

**OWNERSHIP REFORM  
AND THE IMPLEMENTATION OF OWNERSHIP  
REFORM  
IN THE REPUBLIC OF ESTONIA  
IN 1991-2004**

**R E P O R T**

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<sup>1</sup> The undersigned has never belonged to the Communist Party of the Soviet Union nor any repressive organ.

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## CHAPTER I. THE RESULTS OF OWNERSHIP REFORM

1. C. 80,000 families<sup>3</sup>, including children, adults, senior citizens, who have been or are being unlawfully deprived of their homes, in violation of the right to home, the rights of children and other human rights i.e. social genocide is carried out.
2. More than 850,000,000 EUR<sup>4</sup> (Eight hundred and fifty million euros) worth of real estate in Estonia that has fallen into unlawful ownership.<sup>5</sup>
3. C. 65,000,000 EUR (Sixty five million euros) unlawfully paid for privatisation vouchers<sup>6</sup>.
4. C. 130,000,000 (One hundred and thirty million euros) worth of living space that has been or is being built for the unlawfully evicted inhabitants at the expense of the people living in the Republic of Estonia. At the same time the means for specific purposes collected as taxes by the state have not been used for developing housing.
5. Committees for Return of Unlawfully Expropriated Property with the rights of courts were formed, in violation of the Constitution of the Republic of Estonia.
6. A number of miscarriages of justice have been committed by registering unlawfully restituted property into unlawful ownership.
7. The social-psychological factors influence health more than economic factors. Estonia has one of the highest mortality rates among the European states.<sup>7</sup>
8. IN THE COURSE OF IMPLEMENTATION OF OWNERSHIP REFORM IN 1991—2004 THE ACQUIRING AND REGISTRATION OF UNLAWFUL MATERIAL PROPERTY WAS RAISED ABOVE THE LAW AND HUMAN BEING AS A SUBJECT, DISREGARDING THE FACT THAT PURSUANT TO NATIONAL AND INTERNATIONAL LAW A PERSON HAS A RIGHT TO HOME AND ITS INVIOABILITY.<sup>8</sup>
- 8.1. The Principles of Ownership Reform Act does not conform to the Constitution of the Republic of Estonia. During the period under observation, three basic principles of the Constitution of the Republic of Estonia have been and are continuously ignored:
  - 1) the principle of legal certainty § 3;
  - 2) the principle of legitimate expectation § 10;
  - 3) the principle of equal treatment § 12,in the result of which nine articles of the Constitution of the Republic of Estonia have been violated: Chapter I §3, Chapter II § 9, §10, §12, §13, §15, § 25, § 32, §33.
- 8.2. In the course of the implementation of ownership reform, neither the national nor the international laws have been observed – the result: holocaust against its own country and population.
- 8.3. HUNDREDS OF THOUSANDS OF PEOPLE, WHOLE FAMILIES have been unlawfully evicted from their homes, in violation of their right to home, of rights of children and other human rights, to a greater or lesser extent, c. 80,000 families or every sixth person living at the territory of the Republic of Estonia have suffered.

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<sup>3</sup> By the information of County Governments.

<sup>4</sup> Taking into account the real estate prices in the Republic of Estonia today.

<sup>5</sup> The value of sacral buildings is not taken into account.

<sup>6</sup> Privatisation voucher – voucher that was used to compensate for the people the time worked under the soviet regime (1 work year = 19 EUR) and for acquiring real estate on the basis of compensation applications.

<sup>7</sup> Eesti Päevaleht 17 Feb. 2004 A.Kasmel “Haiged inimesed või haige ühiskond”.

<sup>8</sup> See the Constitution of the Republic of Estonia, European Convention on Human Rights, Convention on the Rights of the Child and other legal acts.

- 8.4. The Republic of Estonia has the first place in the world by the decrease rate of the number of population. Since the regaining of independence in 1991, c. 140,000 people have left the territory of the Republic of Estonia.
- 8.5. UN polls show that 80% of the school students of the Republic of Estonia wish to go to work in some other country after graduating from school.
- 8.6. About ¼ of the population have their living standard under the official poverty line and the number of so-called “garbage people” increases continuously also by those people who are evicted from their homes with unlawful court decisions.
- 8.7. Estonia rates among the first in the world by its suicide rate, the spread of tuberculosis and AIDS and the negative birth rate.
- 8.8. In provincial areas people are leaving en masse their apartments encumbered with debts, because they are unable to pay corruptly high prices for the communal services. To a large extent, this is a result of unlawful privatisation.
- 8.9. Another wave of eviction of families that have been deprived of their lawful right of ownership is ahead, because it is planned to abolish the limits on rent prices.
- 8.10. The incorrect and unlawful “distribution” and “restitution” of sacred buildings has given rise to domestic tension and damaged Estonia’s reputation at the international level.
- 8.11. Since October 2002 there is a legal vacuum because the Supreme Court declared § 7 paragraph 3 of the Principles of Ownership Reform Act null and void as contradictory to § 13 paragraph 2 in conjunction with § 14 of the Constitution. No state institution has expressed its opinion on how long the legal vacuum might last, but at the same time the eviction of people from their lawful homes continues.
- 8.12. Massive unlawful restitution has been carried out and unlawful privatisation has been carried through, as a result of which in 1991—2004 crimes against humanity have been and continue to be committed.

**At the same time it has to be admitted that there is no country in Europe where a precedent has been created that a real estate, which has been obtained with deceit, has remained in the hands of the thief.**

## **CHAPTER II. GENERAL PROVISIONS**

### **9. Background Information**

**The first** consolidated text of the Principles of Ownership Reform Act was adopted in the month of June in the year 1991, when the Republic of Estonia was still part of the Soviet Union. By its social-economic formation, the Republic of Estonia belonged among the socialist countries. The law was adopted by the Supreme Soviet of the Republic of Estonia and proclaimed by the Chairman of the Presidium of the Supreme Soviet of the Republic of Estonia, the sitting President of the Republic of Estonia Mr. Arnold Rüütel.

**The second** consolidated text of the Principles of Ownership Reform Act was adopted after Estonia had regained independence, in 1994, when the Republic of Estonia had taken the path of capitalist social-economic development during the term of office of President Lennart Meri.

**The third** consolidated text of the Principles of Ownership Reform Act was adopted in 1997, also during the term of office of President Lennart Meri.

## **10. The Purpose of Ownership Reform<sup>9</sup>**

The Purpose of Ownership Reform has been declared in Art. 2 of Principles of Ownership Reform Act:

- (1) The purpose of ownership reform is the rearrangement of ownership relations to guarantee the inviolability of property and free enterprise, the compensation of injustice done by the violation of ownership rights and creating preconditions for transition to market economy.
- (2) The restitution or compensation of property to former owners or their legal successors during ownership reform **MUST NOT VIOLATE THE LEGALLY PROTECTED INTERESTS OF OTHER PERSONS OR CAUSE NEW INJUSTICE.**

## **11. The Legislative Basis of Ownership Reform and the Coherence of Legislation**

- 11.1. The document forming the basis of the Republic of Estonia as a state is the Constitution of the Republic of Estonia. All acts valid on the territory of the Republic of Estonia must conform to the Constitution. The Constitution in its turn has been brought into conformity with international legal acts, including those on human rights.
- 11.2. The BASIS for carrying out the ownership reform in the Republic of Estonia is the Principles of Ownership Reform Act (see RT I 1997, No. 27, Art391; RT I 1994, 38, 617; RT 1991, 21, 257). All lower legal acts concerning the ownership reform must proceed from the Principles of Ownership Reform Act and be **IN CONFORMITY** with the Constitution.
- 11.3. In addition to the Principles of Ownership Reform Act, c. 100 lower legal acts and amendments to legal acts and other legislative acts relating to ownership reform have been adopted. A great deal of them does not conform to the Constitution of the Republic of Estonia, the Principles of Ownership Reform Act or international agreements.
- 11.4. The EU Convention on the Protection of Human Rights and Basic Liberties that was first signed by the representative of the executive power of the Republic of Estonia and then sent to the Parliament for ratification, got additional clauses in the Parliament and the President of the Republic of Estonia approved the Convention with additional clauses that enable to violate the basic rights of the people living in the Republic of Estonia.<sup>10</sup>

## **12. The Implementation of Ownership Reform**

The ownership reform is guaranteed by the Government of the Republic who appoints the ministers responsible for the different spheres of ownership reform. In the implementation of ownership reform, the local governments, observing the law and on the basis of the law, carry out the activities prescribed by the Government of the Republic.

## **13. Ownership Reform as the Social-Economic Basis of the Re-independent Republic of Estonia**

The local people consider with reason that the ownership reform and its implementation as a process have laid the grounds for the formation of the whole social-economic basis of the re-established Republic of Estonia.

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<sup>9</sup> The Principles of Ownership Reform Act.

<sup>10</sup> The Republic of Estonia Riigikogu Archives list 2, item 1099.

## CHAPTER III. EXAMPLES

### 14. Some Examples of the Unlawful Implementation of the Ownership Reform

#### *Case 1. Property Theme of the Apartment Companies*

- 1) Apartment associations have been founded on the basis of **Public Limited Apartment Companies Act**<sup>11</sup>, which establishes that the apartment associations are BUSINESS COMPANIES.
- 2) **Public Limited Apartment Companies Act**<sup>12</sup>: §1 The purpose of public limited apartment company is to build or acquire houses to give all or greater part of the area of the dwelling and business apartments in these houses for use to its SHAREHOLDERS. / General regulations applying to public limited companies are adapted to public limited apartment companies, if it is not established otherwise in the following articles. § 2 the SHARES of apartments are registered. / Each share, according to the statutes either alone or together with other shares, GIVES THE SHAREHOLDER THE RIGHT TO USE A CERTAIN APARTMENT IN THE APARTMENT COMPANY HOUSE. ...
- 3) Thus the apartment associations as BUSINESS COMPANIES are not entitled subjects in the sense of § 6 (The definition of the unlawful expropriation of property) and § 7 (The former owners of unlawfully expropriated property as the entitled subjects of the ownership reform) of the Principles of Ownership Reform Act. Therefore, in the case of the apartment association property no other legal or real person can be the subjects of property reform (see the Constitution of the Republic of Estonia).
- 4) The property of apartment associations has never been nationalised. See RT No. 89 Art 870 Nationalisation Organisation Act. 1 August 1940. § 12 The shares and share certificates of public limited companies and private limited companies are considered property of the state from the moment of the completion of nationalisation. / The owners of shares and share certificates are obliged to submit them to the Ministry of Economy by the term appointed by the Minister of Economy. The unsubmitted shares and share certificates are considered lost. / The organisation of relations between the state and former shareholders and partners on the basis of shares and share certificates that have gone into the property of the state will be solved by a separate law.  
RT No. 96, 7 August 1940 Art 951 Regulation on the submission of the shares and share certificates of companies with the participation of state capital that have so far acted as private companies. § 1 The current owners of shares and share certificates of the public limited companies and private limited companies with the participation of state capital that have acted as private companies and have been declared state companies are obliged to give or send them by registered mail to the Ministry of Economy by 15 August 1940 at the latest. The submitters of shares and share certificates are given a receipt on received shares and share certificates.  
The above-mentioned acts have not been carried out with the property of apartment associations; therefore no nationalisation has taken place.
- 5) The persons that dwelled on the property of apartment associations have not been repressed because of the fact that they dwelled on the property of apartment associations.

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<sup>11</sup> Public Limited Apartment Companies Act. State Gazette 16 December 1930 No. 98 Art 639 p. 997-999.

<sup>12</sup> Public Limited Apartment Companies Act. State Gazette 16 December 1930 No. 98 Art 639 p. 997-999.

- 6) Apartment associations were built on obrok (quit-rent) land<sup>13</sup> with the Republic of Estonia loan, which remained unpaid to the state and thus NOT BOUGHT OUT FROM THE STATE.
- 7) Apartment associations were liquidated in 1956. Pursuant to § 3 of the Principles of Ownership Reform Act 'Contents and object of ownership reform', paragraph (1): In the course of ownership reform, **only** UNLAWFULLY EXPROPRIATED PROPERTY is compensated.

**The conclusion of Case 1: The property of apartment associatione has been 100% wrongly "restituted", by which either intentionally, by misuse of official position, or unintentionally, by official incompetence, persons without the right of claim were "restituted" property, giving rise to the massive unlawful tenants of restituted dwellings problem.**

### ***Case 2. The issue of resettles to Germany***

**In the sense of § 6 of the principles of Ownership Reform Act, the resettles to Germany are not subjects of the ownership reform.**

The Estonian state has no obligation to persons who on their own free will resettled to Germany in 1939 and 1941 on the basis of agreements. The Soviet Union made large payments to Germany in 1941 to compensate for the property of the resettles to Germany. Leading statesmen of the Federal Republic of Germany have repeatedly stressed in their official letters that they have no property claims against the Republic of Estonia. Germany started the war and lost it, and ALL KINDS OF property claims from that period are hopelessly expired. However, the persons (and their heirs) who have received compensation several times from different states are obliged to return the money to the state of Germany.<sup>14</sup> This issue has thoroughly been dealt with in an e-mail to the members of the Riigikogu that can be accessed at the address [www.hot.ee/tagastamine](http://www.hot.ee/tagastamine).

In spite of that, a large-scale and so to say, repeated "restitution" of property to persons without the right of claim who left the territory of Estonia on their own free will<sup>15</sup> has taken place.

In the analogical issues Germans, from whom land was taken away, handed in gigantic payment claim, which was adjudicated off from the state by European Court of Human Rights.<sup>16</sup>

**The conclusion of Case 2: The weak surveillance by the state has made possible large-scale unlawful real estate deals that have yielded a number of tenants living in restituted dwellings, damaged the mental and physical health of the people and harmed the reputation of the Republic of Estonia at the international level.**

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<sup>13</sup> Obrok land – the land that was given to use for annual land tax.

<sup>14</sup> Federal Republic of Germany Ministry of Foreign Affairs letter Gz.:503-553.32 EST, letter of the President of the Bundestag of the Federal Republic of Germany Wolfgang Thierse 23 June 2000 and others.

<sup>15</sup> Juridical Crime. Returning of the Property of Baltic Germans or Molotov-Ribbentrop Pact No 2. 1939-1941. 1999-2000. Tallinn 2000, 104 pp.

<sup>16</sup> Euronews January 23 2004.



### ***Case 3. Land Privatization***

- 1) The persons possessing the right of priority of purchase at privatization of the land, represent institutions of local government in appropriate way made application (statement) (a land adjoining to a building; agricultural land, etc.).
- 2) Local government gives out the certification, that on the land are not presented in term of the requirement required by the law on return or asserts (approves) the list of the lands given for privatization.
- 3) The institutions of local government "cut out" at own discretion pieces from the plot of land which is "returned" or privatized "by people, who are assigned as own people" (i.e. members of the city council).
- 4) The persons who has submitted the application by requirements hand in application to the first level court where their claims are not satisfied. Courts of the level do not satisfy appeal complaints. The Supreme Court rejects the cassation complaint without looking at it, that means: does not give permission for procedure.

**The Conclusion of Case 3: The local government bodies in cooperation with judicial bodies "fix" illegal decisions on privatization, the result of it numerous court crimes are perpetrated.**

### ***Case 4. Internal Contradiction in the Principles of Ownership Reform Act***

Many families kept their monetary savings in the banks of the Republic of Estonia during the first half of the 20<sup>th</sup> century. These savings were in turn lent out by the banks with the state guarantee of the Republic of Estonia. With these savings, for example, the houses of apartment associations were built, new farms were founded etc. The Principles of Ownership Reform Act did not recognise the savings and the rights of depositors who had trusted the banks, but the real estate founded with the loan was regarded the property of the lenders without the request to pay back the loan. Thus a situation was created where those whose money was used for building real estate lost their money and those who had unpaid loans became lawful owners.

**The Conclusion of Case 4: In the course of the ownership reform big amount of property belonging to the society was "presented" to narrow circle of persons.**

**Unlawful privatisations – result from unlawful dealings described in cases 1., 2., 3. and 4.**

## **CHAPTER IV. IMPLEMENTATION AGENCIES OF THE PRINCIPLES OF OWNERSHIP REFORM ACT**

**15. Committees for the Return of Unlawfully Expropriated Property– Main Implementation Agencies of the Principles of Ownership Reform Act Where Mistakes Have Originated**

With the establishment of Committees for the Return of Unlawfully Expropriated Property, institutions with the rights of courts were brought into existence. Such situation contradicts the supreme legislative document of the Republic of Estonia – the Constitution of the Republic of Estonia. Committees for the Return of Unlawfully Expropriated Property all over the Republic of Estonia have either intentionally or unintentionally made a number of wrong decisions of restitution where the only applicable way of revision has been taking single cases to court.

## **16. Programmatic Tasks of the Estonian Political Parties**

All the political parties registered in the Republic of Estonia have declared their commitment to proceed from the Constitution in their political activities. Thus they are all allies in solving this problem. The co-operation partners are: the Social-Democratic Labour Party of Estonia, the United People's Party of Estonia, Pro Patria Union, Independence Party, Centre Party, Christian People's Party, People's Union, Reform Party, Res Publica, Social Democratic Party, Russian Party in Estonia.

## **17. State Security and Surveillance Institutions.**

President, Legal Chancellor, Prime Minister, Minister of Justice, Minister of Internal Affairs, Police Board, Defence Police Board, Public Prosecutor's Office, State Audit Office have checked the observance of legal norms, identified violations of law, but have not abolished unlawful provisions and brought those who are guilty to justice.

No state institution has either wanted or been able to react in order to bring the criminal unlawful situation into conformity with the law.

The statutes of the city governments oblige the city governments to abolish unlawful decisions and orders when they become evident. This has never been done. Action has only been taken as a result of court decision.

## **18. Unlawful Decisions and Contesting Them in Courts**

Pursuant to the Constitution, Estonia has a three-tier court system, in reality; however, an institution at the Supreme Court responsible for giving the leave to appeal is the fourth tier. As a result of that, many court disputes have not reached the hall of the Supreme Court and have been taken to international courts, including the European Court, UN Criminal Court etc.

At the same time there are many court decisions of administrative courts, circuit courts and the Supreme Court where the basic data is similar but the decisions contradict one another.

## **19. International Surveillance Institutions**

International Surveillance Institutions survey the events in Estonia through their observers and after Estonia has acceded to the common European economic and legal space, the reasons for unlawful activities will be ascertained and liquidated, and also those guilty will be brought to justice and the attention of the Estonian legal institutions will be directed to just punishment of the guilty persons.

**20. The Report is based on the Republic of Estonia legislation that has been brought into conformity with international agreements, on international agreements and the materials of archives listed below and on the opinions of the Heads of States**

- 20.1.1. Republic of Estonia Legal Chancellor
- 20.1.2. Republic of Estonia State Archives
- 20.1.3. Tallinn City Archives
- 20.1.4. Tallinn City Government Archives
- 20.1.5. Arhiv vneshnei politiki Rossiiskoi Federatsii
- 20.1.6. Rossiiskii gosudarstvennoi arhiv ekonomiki
- 20.1.7. Chouncellor of the Federal Republic of Germany
- 20.1.8. Der Präsident des Deutschen Bundestages
- 20.1.9. Bundesarchiv
- 20.1.10. Kirchlicher Suchdienst HOK
- 20.1.11. Private archives

We apologise for the possible inaccuracies in the text.

At the same time we ask to inform us about possible secret agreements, which hinder state employees who have given state oath to fulfil their office tasks transparent according to the state oath given by them and understandable to simple citizens, the way it is understandable in the Constitution of the Republic of Estonia.

All corrections and amendments should be sent to: [ctm@hot.ee](mailto:ctm@hot.ee)

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