Mass Deportations of 1949 in Latvia as a Crime Against Humanity – A Fair Legal Reality for Social and Political Groups in the Context of the Genocide Convention?

Katrīna Inkuša*

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1. Introduction
The purpose of this article is to analyse whether the notion of crimes against humanity offers an adequate reflection of the persecution of ‘social’ and ‘political’ groups in the context of legal terms employed by the genocide definition. The background to this analysis is the mass deportation of the so-called ‘kulaks’, a particular social group, which was planned and carried out by the Soviet regime in Latvia in spring 1949. Looking through the lens of the historical development and normative regulation offered by the notion of genocide and crimes against humanity, and making particular reference to case-law developed by the International Criminal Tribunal for the Former Yugoslavia (the ‘ICTY’) and the International Criminal Tribunal for Rwanda

(the ‘ICTR’), the article explores whether it is necessary to alter the existing understanding of the crime of genocide.

However, before turning to a legal analysis, it is useful to retrace events from the early years of the Soviet occupation of the Baltic States and to provide examples of human rights violations perpetrated in the context of the occupation.

2. The History and Legal Characterisation of Deportations from the Baltic States

2.1. The mass deportations of 1941 and 1949

Even though the occupation of the Baltic States by the Union of Soviet Socialist Republics (the ‘USSR’) in 1940 has never been established de jure by an international tribunal, the European Court of Human Rights (the ‘ECtHR’), in its judgment of 16 March 2006, referred to the historical events of 1940 and, in the summary of facts in the case of Ždanoka v. Latvia, established that

on 23 August 1939 the foreign ministers of Germany and the USSR … had signed a non-aggression treaty (the ‘Molotov-Ribbentrop Pact’). The treaty included a secret additional protocol, approved on 23 August 1939 and amended on 28 September 1939, whereby Germany and the Soviet Union agreed to settle the map of their “spheres of influence” in the event of a future “territorial and political rearrangement” of the territories of the then-independent countries of central and eastern Europe, including the three Baltic States of Lithuania, Latvia and Estonia.

The ECtHR further concluded that after the start of World War II, the Soviet Union “began exerting considerable pressure on the governments of the Baltic States with a view to taking control of those countries pursuant to the Molotov-Ribbentrop Pact and its additional protocol”.

The Soviet Union gave an ultimatum to the governments of the Baltic States “to allow an unlimited number of Soviet troops to be stationed in the Baltic countries”, and from 16 to 17 June 1940 the Soviet army “invaded Latvia and the other two independent States”. The existing government of Latvia at the time was removed from the office, and a new government was formed under the direction of the Communist

* LLB (Rīga), Mst (Oxon). I would like to thank Professor Patrick Thornberry and Judge Ineta Ziemele for comments and criticisms.
2 Ibid.
3 Ibid.
5 Ibid.