners", which stipulates to develop a State program on supplying denationalized houses' tenants with adequate housing conditions and providing their social security should be developed and implemented.
3. Although Latvia ratified the European Convention on Human Rights, it did not follow the document in full and, as a result, while Latvia transitioned to market economy, 10% of its population were deprived of equal starting position, which would have been provided by the right to privatize the apartments in which they lived. It should be admitted that State programs of legal and social protection of denationalized houses tenants were extremely ineffective or even hardly ever existed.
4. We require that Latvia should be advised to promptly conduct registration of the families, who have been living in denationalized houses since their denationalization as of January 1st 2014, as well as to provide statistic data on the number of persons and families who were evicted but were not provided with any alternative accommodation. These data should be used as the basis for immediate development and implementation of social protection programs which were supposed to be approved in 1991 but have not been implemented so far.

We also believe that in Latvia, Article 31 § 1 of the Revised European Social Charter has been violated in respect of the pre-restitution tenants of the denationalized housing.

We kindly request the Committee, in its conclusions, to draw attention of Latvian government to this violation and to the need for a solution of this problem.

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Riga. Latvia.
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