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Doctrine of State Continuity. Latvia's Experience

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The article examines the scope and consequences the continuity of the Republic of Latvia in several domains and places them within a broader context of Latvia's history. Firstly, it describes and analyses some functions of the State of Latvia which continued to be performed during the years of occupation by the USSR and Nazi Germany (1940–1990) and, secondly, the significance of the *de iure* effect of the *Satversme* of the Republic of Latvia of 15 February 1922 during the years of occupation and following the restoration of the independence of the state. The authors advance the thesis that the occupation regimes of the communist USSR and Nazi Germany failed to extinguish the existence of the Republic of Latvia as an internationally recognised subject of international law, moreover, Latvia in practice did not discontinue performing some functions of the state. Of course, full restoration of the independence of the state on the basis of values enshrined in the *Satversme* occurred only after *coup d'état* in the Soviet Union.

Keywords: foreign (diplomatic and consular) service, *Satversme* (Constitution of Latvia), state continuity, restoration of independence, denationalisation, property.

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Introduction

On 18 November 1918, Latvia was promulgated as an independent, democratic republic. On 15–17 June 1940, the Republic of Latvia was occupied by the USSR. During the Second World War, the Soviet occupation was replaced by the occupation by Nazi Germany (1941–1945). The communist regime was restored after the war. The Soviet occupation power in Latvia, although unlawful, endured for almost half a century. The Republic of Latvia continued to exist *de iure* as an internationally recognised subject of international law for the entire period of occupation. *De facto* the independent State of Latvia was restored in 1990–1991. Following the restoration of Latvia's sovereign power on the territory of the state, the legal and practical questions stemming from state continuity emerged, and the doctrine or principle of state continuity gained prominence amongst the research themes in scholarly writings.

A group of researchers, consisting of historians, political scientists and lawyers, was established to study the doctrine of state continuity in the context of Latvian history. Noteworthy scientific material was collected in the framework of cooperation project of fundamental and applied research No. 653/2014 “Experience, lessons learned and international significance of restoring the independent statehood of Latvia (historical, political and legal aspects)”. All the issues analysed in the project have not been addressed in this article.¹ The current article introduces the international research community (in particular, the lawyers belonging to it)

¹ The research results of the project have been published in a book: *Nepārtrauktības doktrīna Latvijas vēstures kontekstā* [The Continuity Doctrine in the Context of Latvia's History]. Collective of authors, research supervisor *Jundzis*, T. Rīga: Latvijas Zinātņu akadēmijas Baltijas stratēģisko pētījumu centrs, 2017. Another more extensive article stemming from this research and focusing on the findings in

with two aspects of the research, which until now have been little discussed on an international level.

The first aspect is related to the functioning of Latvia's foreign service during the years when the State of Latvia was occupied by the USSR and Germany, the second – to the significance of the *Satversme* of the Republic of Latvia during the years of communist and Nazi occupations. In relation to the second issue, it should be taken into account that an anti-constitutional *coup d'état* took place on 15 May 1934. The functioning of Kārlis Ulmanis' government until the additional contingent of the Red Army was moved into the territory of Latvia (16–17.06.1940) was incompatible with the values enshrined in the *Satversme*. However, the undemocratic government of the state did not undermine the existence of the State of Latvia either *de iure* or *de facto*.

The authors set the following aim for this article – to analyse the significance of the functioning of Latvia's foreign service and of the *Satversme* during the years of Latvia's occupation and during the period leading to the full restoration of the sovereign state power for the purposes of state continuity thesis of Latvia.

1. Implementing of Foreign Affairs Functions of Latvian State During Occupation

1.1. Changes in Latvian Foreign Service Stemming from Loss of Independence of the State

The fact that the foreign services of the three Baltic states – Latvia, Lithuania and Estonia – continued their operations in the Western countries in 1940–1991 attested *de iure* existence of these states. The Latvian foreign service (diplomatic and consular service) in the Western states after the Baltic states were occupied by the USSR in 1940 was an institution of the state power of the Republic of Latvia, which continued performing functions of the state power since the representations were located outside the territory of occupied Latvia. The service continued its work uninterrupted throughout the whole period of Latvia's occupation until the restoration of the state's independence in 1991. This possibility was ensured by the non-recognition of the occupation of Latvia by many states.

A month prior to Latvia's occupation, on 17 May 1940, the government of Latvia granted Kārlis Zariņš (Charles Zarine), the Envoy to Great Britain, extraordinary powers to defend Latvia's interests in almost all countries. These powers would enter into effect also in case if the government were to be unable to maintain connections with Latvia's diplomatic and consular missions.² These powers were intended to enable continuing representation of the interests of the Latvian state abroad in an emergency, in conditions of war. Although the extraordinary powers had significant deficiencies and were limited, in the future they would play an important role in the

international law is included in volume 19, 2020, of the Baltic Yearbook of International Law published by the Riga Graduate School of Law and the Brill Publishers.

² Latvian National Archives, Latvian State Historical Archive (hereafter – LNA LSHA), 293. fonds [fund] (hereafter – f.), 1. apraksts [description] (hereafter – apr.), 4388. lieta [file] (hereafter – l.), pp. 12, 16, 17, 28; Hoover Institution Archives, Vilis Sumans collection, box 1, folder “Increment April 1978”; Latvijas Republikas oficiālā nostāja Latvijas diplomātiskā dienesta dokumentos 1940.–1991. gadā. Dokumentu krājums [The Official Position of the Republic of Latvia in the Documents of the Latvian Diplomatic Service in 1940–1991. Collection of Documents]. Compiled by Lerhis, A. Riga: Latvijas vēstures institūta apgāds, 2015, pp. 41–42.

fight for continuity of *de iure* existence of the Latvian state and ensuring the further operations of the Latvian diplomatic and consular service.

The Latvian government decided to accept the ultimatum advanced by the USSR on 16 June 1940 and did not resist the occupation of Latvia realized by the USSR (17 June) either through a diplomatic protest or in a military way,³ it also did not forward any instructions for setting into motion the extraordinary powers.⁴ In mid-July, before the declaration by the Latvian "People's" *Saeima* on the establishment of the Soviet power (21 July) and incorporation of Latvia into the Soviet Union (5 August), the diplomatic representatives of the last independent government of the Republic of Latvia, accredited in several Western states, commenced diplomatic fight against this aggression by the USSR. The employees of the Latvian diplomatic service abroad assessed this situation as a fact of occupation,⁵ several envoys took a very strong stance against annihilation of Latvia's independence. In these diplomatic protests, they invited the governments of their countries of residence (the United States, Great Britain, etc.) to not recognise Latvia's occupation by the USSR.

The bearer of the extraordinary powers of the government of the Republic of Latvia, the head of the foreign services and Envoy to Great Britain K. Zariņš and the deputy of the bearer of the extraordinary powers, the Envoy to the United States Alfrēds Bilmanis and other envoys prepared and expressed the official opinion of the Latvian state on matters of international policy pertaining to the interests of the State of Latvia and its citizens.⁶ The basic principles of the state's position were elaborated (political and legal positions), which the foreign service followed throughout the next 50 years until the independence of the state was regained.

The Latvian foreign service continued to operate abroad on a significantly reduced scale without the support of an independent government and the Ministry of Foreign Affairs. The main objective of the service was to continue representing the State of Latvia, to preserve the state's international law status, to fight for the restoration of independence in the future, as well as to protect Latvia's citizens and their property abroad. Despite numerous restrictions in the international diplomatic environment in comparison to the diplomats representing the heads of independent states and the governments thereof, the Latvian diplomats via diplomatic channels strived to inform other states about Latvia's opinion. There are grounds for considering these activities as a continuation of the foreign policy of the State of Latvia at least in these matters, although in a very limited scope.

³ LNA LSHA, 1307. f., 1. apr., 317. l., p. 172; *Gore, I., Stranga, A.* Latvija: neatkarības mijkrēslis. Okupācija. 1939. gada septembris – 1940. gada jūlijs [Latvia: The Twilight of Independence. Occupation. September 1939 – July 1940]. Rīga: Izglītība, 1992, pp. 115–117.

⁴ *Lūsis, J.* Latvijas diplomātu darbs [Work of Latvian Diplomats]. *Daugavas Vanagu Mēnešraksts*, No. 3, 1990, p. 11.

⁵ *Feldmanis, I., Freimanis, A. A., Lerhis, A., Ziemele, I.* Latvijas valsts okupācijas gados [The Latvian State in the Years of Occupation]. In: Dokumenti par Latvijas valsts starptautisko atzišanu, neatkarības atjaunošanu un diplomātiskajiem sakariem 1918–1998 [Documents on the International Recognition, Restoration of Independence and Diplomatic Relations of the State of Latvia in 1918–1998]. Rīga: Nordik, 1999, p. 132; *Lerhis, A.* Pārmaiņas Latvijas diplomātiskā dienesta darbībā (1940. g. jūnijs – 1942. g. augusts) [Changes in the Operations of the Latvian Diplomatic Service (June 1940 – August 1942)]. In: Vēsturnieks profesors Dr. phil., LZA ārņemju loceklis Andrievs Ezergailis: Biobibliogrāfija, darbabiēdru veltījumi 70 gadu jubilejā [Historian Professor Dr. phil., LAS Foreign Member Andrievs Ezergailis: Biobibliography, Dedications of Colleagues on the 70th Anniversary], Rīga: Latvijas vēstures institūta apgāds, 2000, p. 169.

⁶ *Feldmanis, I., Freimanis, A. A., Lerhis, A., Ziemele, I.* Latvijas valsts okupācijas gados [The Latvian State in the Years of Occupation], p. 132; *Lerhis, A.* Pārmaiņas ... [Changes ...], p. 180.

The Statement by the US Acting Secretary of State Sumner Welles on 23 July 1940 ensured that the diplomatic representations of the Baltic states continued their activities in the USA.⁷ The stance taken by Latvia's diplomatic representatives also facilitated the fact that the USA and Great Britain in the summer of 1940, later followed by other Western states applied the principle of non-recognition of violent conquests also to the Baltic states and commenced *de iure* non-recognition of the occupation of the Baltic states.⁸

1.2. Main Activities During the Second World War and the Cold War (1940–1988)

The diplomatic and consular representations of the Republic of Latvia continued operations in several states: the entire period of Latvia's occupation – legations in Washington and London, for a shorter term – legations in Buenos Aires (1940–1946), in Geneva (1940–1946), in Rio de Janeiro (1944–1961), diplomatic representations in Madrid (1953–1959) as well as, in various periods, – numerous career consuls and honorary consuls.⁹

In 1940–1991, the work of Latvia's representations abroad was managed by the heads of the Latvian diplomatic and consular service: Kārlis Zariņš (1940–1963), Arnolds Spekke (1963–1970; thus, the service's centre of command moved from the legation in London to the legation in Washington) and Anatols Dinbergs (1971–1991). They set the guidelines on foreign policy matters and appointed the employees of the representations, consuls and personal representatives. In the future, the activities were determined by the head of the Latvian diplomatic and consular service and the head of the respective representations.

As recognised by the Constitutional Court of the Republic of Latvia in May 2010, during the period of occupation, the activities of Latvia's diplomatic representations were the sole manifestation of the capacity of the Latvian state, and, in the extraordinary situation caused by the occupation (absence of the government's support), this limited capacity of the state also determined the activities of the representations. For the further 50 years, the Latvian diplomats abroad maintained the claim regarding the State of Latvia, and this fact is significant in the context of the doctrine on the state's continuity.¹⁰

⁷ Statement of Acting Secretary of State Sumner Welles, July 23, 1940. In: U.S. Department of State, Department of State Bulletin III. Washington, U.S. Government Printing Office, July 27, 1940. Vol. III, No. 57, p. 48; Rietumvalstu nostāja Baltijas valstu jautājumā 1940.–1991. gadā: Dokumentu krājums [Position of the Western Countries on the Issue of Baltic States in 1940–1991. Collection of Documents]. Compiled by Lerhis, A. Rīga: Latvijas vēstures institūta apgāds, 2018, pp. 66–67; Sūtniecība Vašingtonā [Legation in Washington]. In: Latvju Enciklopēdija [Latvian Encyclopaedia]. Ed. Andersons, E. Vol. 4. Rockville, 1990, p. 510.

⁸ Feldmanis, I., Freimanis, A. A., Lerhis, A., Ziemele, I. Latvijas valsts okupācijas gados [The Latvian State in the Years of Occupation], pp. 134–135.

⁹ [Lerhis, A.]. Ieskats Latvijas Republikas ārlietu dienesta vēsturē (1917–1997) [Insight into the History of the Foreign Service of the Republic of Latvia (1917–1997)]. In: Latvijas ārlietu dienesta rokasgrāmata [Handbook of Foreign Service of Latvia]. Rīga: Latvijas Republikas Ārlietu ministrija, 1997, p. 17.

¹⁰ Latvijas Republikas Satversmes tiesas 2010. gada 13. maija spriedums lietā Nr. 2009-94-01 [Judgement by the Constitutional Court of the Republic of Latvia of 13 May 2010 in Case] No. 2009-94-01. Available: http://www.satv.tiesa.gov.lv/upload/spriedums_2009_94_01.htm [last viewed 12.12.2015]; Address of President of Latvia, Egils Levits, at the reception marking 100 years of foreign service (09.09.2019). Available: <https://www.president.lv/en/news/news/address-of-president-of-latvia-egils-levits-at-the-reception-marking-100-years-of-foreign-service-25901#gsc.tab=0> [last viewed 02.04.2021].

In Latvian legations, the political work mainly focused on activities of informative nature and fight for Latvia's existence and rights. The work with Latvia's citizens, vessels, etc. was mainly concentrated in the consular branch and was recognised as being very important.¹¹ The legation in Washington assumed the consular oversight over Latvian vessels and seamen, as well as the protection of the owners' interests. During the period of Latvia's occupation, the state's diplomatic and consular representations in the Western countries in their activities followed the legal acts of the pre-occupation period. They remained in force also after Latvia's occupation. Furthermore, during the following 50 years, the diplomats of Latvia's foreign service continued to declare their subordination to the last sovereign Latvian government of the pre-war period, which was internationally recognised.

The beginning of the Soviet–German war (on 22 June 1941) and replacement of the Soviet occupation by the German occupation did not interrupt *de iure* existence of the Republic of Latvia and its right to be a free, sovereign and independent state. Similarly to the envoys' actions in 1940, declaring the position against the Soviet occupation, in 1941 they also protested against the occupation of Latvia by Nazi Germany, appealing to the governments of their countries of residence.

The diplomats' duty was to speak on behalf of the citizens of Latvia who had gone abroad, and also of those living in the conditions of the Nazi and the Soviet regimes (in Latvia, Siberia, etc.). The employees of the Latvian foreign service developed cooperation with the representatives of the Estonian and Lithuanian foreign services. Slightly later, cooperation was established with the Latvian resistance movement, which stood against both foreign powers and fought for restoration of the independence of the Latvian state.

During the war years, the Latvian diplomats regularly reminded of the international law existence and status of the State of Latvia, of the conditions in Latvia and the violations of international law committed by Nazi Germany and the USSR, as well as the crimes against the State of Latvia and its inhabitants, called attention to its right to restoration of independence. K. Zariņš and A. Bilmanis had to reject and refute both the Soviet and the Nazi propaganda statements.

The serving and former Latvian diplomats in the Western countries greatly contributed to informing the Western democratic states about the situation in Latvia.¹² Starting with 1942, the envoys drew up and disseminated memoranda on the situation in Latvia, the Nazi occupation, the second Soviet occupation, and the Latvian refugees in the Western countries. Envoy A. Bilmanis was particularly active in this informative work against the Soviet and Nazi propaganda in the West and, during the war years, published several brochures on Latvia's situation – the legal status and the policies of the Nazi and Soviet regimes in Latvia.¹³

The diplomats of the Baltic states operated in the courts of the countries of residence together with attorneys, who defended the interests of the Baltic states.

¹¹ A. Bilmanis' letter of 07.09.1940 to K. Zariņš; file "1940. D. 125.63/ Latvian Consulate-General, New York". LNA LSHA, Latvian Legation London fund (the archival file has not yet been assigned a file number).

¹² File "Sarakste ar Foreign Office lidz 1945. g." [Correspondence with Foreign Office until 1945]. LNA LSHA, Latvian Legation London fund, box No. 460 (the archival file has not yet been assigned a file number).

¹³ *Bilmanis, A. Latvia under German Occupation, 1941–1943*. Washington: Press bureau of the Latvian Legation, 1943, Vol. I, 114 p.; 1944, Vol. II, 30 p.; *Bilmanis, A. The Baltic States in Postwar Europe*. Washington: Press bureau of the Latvian Legation, 1943, 48 p.; *Bilmanis, A. Latvia Between the Anvil and the Hammer*. Washington: The Latvian Legation, 1945, 64 p.; etc.

The foreign courts studied the documents submitted by the diplomats, the legal acts of Latvia and took these into account. While the Baltics were occupied by Nazi Germany, there were several legal proceedings before the US courts in connection with the attempts by the Soviet Union to take over the ships of the Baltic states.¹⁴

From 1940 to 1945, foreign powers replaced one another in Latvia three times. After the end of the Second World War and the beginning of the second Soviet occupation, the activities of the Latvian foreign service in defending the interests of the state and citizens, and supporting the self-organisation of the exile community in the countries of residence was of particular importance,¹⁵ especially during the initial stage when strong exile political organisations had not yet formed.

Over time, K. Zariņš appointed several diplomatic representatives, promoted several diplomats and consuls or transferred them to other places of service, he also appointed personal representatives. The persons from former diplomatic or consular circles were appointed as career consuls in several countries to which large numbers of Latvian refugees had moved.¹⁶

For fifty years, the Latvian diplomats abroad tirelessly reminded the world about Latvia's existence and defended its rights, ensured the legal existence of the state, preserved the largest part of Latvian gold abroad, safeguarded the small territories of Latvia's representations in the capitals of the Western states also at the time when, for long years, there was almost no hope of change. Within the limits and traditions of the existing law and legal acts, they defended the rights and interests of the Latvian citizens who had gone abroad. Employees tried to find resources to purchase medicines and support refugees. The diplomatic representatives abroad defended the property issues of the vessels owned by the Republic of Latvia in foreign ports and seamen's interests, property issues of legation's buildings, understood the need to unite the exile Latvians. Significant work was done to settle matters of consular nature, seeking lost relatives and news about Latvians dispersed in foreign countries, issuing Latvian foreign passports and extending their terms of validity (passports of the Republic of Latvia were recognised by several West European, Latin American, Asian and African states and by Australia), issuing certificates, etc. The USSR repeatedly attempted to force the Western states to close the representations of the Baltic states. Latvian legations published the declarations by the Western states and other documents, insofar as these pertained to Latvia, provided information about the situation in Latvia, obtained from various sources. The legation in Washington published "Latvian Information Bulletin". Latvian representations cooperated with the Latvian and Baltic organisations in the Western states.¹⁷ Latvian diplomats sometimes were received by the heads of several states and other high-standing officials, representatives of international organisations.

The Latvian legation in the US regularly submitted documents to the US Department of State and the United Nations Organisation, pointing to international law violations against Latvia, requested that the interests of the Latvian state and

¹⁴ File "Miscellaneous (War time), mainly Washington". LNA LSHA, Latvian Legation London fund (the archival file has not yet been assigned a file number).

¹⁵ Kangeris, K. Latvijas pavalstnieki kara laikā Eiropā [Latvian Subjects during the War in Europe]. *Mājas Viesis*, 19.04.2003, pp. 8–9.

¹⁶ [Lerhis, A.]. Ieskats ... [Insight ...], pp. 17–19.

¹⁷ Lerhis, A. Neatkarības idejas saglabāšana pēckara gados: Latvijas diplomātiskā dienesta ieguldījums mūsu valsts *de iure* statusa saglabāšanā (1940.–1988. g.) [Maintaining the Idea of Independence during the Post-War Years: Contribution of the Latvian Diplomatic Service to Maintaining *de iure* Status of Our State (1940–1988)]. *Diena*, 13.02.1998, p. 13.

people would be taken into account in preparing and adopting various decisions by the governments of the Western states and international organisations, in cases of convening international conferences, and also followed that the position of the Western states in the matter of non-recognition of the occupation and incorporation of the Baltic states would not be reviewed.

1.3. Main Activities During the Years of Third Awakening Until Full Restoration of the Independence of Latvian State (1988–1991)

At the end of 1988, the Latvian legation in Washington initiated unofficial contacts with the representatives of movements for supporting independence from Latvia. In 1989, the representatives of the Latvian Popular Front (LPF) commenced foreign policy activities. Cooperation between LPF and the Latvian foreign service began. Representatives of the legation in Washington provided assistance in preparing the visits by the LPF's representatives to the US State Department and participated in these themselves. Latvia's diplomatic representatives supported the LPF's course towards regaining the independence.

Following the adoption of "Declaration on the Restoration of Independence of the Republic of Latvia" on 4 May 1990, the re-establishment of the Ministry of Foreign Affairs of the Republic of Latvia began. In 1990–1991, the legation in Washington and the whole Latvian foreign service did not represent the government of Latvia of the transitional period (from 4 May 1990 until 21 August 1991) and was not subjected to the Ministry of Foreign Affairs in Riga. Diplomats did not recognise the Supreme Council as the parliament of independent Latvia and the Council of Ministers as an independent government because the restoration of independence had not been internationally recognised yet. However, already since the summer of 1990, the foreign service unofficially cooperated with the new government and the legation in Washington – with the new Ministry of Foreign Affairs. Measures were implemented to expand the Latvian diplomatic and consular network abroad by the representatives, appointed by the legation in Washington, in several capitals of the Western countries. The legation and the Ministry of Foreign Affairs reached an agreement on coordinating the appointment of honorary consuls. In 1989–1991, the Latvian foreign service in the Western countries attached great importance to the issues of legal continuation of the Latvian state and provided recommendations to the Latvian leaders on these matters.

The constitutional law "On the Statehood of the Republic of Latvia", adopted by the Supreme Council on 21 August 1991, was of decisive importance in restoring the full independence of the State of Latvia. After this date, the foreign policy of the Republic of Latvia and the operations of the Ministry of Foreign Affairs developed in full scope. Those several long-serving Latvian diplomats, who experienced the restoration of the state's independence actually linked both periods of the independence of the Latvian state in person. Just like the diplomatic and consular representations, for many years they were perceived as the symbols of the state's existence.

In brief, maintaining *de iure* status of Latvia and of the other Baltic states, as well as continuing the work of the three states' foreign services for 50 years, the diplomats' work for many years and faith in restoring the state's independence is an unprecedented case in the history of global diplomacy and international law, which, *inter alia*, explains the scope of the principle of non-recognition of unlawful actions. The Latvian diplomats acted in compliance with the provisions of international law,

the legal acts of the Republic of Latvia and the state's international commitments, retained their diplomatic status and the status of the legations, used political and legal arguments in assessing the crimes committed by the occupation powers, explaining the status of the Latvian citizen and constitutional matters of Latvia to the exiles abroad, in analysing the international situation and using the existence of *de iure* status of the state on the way towards regaining the independent statehood in accordance with the doctrine of the legal continuity of the State of Latvia.

2. Full Restoration of Sovereign State Power

2.1. Validity of *Satversme* During Occupation

Although the functioning of the *Satversme* was suspended after the *coup d'état* of 15 May 1934, the *Satversme*, nevertheless, was not revoked. Moreover, during the period of Latvia's occupation, it continued to be in legal force as the only permanent constitution of Latvia. Pursuant to the *Satversme* and the principles included therein, it was possible to identify the anti-constitutionality of the procedure of sovietisation, "staged" by the USSR, aiming to liquidate the State of Latvia.¹⁸

The *Satversme* became the legal basis for the activities of the national resistance movement, when the citizens of Latvia engaged in the fight for regaining the lost independence. References to the violated norms of the *Satversme* were used to substantiate the illegality of the actions by the USSR; likewise, the attempts to restore the independence of the state were based on the *Satversme*. The leading organisations of the national resistance movement – the Latvian Central Council, formed in 1943, recognised the validity of the *Satversme* and the powers of the Latvian parliament, elected in the last free election, – the 4th Convocation of the *Saeima* – to lead the country until the election of the 5th Convocation of the *Saeima* in election that would comply with the *Satversme*. The highest officials of the 4th Convocation of the *Saeima* became involved in the leadership of the Latvian Central Council – Pauls Kalniņš, the Speaker of the *Saeima*, as well as the Vice-Speakers Kārlis Pauļuks and Jāzeps Rancāns.¹⁹ On 8 September 1944, the Latvian Central Council adopted the Declaration on the Restoration of the State of Latvia, with Pauls Kalniņš, as the highest official of the state, on the basis of the *Satversme*, assuming the role of the acting president of the state.²⁰ Although the attempts to restore the independence of the state did not lead to immediate success, the Latvian Central Council continued its activities in exile and attempted to form the government in exile.²¹ Following the death of P. Kalniņš and K. Pauļuks, the Latvian Central Council established, on 26 April 1947, that, pursuant to the *Satversme*, the powers of the President of the State and the Speaker of the *Saeima* had been transferred to J. Rancāns.²² Upon J. Rancāns' request, the judges of the supreme

¹⁸ Judgement of the Constitutional Court of the Republic of Latvia in the case No. 2007-10-0102, para. 29.2. Available: https://www.satv.tiesa.gov.lv/web/viewer.html?file=/wp-content/uploads/2007/04/2007-10-0102_Spriedums_ENG.pdf [last viewed 10.03.2021].

¹⁹ Jundzis, T., Turčinskis, Z. Resistance to the Soviet and Nazi Regimes in Latvia, 1940–1985. In: Latvia and Latvians. Collection of scholarly articles in 2 volumes. Vol. II. Riga: Latvian Academy of Science, 2018, pp. 720–722.

²⁰ Pleps, J. Role of the Latvian Central Council's Practice in Interpretation of the Constitution of Latvia. *Journal of the University of Latvia. Law*, No. 9, 2016, pp. 129–131.

²¹ Deksnis, E. B. Latvian Exile Government Proposals. *Journal of the University of Latvia. Law*, No. 9, 2016, pp. 84–85.

²² Pleps, J. Role ..., pp. 130–132.

court of Latvia – the Latvian Senate – provided their opinion, in which they established the continuous existence of the Latvian state *de iure* and the validity of the *Satversme* even in the conditions of occupation.²³ In these conditions, the *Satversme* turned into a political symbol of the lost independence and the legal grounds for demanding restoration of an independent state.

2.2. Reinstatement of *Satversme* and Restoration of Constitutional Bodies Defined Therein

The leading political force in regaining Latvia's independence – the Popular Front of Latvia – included in its political programme the restoration of Latvia's independence on the basis of the state continuity.²⁴ In the Supreme Council's election, those supporting regaining of Latvia's independence gained the needed majority of votes, and, on 4 May 1990, the Supreme Council adopted the declaration "On the Restoration of Independence of the Republic of Latvia".²⁵ Para. 3 of the Declaration reinstated *Satversme* on the territory of Latvia; however, at the same time, para. 4 and para. 7 of the Declaration envisaged recasting of the *Satversme*. Pursuant to para. 4 of the Declaration, Articles 1, 2, 3 and 6 of the *Satversme*, which define the constitutionally legal basis of the Latvian state, remained in force.

The conviction regarding the possibility and even necessity to reinstate *Satversme* in full consolidated, and the idea of drafting a new constitution was abandoned.²⁶ Article 1 of the constitutional law of 21 August 1991 "On the Statehood of the Republic of Latvia"²⁷ declared that the *Satversme* defined the statehood of the Republic of Latvia. On 6 July 1993, when the 5th Convocation of the *Saeima*, elected in accordance with the *Satversme*, convened for its first sitting, the *Satversme* was reinstated in full *de facto*.²⁸ Reinstatement of the *Satversme* is a relatively rare occasion, marking an occasion when a constitution has been successfully reinstated in the legal and social reality following an interruption of almost half a century. It also consolidates and confirms the continuity of the Latvian state.²⁹

The reinstatement of the *Satversme* meant also reinstating the constitutional bodies referred to therein. After the reinstatement of the *Satversme*, all constitutional bodies envisaged in the *Satversme* and the laws regulating their operation were re-established. It is worth emphasising that these laws predominantly were restored very close to their wording in the period until Latvia's occupation. In several cases, even the titles of the adopted laws pointed to this.³⁰

²³ Senatoru atzinums [Advisory Opinion of the Senatores]. *Latvju Ziņas*, No. 29, 17.04.1948, pp. 1–2.

²⁴ *Jundzis, T.* Regaining the Independence of Latvia. In: *Latvia and Latvians*. Collection of scholarly articles in 2 volumes. Vol. I. Rīga: Latvian Academy of Science, 2018, pp. 79–80.

²⁵ Augstākās padomes deklarācija "Par Latvijas Republikas neatkarības atjaunošanu" [Declaration of the Supreme Council "On the Restoration of Independence of the Republic of Latvia"] (04.05.1990). Available: <https://likumi.lv/ta/id/75539-par-latvijas-republikas-neatkaribas-atjaunosanu> [last viewed 10.03.2021].

²⁶ *Ziemele, I.* State Continuity and Nationality: The Baltic States and Russia: Past, Present and Future as Defined by International Law. Leiden: Martinus Nijhoff Publishers, 2005, pp. 32–35.

²⁷ Konstitucionālais likums "Par Latvijas Republikas valstisko statusu" [Constitutional Law "On the Statehood of the Republic of Latvia"] (21.08.1991). Available: <https://likumi.lv/ta/id/69512-par-latvijas-republikas-valstisko-statusu> [last viewed 10.03.2021].

²⁸ Latvijas Republikas 5. Saeimas pirmās sēdes 1993. gada 6. jūlijā stenogramma [Transcript of the first sitting of the 5th Convocation of the *Saeima* of the Republic of Latvia on 6 July 1993]. Available: https://www.saeima.lv/steno/st_93/060793.html [last viewed 10.03.2021].

²⁹ *Ziemele, I.* State Continuity ..., pp. 35–36.

³⁰ *Kusiņš, G., Pleps, J.* Valsts iekārtas un tiesību sistēmas atjaunošana [Restoration of the Constitutional Order and the Legal System]. In: *Latvijas valsts tiesību avoti. Valsts dibināšana – neatkarības atjaunošana*

On 20 October 1992, the Supreme Council also adopted a law on holding the election of the 5th Convocation of the *Saeima* in accordance with the *Satversme*. The law of the Supreme Council of 20 October 1992 “On the Election of the 5th *Saeima*”³¹, with some derogations, actually took over in full the regulation of the “Law on Elections of the *Saeima*” of 9 June 1922. It is also relevant that the Supreme Council confirmed the continuity of legislators in the Republic of Latvia – by announcing the election of the 5th *Saeima* it continued the numbering of the parliament, commenced before Latvia’s occupation.³² With the election of the 5th Convocation of the *Saeima* in accordance with Article 12 and Article 13 of the *Satversme*, the powers of the 4th *Saeima* legally expired. J. Rancāns, as the acting Speaker of the *Saeima* in conditions of occupation, is officially included in the gallery of the *Saeima*’s Speakers.³³

Upon commencing its work, the 5th Convocation of *Saeima* decided at its first sitting to apply to its work the Rules of Procedure of the *Saeima* of 1929, until new Rules of Procedure of the *Saeima* would be drafted. This decision by the *Saeima* attested not only to the symbolic or technical reinstatement of old laws but also to the returning of the practice of applying laws, parliamentary traditions and doctrine into the legal reality. The first election of the president following the reinstatement of the *Satversme* also was held in compliance with the parliamentary customs that had developed before Latvia’s occupation. The first election of the president following the full reinstatement of the *Satversme* marked symbolic continuity of the state, since the newly elected President Guntis Ulmanis was a close relative of the last head of the state before the Republic of Latvia was occupied – the acting President Prime Minister Kārlis Ulmanis. Similarly to the Speaker of the *Saeima*, the Acting Presidents during the occupation – P. Kalniņš and J. Rancāns – are included on the list of the presidents of the state.³⁴

Chapter VI of the *Satversme*³⁵ “Courts” regained validity in full and unamended.³⁶ Thus, the continuity of the basic principles for the functioning of the judicial power was ensured.³⁷ On 15 December 1992, the Supreme Court adopted the law “On

[Legal Sources of the Latvian State. Foundation of the State – Restoration of Independence]. Rīga: Tiesu namu aģentūra, 2015, p. 238.

³¹ Likums “Par 5. Saeimas vēlēšanām” [Law “On the Elections of the 5th *Saeima*]. Available: <https://likumi.lv/ta/id/66524-par-5-saeimas-vesesanam> [last viewed 10.03.2021].

³² *Kusiņš, G.* Latvijas parlamentārisma apskats [A Survey of the Latvian Parliamentarism]. Rīga: Latvijas Republikas Saeima, 2016, p. 57.

³³ Ināra Mūrniece: godinām Jāzepu Rancānu par Latvijas valstiskuma stiprināšanu mūža garumā [Ināra Mūrniece: We pay homage to Jāzeps Rancāns for lifelong strengthening of Latvia’s statehood] (21.08.2018). Available: <https://www.saeima.lv/lv/par-saeimu/saeimas-darbs/12-saeimas-priekssedetaja-inara-murniece/12-saeimas-priekssedetajas-aktualitates/27113-inara-murniece-godinam-jazepu-rancanu-par-latvijas-valstiskuma-stiprinasanu-muza-garuma> [last viewed 10.03.2021].

³⁴ Address by H. E. President of Latvia Mr Egils Levits Assuming the Office at the *Saeima* (08.07.2019). Available: <https://www.president.lv/en/news/news/address-by-h-e-president-of-latvia-mr-egils-levits-assuming-the-office-at-the-saeima-25796> [last viewed 10.03.2021].

³⁵ Latvijas Republikas Satversme [The Constitution of the Republic of Latvia] (15.02.1922). Available: <https://likumi.lv/ta/en/en/id/57980-the-constitution-of-the-republic-of-latvia> [last viewed 03.03.2021].

³⁶ See more: *Lazdiņš, J.* Clashes of Opinion at the Time of Drafting the *Satversme* of the Republic of Latvia. *Journal of the University of Latvia. Law*, No. 10, 2017, pp. 98–100. Available: https://www.journaloftheuniversityoflatvia.law.lu.lv/fileadmin/user_upload/lu_portal/projekti/journaloftheuniversityoflatvia/No10/J.Lazdins.pdf [last viewed 03.03.2021].

³⁷ “Judges shall be independent and subject only to the law” (Art. 83 of the *Satversme*) and “Judicial appointments shall be confirmed by the *Saeima* and they shall be irrevocable” (Art. 84 of the *Satversme*).

Judicial Power”.³⁸ In many respects, the court system was restored as it had been until the Soviet occupation, in compliance with Provisional Statute on the Courts of Latvia and Procedure of Litigations of 6 December 1918.³⁹ The continuity of the legal thought is proven, in particular, by the case law of the Latvian courts, *inter alia*, also by the Constitutional Court’s references to the case law of the Senate which had evolved before Latvia’s occupation.⁴⁰ The use of the Senate’s case law was made possible by the reinstatement of a large number of pre-occupation laws.⁴¹ The central place among them is occupied by the reinstatement, in 1992–1993, of the Latvian Civil Law, adopted on 28 January 1937⁴².

The use of the Senate’s case law for the purposes of the further development of the case law in Latvia attests to the continuity of the legal system.⁴³ Likewise, it must be highlighted that, following Latvia’s occupation, the Senate’s Senators in exile, upon the request by the Vice-Speaker of the *Saeima* Jāzeps Rancāns, prepared a special legal opinion on Latvia’s legal status and the validity of the *Satversme* following the Soviet occupation.⁴⁴

2.3. Restitution of the Right to Property

In a democratic state governed by the rule of law, the right to property is a protected value.⁴⁵ Following full restoration of the sovereign state power *de facto* (1990–1991), elimination of injustices inflicted by the Soviet regime, *inter alia*, also with respect to the right to property, turned into one of the obligations of the State of Latvia. This also meant denationalisation of properties that had been nationalised by communists.⁴⁶

³⁸ Par tiesu varu [On Judicial Power] (15.12.1992). Available: <https://likumi.lv/ta/en/en/id/62847-on-judicial-power> [last viewed 03.03.2021].

³⁹ Pagaidu nolikums par Latvijas tiesām un tiesāšanas kārtību [Provisional Statute on the Courts of Latvia and Procedure of Litigations] (06.12.1918). *Pagaidu Valdības Vēstnesis*, No. 1, 14. (01.)12.1918. See more: Nepārtrauktības doktrīna ... [The Continuity Doctrine ...], pp. 345–359.

⁴⁰ See, for instance: Judgment in the case No. 2007-10-0102, Riga, 29 November 2007. In: Selected Case-Law of the Constitutional Court of the Republic of Latvia: 1996–2017. Riga: The Constitutional Court of the Republic of Latvia, 2018, pp. 271, 282. Available: <http://www.satv.tiesa.gov.lv/other/2018-ST-Zelta-gala%20versija.pdf> [last viewed 03.03.2021]; Augstākās tiesas Civillietu departamenta (paplašinātā sastāvā) 2005. gada 7. decembra spriedums lietā Nr. SKC-542/2005 [Judgment of the Department of Civil Cases of the Supreme Court (in extended composition) of 7 December 2005 in case No. SKC-542/2005]. Available:

<http://www.at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/civillietu-departaments/hronologiska-seciba?year=2005> [last viewed 03.03.2021]; Augstākās tiesas Administratīvo lietu departamenta 2008. gada 16. oktobra spriedums lietā Nr. SKA-404/2008 [Judgment of the Department of Administrative Cases of the Supreme Court of 16th October 2008 in case No. SKA-404/2008], point 10. Available: <https://manas.tiesas.lv/eTiesasMvc/lv/nolemumi>. [last viewed 03.03.2021].

⁴¹ *Lazdiņš, J.* Tendencies in the Development of Laws in the Republic of Latvia after the Renewal of Independence in 1990–1991. *Journal of the University of Latvia. Law*, No. 8, 2015, pp. 47–67. Available: https://www.journaloftheuniversityoflatvia.law.lv/fileadmin/user_upload/lu_portal/projekti/journaloftheuniversityoflatvia.law/No8/3.Janis_Lazdins.pdf [last viewed 03.03.2021].

⁴² Latvijas Civillikums [The Civil Law] (28.01.1937). Available: <https://likumi.lv/ta/en/en/id/225418-the-civil-law> [last viewed 03.03.2021].

⁴³ *Lēbers, D. A.* Latvijas Senāts viņdienās un mūsdienās [The Latvian Senate in the Olden and the Current Times]. *Latvijas Vēstnesis*, No. 387, 29.12.1998, p. 4.

⁴⁴ Senatoru atzinums [Advisory Opinion of the Senatores]. *Latvju Ziņas*, No. 29, 17.04.1948, pp. 1–2.

⁴⁵ Pursuant to Article 1 of the *Satversme*, Latvia is a democratic republic.

⁴⁶ See Par agrāro reformu Latvijas Republikā [On Agrarian Reform in the Republic of Latvia] (13.06.1990). Available: <https://likumi.lv/ta/id/76206-par-agraro-reformu-latvijas-republika> [last viewed 03.03.2021]; Par valsts īpašuma un tā konversijas pamatprincipiem [On the basic principles

There was a considerable variety of the objects of property that had been subjected to denationalisation. To ensure property reform, they were conditionally divided into six groups: 1) land property in rural areas;⁴⁷ 2) land property in cities;⁴⁸ 3) homeownership;⁴⁹ 4) undertakings;⁵⁰ 5) property of religious organisations,⁵¹ and 6) property of academic lifelong organisations.⁵²

Not all objects of property were included in the aforementioned six groups. Therefore, denationalisation of property was implemented also on the basis of a special law. For instance, the right to property was reinstated in this way to the Association of Latvian Estonians⁵³, the Association of the Jewish Hospital “Bikur Holim”⁵⁴, etc.

Denationalisation of property in Latvia was aimed at restitution of the right to immovable property.⁵⁵ Restitution of the right to movable property was viewed more as an exception to the general procedure, while the value of nationalised deposits was not compensated at all. Hence, restitution of the right to property in Latvia was not comprehensive. Likewise, it was not always possible to carry out the restitution of the right to immovable property *in natura*. For example, personal (family) homes, lawfully purchased during the years of Soviet occupation, remained the property of buyers as *bona fide* acquirers. Likewise, the land on which public roads, national

of the state property and its conversion] (20.03.1991). Available: <https://likumi.lv/doc.php?id=65829> [last viewed 03.03.2021].

⁴⁷ Par zemes reformu Latvijas Republikas lauku apvidos [On Land Reform in Rural Areas of the Republic of Latvia] (21.11.1990). Available: <https://likumi.lv/ta/en/en/id/72849-law-on-land-reform-in-the-rural-areas-of-the-republic-of-latvia> [last viewed 03.03.2021]; Par zemes privatizāciju lauku apvidos [On Land Privatisation in Rural Areas] (09.07.1992). Available: <https://likumi.lv/ta/en/en/id/74241-on-land-privatisation-in-rural-areas> [last viewed 03.03.2021].

⁴⁸ Par zemes reformu Latvijas Republikas pilsētās [On Land Reform in the Cities of the Republic of Latvia] (20.11.1991). Available: <https://likumi.lv/ta/id/70467-par-zemes-reformu-latvijas-republikas-pilsetas> [last viewed 03.03.2021].

⁴⁹ Par namīpašumu atdošanu likumīgajiem īpašniekiem [On Returning Homeownerships to their Legal Owners] (30.10.1991). Available: <https://likumi.lv/ta/id/70828-par-namipasumu-atdosanu-likumigajiem-ipasniekiem> [last viewed 03.03.2021]; Par namīpašumu denacionalizāciju Latvijas Republikā [On Denationalisation of Homeownership in the Republic of Latvia] (30.10.1991). Available: <https://likumi.lv/ta/id/70829-par-namipasumu-denacionalizaciju-latvijas-republika> [last viewed 03.03.2021].

⁵⁰ Par īpašuma tiesību atjaunošanu uz uzņēmumiem un citiem īpašuma objektiem [On Renewal of Property Rights to Undertakings and Other Property Objects] (30.03.1993). Available: <https://likumi.lv/ta/en/en/id/60054-on-renewal-of-property-rights-to-undertakings-and-other-property-objects> [last viewed 03.03.2021].

⁵¹ Par īpašumu atdošanu reliģiskajām organizācijām [On Returning Property to Religious Organisations] (12.05.1992). Available: <https://likumi.lv/ta/id/65537-par-ipasumu-atdosanu-religiskajam-organizacijam> [last viewed 03.03.2021].

⁵² Par nekustamo īpašumu atdošanu akadēmiskajām mūža organizācijām [On Returning Immovable Property to Academic Lifelong Organisations] (28.11.1996). Available: <https://likumi.lv/ta/id/41487-par-nekustamo-ipasumu-atdosanu-akademiskajam-muza-organizacijam> [last viewed 03.03.2021].

⁵³ Par īpašuma tiesību atjaunošanu Latvijas Igaunību biedrībai [On Restituting the Title to Property to the Association of Latvian Estonians] (16.01.1997). Available: <https://likumi.lv/ta/id/42064-par-ipasuma-tiesibu-atjaunosanu-latvijas-igaunu-biedribai> [last viewed 03.03.2021].

⁵⁴ Par īpašuma tiesību atjaunošanu Ebreju slimnīcas “Bikur Holim” biedrībai [On Restituting the Title to Property of the Association of the Jewish Hospital “Bikur Holim”] (21.05.1998). Available: <https://likumi.lv/ta/id/48410-par-ipasuma-tiesibu-atjaunosanu-ebreju-slimnecas-bikur-holim-biedribai> [last viewed 03.03.2021].

⁵⁵ *Lazdiņš, J.* Īpašuma denacionalizācija Latvijas Republikā [Denationalisation of Property in the Republic of Latvia]. In: *Nepārtrauktības doktrīna ...* [The Continuity Doctrine ...], pp. 362–363.

sports facilities, etc. were located, was not denationalised.⁵⁶ In such cases, former owners and their heirs had the right to be allocated equivalent property, to receive compensation in cash or privatisation certificates in compliance with the procedure set out in law.⁵⁷

At the time when the reform was implemented, extensive public discussions ensued regarding the framework of denationalisation and state's obligations in relation to it. The Constitutional Court of the Republic of Latvia provided an answer to this question:

The State of Latvia is not responsible for the human rights violations, including nationalisation of property, which were committed by the occupation power in the period lasting half a century. The Republic of Latvia does not have the possibilities and neither is it obliged to compensate in full for all damages caused to persons as the result of actions taken by the occupation power.⁵⁸ [The legislator] had the obligation to take measures to redress, to the extent possible, [...] the damages caused by the former regime and to restore justice⁵⁹.

Latvia has completed restitution of the right to property to the extent possible for the state at a given time. Of course, a significant number of errors was made within the framework of this reform. Thus, the conversion process of the state property was unnecessarily hasty. For example, natural persons were given less than four months to apply for the recovery of the objects of property owned by undertakings, hotels, cinemas, pharmacies, hospitals, etc. (land and home ownership was an exception, regulated by other laws).⁶⁰ Another problem was caused by expanding the circle of heirs during the period of restitution of property rights. At the time when land reform was commenced in rural areas, the Civil Code of the Latvian Soviet Socialist Republic (27.12.1963)⁶¹ was in effect. Pursuant to the Civil Code, the closest relatives were

⁵⁶ See more *Lazdiņš, J. Zemes īpašuma nacionalizācijas un denacionalizācijas pieredze Latvijā (19.–21. gadsimts)* [The Experience of Nationalising and Denationalising Land Property in Latvia (19th–20th century)]. *Likums un Tiesības*, Vol. 7, No. 6, 2005, pp. 168–178; *Grūtups, A., Krastiņš, E. Īpašuma reforma Latvijā* [Property Reform in Latvia]. Rīga: Mans īpašums, 1995.

⁵⁷ Par zemes privatizāciju lauku apvidos [On Land Privatisation in Rural Areas], Art. 4 (3), 12–14; Par zemes reformu Latvijas Republikas pilsētās [On Land Reform in the Cities of the Republic of Latvia], Art. 14; Par privatizācijas sertifikātiem [On Privatisation Certificates] (16.03.1995.). Available: <https://likumi.lv/ta/id/34503-par-privatizācijas-sertifikātiem> [last viewed 03.03.2021] and other regulatory enactments [last viewed 03.03.2021].

⁵⁸ Latvijas Republikas Satversmes tiesas 2003. gada 25. marta spriedums lietā Nr. 2002-12-01 [Judgement of the Constitutional Court of the Republic of Latvia of 25 March 2003 in case No. 2002-12-01], para. 1 of the Findings. Available: <https://likumi.lv/doc.php?id=73143> [last viewed 03.03.2021].

⁵⁹ Latvijas Republikas Satversmes tiesas 2011. gada 28. novembra spriedums lietā Nr. 2011-02-01 [Judgement of the Constitutional Court of the Republic of Latvia of 28 November 2011 in case No. 2011-02-01], para. 8.1. Available: http://www.satv.tiesa.gov.lv/wp-content/uploads/2016/02/2011-02-01_Spriedums.pdf [last viewed 03.03.2021].

⁶⁰ Par pieteikumu pieņemšanu no nacionalizēto un citādi nelikumīgi atņemto nekustamo īpašumu (uzņēmumu un citu īpašumu objektu) īpašniekiem – fiziskajām personām [On Accepting Applications from Owners – Natural Persons – of Nationalised or Otherwise Unlawfully Divested Immovable Property (undertakings and other objects of property)] (31.03.1992). Available: <https://likumi.lv/ta/id/65486-par-pieteikumu-pienemsanu-no-nacionalizeto-un-citadi-nelikumigi-atnemto-nekustamo-ipasumu-uznemumu-un-citu-ipasumu-objektu> [last viewed 03.03.2021].

⁶¹ Latvijas Padomju Sociālistiskās Republikas Civilt kodekss [The Civil Code of the Latvian Soviet Socialist Republic] (27.12.1963). *Latvijas Padomju Sociālistiskās Republikas Augstākās Padomes un Valdības Ziņotājs*, No. 1, 09.01.1964.

invited to inherit property.⁶² On 1 September 1992, general clauses, rights *in rem* and inheritance rights contained in the 1937 Latvian Civil Law were reinstated.⁶³

The Civil Law, drawn up in the Romano-Germanic legal tradition, did not limit the circle of heirs to close relatives. Consequently, after the Civil Law entered into effect, a considerable number of persons, who pursuant to the Civil Code were not recognised as heirs, became entitled to request restitution of the title to property. However, before the more distant relatives, in accordance with the circle of relatives expanded by the Civil Law, could apply for the restitution of the title to property, the land could have been transferred into permanent use to another person in the general procedure for privatising state property. In such a case, the former owners had to accept allocation of an equivalent land plot or compensation.

The emergence of the so-called divided property rights takes a special place in the “list of problems” of property reform. It originated in restoring the right of property to land on which multiapartment residential buildings had been erected. The divided immovable property right was legalised by the Supreme Council of the Republic of Latvia on 7 July 1992 by adopting the law “On the Time of Entry into Force and Procedure of Application of the Introductory Part, Parts on Inheritance Law and Property Law of the Renewed Civil Law of the Republic of Latvia of 1937”.⁶⁴ The purpose of the law to legalise the existing property relations was reached but this could not be said about the future relationships between owners.

Setting the amount of land lease has turned into “the apple of discord” for landowners and owners of multiapartment residential buildings. Following several judgements by the Constitutional Court, the legislator’s attempts to resolve this problem by setting the ceiling for the land lease have failed. Currently, the amount of land lease is set by the parties, agreeing in writing.⁶⁵ To date, the legislator has not succeeded in adopting legal regulations on how the owners of apartments in multiapartment residential buildings could purchase land from landowners, nor in enforcing the findings included in the Constitutional Court’s case law:

*The legislator is the one who, abiding by the case law of the Constitutional Court in matters of compulsory lease, must find such a solution to a particular situation in a procedure within which possible restrictions of persons’ fundamental rights are duly assessed and where the rights of landowners and the owners of multiapartment buildings are justly balanced.*⁶⁶

⁶² “Firstly – children of the deceased (also, adopted children), the spouse and parents (also, adoptive), as well as the deceased person’s child born after his death; the second line – siblings of the deceased, his grandfather and grandmother from both his father’s and mother’s side of the family. [...] Grandchildren and great-grandchildren of the leaver of the estate are lawful heirs if, at the opening of the succession, the parent, who himself would have been the heir, is not alive.” (Art. 555).

⁶³ Par atjaunotā Latvijas Republikas 1937.gada Civillikuma ievada, mantojuma tiesību un lietu tiesību daļas spēkā stāšanās laiku un piemērošanas kārtību [On the Time of Entry into Force and Procedure of Application of the Introductory Part, Parts on Inheritance Law and Property Law of the Renewed Civil Law of the Republic of Latvia of 1937] (07.07.1992). Available: <https://likumi.lv/ta/id/75530-par-atjaunota-latvijas-republikas-1937gada-civillikuma-ievada-mantojuma-tiesibu-un-lietu-tiesibu-dalas-speka-stanasas-laiku-un-piemerosanas-kartibu> [last viewed 03.03.2021].

⁶⁴ *Ibid.*, Art. 14.

⁶⁵ See Par zemes reformu Latvijas Republikas pilsētās [On Land Reform in the Cities of the Republic of Latvia], Art. 12 (2¹); Par valsts un pašvaldību dzīvojamo māju privatizāciju [On Privatisation of State and Local Government Residential Homes] (21.06.1995), Art. 54 (2). Available: <https://likumi.lv/ta/id/35770-par-valsts-un-pasvaldibu-dzivojamo-maju-privatizaciju> [last viewed 03.03.2021].

⁶⁶ Latvijas Republikas Satversmes tiesas 2018. gada 12. aprīļa spriedums lietā Nr. 2017-17-01 [Judgement of the Constitutional Court of the Republic of Latvia of 12 April 2018 No. 2017-17-01], para. 24.

No major property reform proceeds without errors and valid criticism. In this respect, Latvia is no exception. However, the conversion of state property into private property, even with all its deficiencies, has significantly reinforced the foundations of Latvia as a democratic state governed by the rule of law ensuring (substantially) the continuity of the right to property of former owners and their heirs. Therefore, denationalisation of property should be viewed as an important aspect in substantiating the continuity of the State of Latvia⁶⁷, also symbolising restitution of the sovereign power of Latvia as a state governed by the rule of law in full in the area of property rights.

Summary

1. Since its proclamation on 18 November 1918, the Republic of Latvia has continuously existed *de iure* as an internationally recognised subject of international law. The Republic of Latvia continued to implement the functions of state even during occupation. Throughout the entire period of occupation, the diplomatic and consular services of the Republic of Latvia operated continuously, representing the interests of the Republic of Latvia abroad and expressing its official position.
2. During the entire period of occupation, the *Satversme* continued to be valid as the only constitution of the Republic of Latvia, and the perseverance of the national resistance movement was the necessary evidence in the fight for restoration of the independence of the Republic of Latvia. The Central Council of Latvia was organised on the basis of the *Satversme* as the most significant organisation of the national resistance movement, ensuring the continuity of state power.
3. Pauls Kalniņš, the Speaker of the 4th *Saeima*, is to be recognised as the legitimate acting President of the State, who undertook these obligations based on the *Satversme* in the circumstances where the state was unlawfully occupied. Similarly, the Vice-Speaker of the *Saeima*, Jāzeps Rancāns, is to be considered a legitimate acting President of the state and the Speaker of the *Saeima*, who, pursuant to the *Satversme*, assumed these obligations after Pauls Kalniņš' demise.
4. Restitution of the right to property to the former owners and their heirs implemented after the collapse of the Soviet power, is an important aspect in substantiating the continuity of the State of Latvia and symbolises a full restitution of the sovereign state power of Latvia as a state governed by the rule of law also in the area of the right to property.

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