

OMBUDSMAN OF THE REPUBLIC OF LATVIA

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Riga

May 24, 2013. No. 1-5/146

Ms Nathalie Prouvez

Office of the High Commissioner for Human Rights
Palais des Nations
1211 Geneva, Switzerland

Re: Request for information on good practices in the establishment, preservation and provision of access to national archives on human rights

Dear Ms Prouvez

The Ombudsman of the Republic of Latvia has received your request to provide information on good practices in the establishment, preservation and provision of access to national archives on human rights.

As indicated in your request the Human Rights Council has recognised the importance of preserving historic memory relating to gross human rights violations and serious violations of international criminal law through the conservation of archives and other evidence concerning gross violations of human rights and other documents relating to those violations. On 25 March 1992 the Supreme Council of Latvia adopted a decision declaring the political repressions organized and led by the Communist Party of the Union of Soviet Socialist Republics (hereinafter - USSR) and the Communist party of Latvia against the citizens of Latvia crimes against humanity and confirming that no statute of limitations was applicable for these crimes. Therefore in Latvia the right to the truth promoted by the Human Rights Council is to be seen mainly in the context of the totalitarian regime of USSR and my answer to the questions presented will be related to the people's right to the knowledge about the crimes against humanity perpetrated by the structures of the USSR's Communist party.

The Latvian Centre for the Documentation of the Consequences of Totalitarianism (hereinafter – the Documentation Centre) was established by a decision of the Presidium of the Supreme Council already in 1992. Initially it was subordinated to the Ministry of Justice, however since 1995 it operates as a part of the Constitution Protection Bureau. The functions of the Documentation Centre are set in law “On the preservation and use of the documentation of former Committee for State Security and the establishment of the fact of cooperation with the KGB”. These functions are (i) to

ensure the preservation of the documentation of former Committee of State Security, commonly known as the KGB; (ii) to ensure the possibility to bring persons who have committed crimes by cooperating with the KGB to justice, as well as (iii) to rehabilitate the victims of the regime and (iv) ensure the possibility to evaluate the material and moral damage done by the KGB to Latvia as a state and to its people.

Destruction of any documents relating to the operations of former USSR internal security institutions is prohibited by law. The physical safety of premises of the archives are ensured by placing them in the same building as the Constitution Protection Bureau – an institution responsible for intelligence and counter-intelligence activities, safeguarding classified information and conducting and supervising exchange of classified information with international organisations.

Taken the sensitive nature of the information the Documentation Centre is handling, Latvia has attempted to strike a fair balance between people's right to the truth and the rights of those who may be implicated, but whose guilt is not proven in the court of law.

Although majority of the documents in the Documentation Centre are not available to public, every person has the right to access any documents of the former KGB containing information about him/herself. Every person can also freely access and use documents which contain no personal data of concrete persons.

In addition, time limits for accessing other types of documents are set in law. The documents, which contain information about a former agent of the KGB can be published after the entry into force of the final convicting judgement of the court. Other documents containing personal information on the former employees of KGB who have been acquitted by the court, can be accessed for scientific purposes after 20 years of their composition, or 5 years after the person mentioned is deceased. The documents from the KGB's registry are available for scientific and research purposes after 20 years of liquidation of the KGB. Documents containing information about a person's private life can be accessed starting from 75 years of the composition of such documents.

The Documentation Centre is vested with the right to publish scientific research papers based on the materials at their disposal. A number of studies on the totalitarian regime of USSR in Latvia and the persecutions committed have been written in cooperation with a group of internationally recognized professors of history – the Latvian Commission of Historians - who have been granted access to the archives. There are also a number of studies published on the holocaust and German occupation in Latvia.¹ Up until 2008 such articles were published frequently by the Documentation Centre in cooperation with the Latvian Commission of Historians. From 25 March 2013 these publications are digitalised and freely available to the public on the website of the Latvian National Library.

With regard to the access to the documentation by the relevant mechanisms of justice, the Latvian law ensures that materials establishing the fact of cooperation between a person and KGB are sent to the prosecution. The prosecutor, in turn, opens an investigation that can lead to either an appropriate conviction or acquittal by a court.

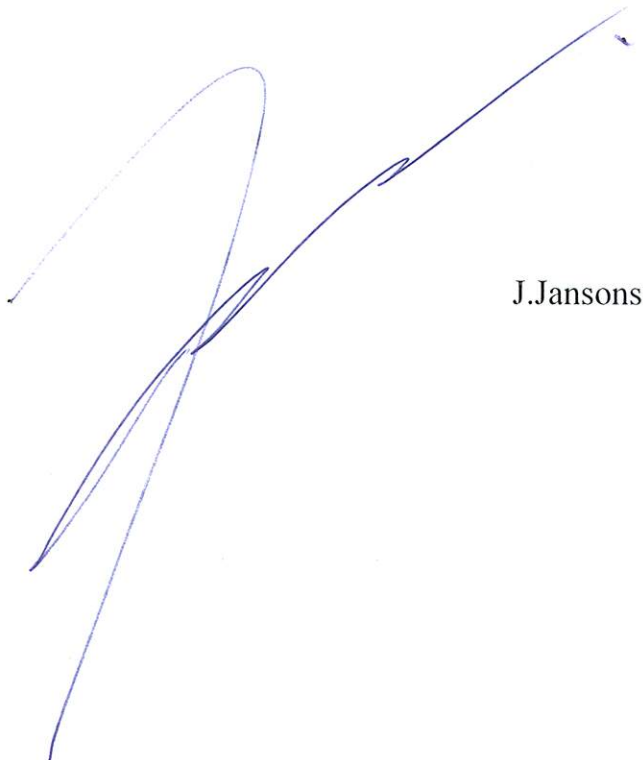
¹ The catalogue and full text of all of the publications by the Commission of Historians are available at the website of the Latvian National Library at this location - <http://gramatas.lndb.lv/#collectionitems?id=281>.

Access to the archives is also granted to all state security institutions, such as the Security police, Defence Intelligence and Security Service and the Constitution Protection Bureau.

In conclusion, the issue on full disclosure of the documents related to the activities of KGB and its former employees is still debated on a political level. Thus far Latvia has attempted to take into account the rights of both parties involved – the victims of the totalitarian regime on the one hand and the rights of persons whose guilt is not proven on the other hand. The danger of providing such full disclosure in terms of personal data, the ambiguity of the circumstances of persons mentioned in relation of KGB, as well as our current proximity to the events contained in those files have been used as the main arguments in advocating against such disclosure. Right to the truth has been the strong point for those advocating in favour of full disclosure. I believe that the practical implementation of people's right to the truth has to be ensured taking into consideration the historical background of each relevant state, its culture, the needs and sensitivities of the society as a whole and therefore the best model will vary to a certain degree from state to state. I would therefore mention Latvia as one of the successful examples of ensuring people's access to the archives on human rights and thus access to the truth.

Yours sincerely,

Ombudsman

A handwritten signature in blue ink, consisting of several overlapping loops and a long, sweeping tail that extends towards the top right of the page.

J.Jansons