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# EUROPEAN COURT OF HUMAN RIGHTS AS NUREMBERG FOR THE SOVIET CRIMES IN THE BALTIC STATES?[1]

**Key words:** international crimes, European Court of Human Rights (ECtHR), Baltic historical cases, Soviet crimes, Soviet occupation, war crimes, genocide, legal accountability, Ukraine, Russian aggression

**Summary**

The paper examines how European Court of Human Rights (ECtHR) jurisprudence in Baltic Soviet-era cases has contributed to the development of legal accountability for international crimes, first established at the Nuremberg Tribunal (NT) after WWII.

From 2004 onward, several landmark cases from Estonia, Latvia, and Lithuania challenged domestic prosecutions of Soviet perpetrators under Article 7 of the European Convention on Human Rights (the principle of legality). These cases forced the ECtHR to confront broader legal and political issues, including the illegality of the Soviet occupation, denial of Soviet crimes, and the interpretation of genocide under international law. Beyond questions of legality, the Baltic historical cases played a significant role in shaping post-World War II legal and political understandings, particularly regarding state identity and the right to exist. This article explores how these precedents inform contemporary discussions on state responsibility and justice in the context of Russia's aggression against Ukraine.

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## Introduction

The Russian aggression in Ukraine has highlighted the need for justice on several fronts, as numerous international crimes and atrocities are being committed daily. In 1945, the crime of aggression was prosecuted for the first time in history at the Nuremberg Tribunal (NT), and the promise was then to criminalise aggression in order to prevent future wars. While the NT established a foundational framework for the prosecution of core international crimes, subsequent developments in international law have shifted accountability mechanisms towards fragmented institutional regimes. Despite the arrest warrant issued by the International Criminal Court (ICC)[2] for Russian President Vladimir Putin in March 2023, prospects to successfully prosecute Russia for both the crime of aggression and for other international crimes in Ukraine remain dim due to various reasons, including a lack of jurisdiction of the ICC specifically with respect to aggression.[3]

However, the ICC is not the only international legal body addressing international crimes; with nearly 60 years of continuous legal practice, the European Court of Human Rights (ECtHR, established in 1959) has also dealt with numerous cases related to genocide, crimes against humanity, and war crimes.[4] Although the role of the ECtHR is not specifically to try individuals for international criminal offences, it may pronounce itself on legal issues relevant to the aforementioned core international crimes because it has jurisdiction over the 46 state parties to the European Convention on Human Rights (ECHR), against whom proceedings may be initiated for human rights violations as a result of those international crimes. This occurs most commonly in the context of examination

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[2] Rome Statute of the International Criminal Court. Adopted 17 July 1998; entered into force 1 July 2002.

[3] Established on the 1st of July 2002 pursuant to the Rome Statute, the ICC (seated in the Hague, The Netherlands) is considered to be a major step toward international justice. The ICC is an intergovernmental organisation and international tribunal, and is the first and only permanent international court with jurisdiction to prosecute individuals for the international crimes of genocide, crimes against humanity, war crimes, and the crime of aggression. ICC has powers to investigate any act of genocide, war crime, or crime against humanity committed on the territory of Ukraine. However, the ICC cannot exercise its jurisdiction in relation to the crime of aggression if said act of aggression is committed by a state that is not party to the statute of the court, unless the UN Security Council specifically refers the matter to it. Since Russia has not ratified that statute, and would exercise its veto in the Security Council against a referral, the ICC cannot, as things presently stand, investigate crimes of aggression against Ukraine. The ICC is distinct from the International Court of Justice (established in 1945 and based in The Hague, The Netherlands), an organ of the United Nations that hears disputes between states.

[4] Convention for the Protection of Human Rights and Fundamental Freedoms. Signed in Rome on 4 November 1950; The ECtHR, based in Strasbourg, France, is an international court of the Council of Europe (CoE), and which has ultimate authority to interpret the 1950 European Convention on Human Rights (ECHR). All of the CoE's 46 member states are contracting parties to the ECHR, and thus under the jurisdiction of the ECtHR, too.

of the compatibility of domestic legal proceedings with Article 7 of the ECHR.[5] Furthermore, the ECtHR was the first international judicial institution to rule against Russia following its invasion of Ukraine, ordering "interim measures" that included immediate cessation of attacks on civilians and civilian objects.[6]

This ruling was far from the first time the ECtHR has been involved with international crimes in the eastern European region. After numerous failed attempts to achieve at least symbolic justice for the Soviet victims from the USSR successor state – the Russian Federation – all three Baltic states eventually turned to the ECtHR, where Baltic memories of crimes during their Soviet occupations (1940–1941, 1944–1990) were introduced to the uninformed Western public. This article examines ECtHR jurisprudence arising from Baltic cases concerning Soviet-era prosecutions in Estonia, Latvia, and Lithuania after 1990. The first individual criminal cases regarding historical Soviet-perpetrated crimes within the Baltic states (hereinafter: Baltic historical cases) reached the ECtHR in 2004. These were the cases of Penart v. Estonia,[7] and Kolk and Kislyiy v. Estonia,[8] followed by the landmark judgment in the case of Kononov v. Latvia,[9] and two rulings concerning Lithuania in 2015 and 2019: Vasiliauskas v. Lithuania,[10] and Drelingas v. Lithuania.[11] The applicants (six in total) in all of those cases complained of violations of their rights conferred by Article 7 ECHR, asserting

[5] Article 7 of ECHR (No punishment without law): 1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed. 2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time it was committed, was criminal according to the general principles of law recognised by civilised nations.

[6] Crawford J. Ukraine vs. Russia: What the European Court Of Human Rights Can (And Can't) Do. 7 April 2022. Available: https://www.justiceinfo.net/en/90187-ukraine-russia-european-court-of-human-rights-can-do.html [last viewed 06.01.2026]; Tropin Z. ECHR ruling confirms Russian invasion of Ukraine began in 2014. 14 February 2023. Available: https://www.atlanticcouncil.org/blogs/ukrainealert/echr-ruling-confirms-russian-invasion-of-ukraine-began-in-2014/ [last viewed 06.01.2026]; ECtHR Judgment (Grand Chamber) of 30 November 2022 in the case Ukraine and the Netherlands v. Russia (applications No. 8019/16, 43800/14 and 28525/20); Now Ukraine has several pending cases against Russia at ECtHR, but these are not the topic of this research: in its decision in the case of Ukraine and the Netherlands v. Russia (2022) the Grand Chamber of the ECtHR has ruled that the applications are admissible in part. The decision is final, and will be followed by a Grand Chamber judgment on the merits at a later date. Aside from this, there are presently, and at time of writing, four other Ukraine v. Russia inter-state applications, and over 8 500 individual applications pending before the ECtHR concerning potential convention violations in the context of the events in Crimea, eastern Ukraine, the Sea of Azov and the armed attack which began in February 2022: see Tropin, 2023.

[7] ECtHR Judgment of 24 January 2006 in the case Penart v. Estonia (application No. 14685/04).

[8] ECtHR Judgment of 17 January 2006 in the case Kolk and Kislyiy v. Estonia (applications No. 23052/04; 24018/04).

[9] ECtHR Judgment (Grand Chamber) of 17 May 2010 in the case Kononov v. Latvia (application No. 36376/04); ECtHR Judgment of 24 July 2008 in the case Kononov v. Latvia (application No. 36376/04).

[10] ECtHR Judgment (Grand Chamber) of 20 October 2015 in the case Vasiliauskas v. Lithuania (application No. 35343/05).

[11] ECtHR Judgment of 12 March 2019 in the case Drelingas v. Lithuania (application No. 28859/16).

that their convictions by domestic courts were based on the unlawful retroactive application of national criminal law.

While the results on the interpretation of Article 7 ECHR in the Baltic historical cases varied, the ECtHR was confronted with additional legal and political dimensions that transcended those individual cases. These aspects included addressing the illegal Soviet occupation of the Baltic states: a prominent concern in the Estonian cases, and partially so in the Latvian case. Furthermore, the ECtHR grappled with the ongoing denial of Soviet crimes during WWII, as was particularly evident in the Latvian case. Notably, the Baltic historical cases also delved into the post-war concept of genocide as defined by the 1948 Convention on the Prevention and Punishment of Genocide,[12] a key point of contention in the Lithuanian cases. This multifaceted approach underscores the broader implications of these Baltic historical cases, extends beyond the interpretation of Article 7 ECHR, and highlights the core issue of the Baltic states' identity and right to exist.

The Russian war in Ukraine also contains legal and political preconditions to be challenged once again. This paper aims to address the bigger picture behind the Baltic historical cases at the ECtHR, asking how the individual Soviet crimes cases contributed to change in the post-WWII structure, what value this change further has for Ukraine in seeking accountability for current crimes committed by Russia, and, most importantly, to its right to exist – which has been violated by Russia still stuck in an imperialist mindset.

To achieve this aim, the article employs a comparative framework to analyse the relationship between the general legacy of the NT and the case law of the ECtHR on Soviet crimes in the Baltic states, having in mind their limits, including differences in mandate, legal nature, and temporal context. Despite these differences, both institutions engage with the legal legacy of World War II and the development of international criminal law. This approach enables the identification of broader jurisprudential patterns concerning legality, attribution of responsibility, and the role of international criminal law in human rights adjudication. The cases, including Penart v. Estonia, Kolk and Kislyiy v. Estonia, Kononov v. Latvia, Vasiliauskas v. Lithuania, and Drelingas v. Lithuania, were selected on the basis of three criteria: (1) relevance to criminal prosecutions for Soviet-era crimes; (2) centrality of Article 7 ECHR (principle of legality and foreseeability); and (3) comparative representativeness across all three Baltic states, Estonia, Latvia, and Lithuania.

The analysis of the selected cases combines three interpretative layers. First, doctrinal legal analysis is used to examine how the ECtHR interprets international criminal law concepts such as war crimes, crimes against humanity, and genocide within the framework of Article 7 ECHR. Second, comparative legal analysis is applied to identify similarities and differences in how national courts in the Baltic

[12] United Nations Convention on the Prevention and Punishment of the Crime of Genocide. Entered into force 12.01.1951.

states framed Soviet-era crimes and how these were subsequently assessed by the ECtHR. Third, contextual legal interpretation is used to situate these judgments within broader historical, political, and memory-law frameworks in post-Cold War Europe.

## 1. Post-colonial Baltic identity and the ECtHR

In legal terms, after 1990, the central question which connected all three Baltics states was the question of justice for Soviet victims – as all of them shared common historical experiences of Soviet occupation (1940–1990), interrupted by Nazi occupation between 1941–1944.[13] During the Nazi occupation between 1941 and 1944, the Baltic people became both the victims of the Nazi rule and accomplices in the "Final Solution", eventually failing to regain their sovereignty. The Baltic partisan movements unsuccessfully aimed to liberate the Baltic states from the USSR after 1944.[14] The Soviet occupations (1940–1941, 1944–1990) of Estonia, Latvia and Lithuania resulted in killing hundreds of thousands of innocent people.[15] Many were executed, imprisoned, or sent to GULAG camps, but the majority of those directly persecuted were deported from their homelands to inhospitable Siberia.[16] After 1990, common historical experiences of the Baltic states resulted in similar strategies in relation to various areas of transitional accountability processes. This especially includes focus upon Soviet culpability for the onset of the war (namely via the Molotov–Ribbentrop Pact of 1939), rather than the USSR's role in defeating Nazism.

However, behind the question of justice for Soviet victims, there was always the political context regarding the identity of the Baltic states and their right to exist as sovereign states. In the 1990s, Baltic nations claimed their countries were still independent republics established in 1918 and occupied by the USSR after the disclosure of the secret protocols of the Molotov–Ribbentrop Pact in

[13] Perchoc P. European Memory Beyond the State: Baltic, Russian and European Memory Interactions (1991–2009). Memory Studies, Vol. 12, No. 6, 2019, pp. 677–698. https://doi.org/10.1177/1750698017750011

[14] Bruskina N. The Crimes of Genocide Against the Lithuanian Partisans: A Dialogue Between the Council of Europe and the Lithuanian Courts. European Papers, Vol. 5, No. 1, 2022, pp.137–159.

[15] Cernousek S. Soviet Repression and Deportations in the Baltic States. June 2020. Available: https://gulag.online/articles/soviet-repression-and-deportations-in-the-baltic-states?locale=en [last viewed 06.01.2026].

[16] GULAG is an acronym for Glavnoe Upravlenie Lagerei or "Main Camp Administration", the name of the government institution which organised the Soviet camps. Over time, the word has also come to popularly refer to the entire system of Soviet slave and forced labour in all its various forms and varieties, including labour camps, punishment camps, criminal and political camps, women's camps, children's camps, and transit camps.

1989.[17] This legal continuity concept legitimised rebuilding democratic states in the Baltics and shaped new criminal regulations to prosecute still-living perpetrators for the Soviet crimes.[18] The Baltic elites sought to prevent a new deal between the leading western countries and Russia that could infringe on their security, and wanted to influence the EU's foreign policy toward Russia.[19] Thus, the Baltics' post-1990 politics of memory which focused on historical Soviet atrocities is a typical phenomenon of this stage of eastern Europe's post-colonial identity creation.[20] Even though the legal foundations were comparable in all three Baltic states, the results of national jurisdictions regarding Soviet crimes varied in numbers and legal (and political) repercussions at national and international levels.

### 1.1. The veiled dispute: Estonia opposing the illegality of Soviet occupations

There have been at least twelve criminal cases in Estonia prosecuting perpetrators of Soviet deportations under the crimes against humanity clause of the criminal code. In those cases, a total of eleven persons were convicted, including eight persons in connection with the "March deportation" of 1949, and three on account of murdering members of the Estonian national armed resistance (the so-called "forest brothers") in the period 1940–1950.[21]

Some of the convicted persons in the Estonian cases lodged their appeals to the ECtHR. In the cases concerning admissibility[22] to the ECtHR of Penart v. Estonia and Kolk and Kislyiy v. Estonia, all three applicants were convicted by Estonian courts for crimes against humanity through an Estonian regulation

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[17] Malksoo L. Illegal Annexation and State Continuity: The Case of the Incorporation of the Baltic States by the USSR: A Study of the Tension between Normativity and Power in International Law. Leiden: Brill Nijhoff, 2022.

[18] Ibid., chapter 2.

[19] Malksoo M. From Existential Politics towards Normal Politics? The Baltic States in the Enlarged Europe. Security Dialogue, Vol. 37, No. 3, 2006, pp. 275–297.

[20] Malksoo M. The First Lady of the Baltic 'Memory Offensive'. 1 August 2007. Available: https://icds.ee/en/the-first-lady-of-the-baltic-memory-offensive-2/ [last viewed 06.01.2026].

[21] Sagatiene D. Memory Laws in the Baltic States. March 2024. Available: https://admin.memocracy.eu/wp-content/uploads/2023/03/MEMOCRACYrapport-10H.pdf [last viewed 06.01.2026].

[22] Under the ECHR, admissibility governs whether an individual or inter-State application will be accepted for consideration on the merits and progress to a full case. Normally, all domestic legal remedies must be exhausted before an application will be considered by the European Court of Human Rights (see: Vogiatzis N. The Admissibility Criterion Under Article 35(3)(b) ECHR: A 'Significant Disadvantage' To Human Rights Protection? International & Comparative Law Quarterly, Vol. 65, No. 1, 2016, pp. 185–211); Inter-State cases are also subject to more lenient admissibility rules than applications by individuals: Ulfstein G., Risini I. Inter-State Applications under the European Convention on Human Rights: Strengths and Challenges. 24 January 2020. Available: https://www.ejiltalk.org/inter-state-applications-under-the-european-convention-on-human-rights-strengths-and-challenges/ [last viewed 06.01.2026].

only enacted in 1994.[23] The sole applicant in the first case (Penart) had been involved in the planning and directing of the killing of several civilians sheltering in the woods, whereas the applicants in the second case (Kolk and Kislyiy) had been involved in the deportation of civilians.[24] The criminal actions of the first applicant (Penart) occurred between 1953 and 1954, and those of the second and third applicants (Kolk and Kislyiy) in 1949 – in all three cases, well before the enactment of the regulation on which their conviction was based. Therefore, in appeal to the ECtHR, they submitted that their convictions had been unlawfully grounded on the retroactive application of criminal law, as crimes against humanity were not specific crimes under the law applicable on Estonian territory at the time of the acts in question (the USSR law), and that their conviction thus violated Article 7 ECHR. In rejecting these submissions, the Court asserted that both arbitrary deportations and extrajudicial executions committed after the Nuremberg tribunals had no doubt been considered criminal actions under international law, regardless of the domestic provisions, and which thus satisfied the requirement of Article 7(1).[25] The cases were therefore ruled inadmissible due to no apparent violation of Article 7 ECHR, thus meaning that the submissions were held manifestly ill-founded, and dismissed.[26]

More import for the purposes of the current article is that in these three cases concerning admissibility the ECtHR explicitly recognised that Estonia was illegally occupied by the USSR during the periods of 1940 to 1941, and from 1944 to 1991.[27] In political transformations like transitions from non-democratic to democratic regimes or from foreign suppression to self-governance, maintaining a sense of continuing state identity is crucial.[28] There are two main arguments that ground the assertion that the Baltic states were illegally occupied from 1940 by the USSR. Firstly, there is the analogous comparison between the occupation of the Baltics in 1940 to the German takeover of Czechoslovakia in 1939 – the latter was considered to be a direct crime against peace at the Nuremberg tribunals.

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[23] Estonian Parliament Act on Criminal Liability of Persons who have Committed Crimes against Humanity or War Crimes in Estonia [Eestis inimsusevastaseid kuritegusid voi sojakuritegusid toimepannud isikute kriminaalvastutuse seadus]. Available: https://www.riigiteataja.ee/akt/24781 [last viewed 06.01.2026].

[24] Susi M. Recent Judgments and Decisions of the European Court of Human Rights towards Estonia. Juridica International, No. 11, 2006, pp. 93–101.

[25] Liivoja R. 2013. Competing Histories: Soviet War Crimes in the Baltic States. In: Heller K. J., Simpson G. (eds.). The Hidden Histories of War Crimes Trials. Oxford: Oxford University Press, 2013, pp. 248–266.

[26] The Genocide Network. Digest of the European Court for Human Rights jurisprudence on core international crimes, September 2017. Available: https://www.eurojust.europa.eu/sites/default/files/assets/2017-09-digest-of-european-court-for-human-rights-jurisprudence-on-core-international-crimes-en.pdf [last viewed 06.01.2026].

[27] Malksoo L. Kononov v. Latvia. The American Journal of International Law, Vol. 105, No. 1, 2011, pp. 101–108.

[28] Malksoo M. Kononov v. Latvia as an Ontological Security Struggle over Remembering the Second World War. In: Belavusau U., Gliszczynska-Grabias A. (eds.). Law and Memory: Towards Legal Governance of History. Cambridge: Cambridge University Press, 2017, pp. 91–108.

The second is to note the regional/bilateral international treaties that the USSR violated in 1940 by invading. It thus followed, after the 1990s, that denying the illegality of the Soviet regime was seen as damaging Baltic states' legal continuity and legitimacy.[29]

Moreover, the ECtHR concluded that even though the acts committed by the Estonian defendants aforementioned (Penart, Kolk and Kisloi) were not regarded as "unlawful" pursuant to Soviet law, they *were* nonetheless considered crimes against humanity pursuant to international law.[30] This conclusion, affirming that the same international principles applied to both the Communist and Nazi regimes and their perpetrators, was essential to open the door to pursuing accountability not only for Nazi crimes but also for those committed by the USSR in the new European Union (EU) member states. Despite the frequent comparison between Stalinism and Nazism (or the GULAGs and Auschwitz), the former regime has never had its "Nuremberg moment", and been declared "criminal" in and of itself, in the same way as the latter has.[31]

Estonian cases in some sense reflected the numerous efforts since 2005 to bring the question of Soviet crimes to international level, as numerous European political declarations were introduced.[32] This eventually led to a German-led initiative in the EU to adopt Framework Decision 2008/913/JHA on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law (hereinafter – the FD 2008).[33] While debating FD 2008, the Baltic countries lobbied to equally condemn Soviet crimes, but the CoE added only a declaration condemning all totalitarian atrocities to satisfy new member states.[34] Following FD 2008, Slovakia, Slovenia, Romania, Croatia, and Bulgaria enacted EU-style memory regulations, whereas Poland, the Czech Republic, Hungary, Lithuania, and Latvia criminalised the denial of both Nazi and Communist crimes.[35] "The movement for equal legal treatment" of the crimes of both dictatorial regimes eventually resulted in the so-called Prague declaration of 2008 "On European Conscience and Communism".[36] Its signatories, which included famous European

[29] Malksoo L. 2022.

[30] Sagatiene D. 2024.

[31] Toymentsev S. Legal but Criminal: The Failure of the "Russian Nuremberg" and the Paradoxes of Post-Soviet Memory. Comparative Literature Studies: Special Issue Trials of Trauma, Vol. 48, No. 3, 2011, pp. 296–319.

[32] Sagatiene D. The Transformation of Lithuanian Memories of Soviet Crimes to Genocide Recognition. International Journal of Transitional Justice, Vol. 16, Issue 3, 2022, pp. 396–405.

[33] Framework Decision 2008/913/JHA by the Council of the EU on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law, 2008, OJ L 328/55. Available: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008F0913 [last viewed 06.01.2026].

[34] Pech L. The Law of Holocaust Denial in Europe. In: Hennebel L., Hochmann T. (eds.). Genocide Denials and the Law. Oxford: Oxford University Press, 2011, pp. 185–234.

[35] Koposov N. Historians, Memory Laws, and the Politics of the Past. European Papers, Vol. 5, No. 1, 2020, pp. 107–117.

[36] Zilinskas J. Introduction of 'Crime of Denial' in the Lithuanian Criminal Law and First Instances of Its Application. Jurisprudencija, Vol. 19, No. 1, 2012, pp. 315–329.

politicians and activists, called for a fair and equitable recognition of the criminal communist legacy in eastern Europe.[37]

However, the acknowledgment of "the uniqueness of the Holocaust" in a 2009 EU resolution[38] made it unclear whether the European Parliament considered communist regimes "equally condemned" as the Nazi or as slightly different in terms of victims or crimes.[39] The case law of the ECtHR also demonstrates that the Court confers greater leniency to state interference with the freedom of expression when memories about Nazism and the Holocaust are the subject of protection, than when a previously occupied post-Communist state attempts to preserve a critical memory regarding their oppression.[40] For the Baltic states this question is crucial in the identity building process, as Baltic claims of state continuity and the right to exist "contrast with an official historical account that the Russian Federation supports, among others, through its memory laws: that it acted as a liberator rather than aggressor".[41]

### 1.2. Kononov v. Latvia – challenging the Russian denial of Soviet crimes during WWII

Under Latvian criminal regulations, ten persons were indicted for their participation in repression and other Soviet crimes.[42] Six people were convicted for genocide and crimes against humanity, and Vasily Kononov, then a Soviet

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[37] Parliament of the Czech Republic. Prague Declaration on European Conscience and Communism. 3 June 2008. Available: https://www.legal-tools.org/doc/e123be/pdf/ [last viewed 06.01.2026].

[38] European Parliament Resolution 0165 on European conscience and totalitarianism. 2 April 2009. Available: https://www.europarl.europa.eu/doceo/document/TA-6-2009-0213_EN.html [last viewed 06.01.2026].

[39] Demirel C., Englund M. Legislating Memory: From Memory Laws to Transitional Justice. 13 June 2021. Available: https://balticworlds.com/legislating-memory-from-memory-laws-to-transitional-justice/ [last viewed 06.01.2026]; According to Jelena Subotic's conclusion, the EU has also been complicit in this circle of memory contestation "by often uncritically accepting Eastern European claims of equalling the crimes of communism with the crimes of the Holocaust and providing cover for these claims with a series of high-profile EU resolutions, the most significant of which is the 2008 Prague Declaration".

[40] Gliszczynska-Grabias A., Baranowska G. The European Court of Human Rights on Nazi and Soviet Past in Central and Eastern Europe. Polish Political Science, Vol. 45, No. 1, 2016, pp. 117–129.

[41] Wojcik A. European Court of Human Rights, Freedom of Expression and Debating the Past and History. Problemy Wspolczesnego Prawa Miedzynarodowego, Europejskiego i Porownawczego, No. 17, 2019, pp. 33–46.

[42] Sprude V. Valstij jamaksa 3000 eiro ekscekistam [The State must pay 3000 euro to an ex-KGB agent]. 7 January 2017. Available: https://www.la.lv/latvija-izmaksas-ekscekistam-3000-eiro [last viewed 06.01.2026]; Cunka J. Liela dala vainigo 1941 gada deportacijas palikusi nesoditi [Many of the perpetrators of the 1941 deportations have gone unpunished]. 14 June 2021. Available: https://www.lsm.lv/raksts/zinas/latvija/liela-dala-vainigo-1941gada-deportacijas-palikusi-nesoditi.a408636/ [last viewed 06.01.2026]. Anonymised Latvian court decisions are available at: https://manas.tiesas.lv/eTiesasMvc/nolemumi; However, this database only contains rulings made after 2013, hence, no ruling on genocide, crimes against humanity and war crimes is available in the database. Other judgments and criminal cases should be available in the archives of the relevant court.

partisan, was charged with war crimes committed during World War II, including the murder of Latvian civilians in 1944. The latter appealed to the ECtHR, complaining that Article 7 ECHR was violated by national courts – he received a favourable decision by the ECtHR in 2008, which held that Latvian authorities had not properly investigated allegations of misconduct by the case's prosecutors and judges, and had not taken Kononov's status as a former partisan into account when assessing his actions during the war.[43] However, after referral was granted in 2010, the Court's Grand Chamber of ruled that Vasily Kononov's conviction by Latvia of war crimes during WWII did not violate Article 7 ECHR. The ECtHR determined that his execution of villagers was contrary to international law already established at the time, and accordingly, his conviction was not barred by any statute of limitations, as he had argued.

In contrast to the Estonian cases, the primary point of contention in Kononov v. Latvia was whether and how the laws and principles formulated in 1945 by the International Military Tribunal at Nuremberg should be applied today to a case concerning events that occurred not after, but during WWII. That had direct legal implications, as the Latvian and Estonian cases represented two different international crimes: war crimes may only be committed during an armed conflict (Kononov case), whereas crimes against humanity can be committed both in times of war and of peace (the Estonian cases). In 2008, the initial ECtHR regular chamber judgment asserted a discriminatorily high burden of proof for war crimes - in favour of the defendant. However, as the 2010 ruling of the Grand Chamber demonstrated, the viewpoint that the standard formulated at Nuremberg was not to be practically applicable with respect to the nationals of the victorious allies, including the USSR, failed – and the universalist approach that the Nuremberg standard is deemed universal prevailed.[44]

Similarly to the Estonian cases, beyond the specific war crimes committed by Kononov, this case represented a significant debate on illegal Soviet occupations.[45] However, this was to a lesser extent than in the Estonian cases, as this question was not addressed directly due to diplomatic reasons.[46] In addition, the case raised a controversial question, emphasised by the Dutch Judge Myjer, regarding the Soviet Army in Latvia in 1944 – specifically whether they should be categorised as occupiers or liberators.[47] This was the main trigger for Russian Federation to support Kononov in the very early stages of the case, by granting him Russian citizenship in 2000 – immediately before judgment was to be rendered in his appeal by the Supreme Court of Latvia. For Russia, the trial of a Soviet veteran

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[43] Pinzauti G. The European Court of Human Rights' Incidental Application of International Criminal Law and Humanitarian Law: A Critical Discussion of Kononov v. Latvia. Journal of International Criminal Justice, Vol. 6, No. 5, 2008, pp. 1043–1060.

[44] Malksoo L. 2011, p. 105.

[45] Zilinskas J. The Kononov case and the Baltic states. Jurisprudencija, Vol. 18, No. 3, 2011, pp. 859–870.

[46] Malksoo L. 2011, p. 108.

[47] Zilinskas J. 2011, pp. 859–870.

for war crimes by a former Soviet vassal state was shattering, as Russia sought to sustain an image of the USSR as a key and heroic contributor to Nazi Germany's defeat.[48]

Yet, the final ruling by the Grand Chamber in 2010, despite the protest by the Russian Federation, made Kononov the only former Soviet partisan convicted for war crimes committed in WWII.[49] This case was also a crucial milestone in the Baltic states' campaign to expose the atrocities of the Soviet regime, and in challenging Russia's policy of denial internationally.[50] What was concerning, is that the debate between universal standards, and the unequal application of the concept of war crimes asserted in the Kononov case represented how Russia's legal thinking remained splintered from Europe's more liberal mainstream, even despite Russia's membership in the CoE.[51] In a very short time this contrast grew so significant, that after Russia's invasion and annexation of Crimea in 2014, Moscow was stripped of its voting rights at CoE until 2019,[52] and again after starting war in Ukraine in 2022.[53]

### 1.3. Lithuanian cases at the ECtHR confronting the post-war concept of genocide

While Estonia and Latvia were dealing with national cases regarding Soviet crimes against humanity and war crimes during their occupations,[54] Lithuania has claimed since 1990 that some Soviet crimes amounted to genocide.[55] Lithuania has adopted a comprehensive national definition of genocide, encompassing the social and political groups which were excluded in the 1948 Genocide Convention

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48 Malksoo M. 2017, pp. 91–108.

49 Bigg C. Amid V-Day Festivities, Soviet Partisan Braces for War Crimes Verdict. 7 May 2010. Available: https://www.rferl.org/a/Amid_VDay_Festivities_Soviet_Partisan_Braces_For_War_Crimes_Verdict_/2035785.html [last viewed 06.01.2026].

50 Zilinskas J. 2011, pp. 859–870.

51 Malksoo L. 2011, pp. 101–108.

52 Wang Y. C. Council of Europe backs Russia's return: Ukraine reacts with fury to the move. 25 June 2019. Available: https://www.politico.eu/article/council-of-europe-backs-russias-return/ [last viewed 06.01.2026].

53 Crawford J. 2022.

54 Mertelsmann O., Raih-Tamm A. Soviet Mass Violence in Estonia Revisited. Journal of Genocide Research, Vol. 11, No. 2–3, 2009, pp. 307–322.

55 Budryte D. We Call It Genocide: Soviet Deportations ˙ and Repression in the Memory of Lithuanians. In: Frey R. S. (ed.). The Genocidal Temptation: Auschwitz, Hiroshima, Rwanda, and Beyond. Dallas: University Press of America, 2004; Sagatiene D. Deconstruction of Soviet Deportations in Lithuania in the Context of the Genocide Convention. International Criminal Law Review, Vol. 21, No. 3, 2021, pp. 588–608; Sagatiene D. The Debate about Soviet Genocide in Lithuania in the Case Law of The European Court of Human Rights. Nationalities Papers (Special Issue on 1918 and the Ambiguities of 'Old-New Europe'), Vol. 49, No. 6, 2020, pp. 776–791.

text, mainly for political reasons, and have been debated since then.[56] Between 1987 and 2017, 155 instances of potential genocide against Lithuanian partisans were investigated. A total of only ten persons were convicted, and four were left on probation due to poor health. Furthermore, five suspects died during their investigation, and a further twenty-five died during their trials.[57]

Two persons eventually reached the ECtHR to complain about their convictions by Lithuanian national courts for the crime genocide against Lithuanian partisans. These cases, of Vasiliauskas v. Lithuania (2015) and Drelingas v. Lithuania (2019), both allowed the ECtHR to address the legal definition of genocide. In the former case, the question for the Court was whether the applicant's conviction for genocide in 2005 by Lithuanian courts was reasonably foreseeable in light of international law as formulated in 1953, when the crime was committed during his former role as a Soviet official.[58] The ECtHR's Grand Chamber rendered a heavily divided verdict, ruling by nine votes to eight that said conviction for genocide of certain groups on the basis of post-Soviet Lithuanian legislation was not sufficiently foreseeable, and thus that the conviction violated Article 7 ECHR. In the Drelingas case, the question before the Court was practically identical: whether the applicant could have sufficiently foreseen that his conduct would have amounted to genocide in 1956 under international law. In March 2019, the ECtHR upheld the Lithuanian domestic judgment, whereby partisans were recognized

[56] Zilinskas J. Broadening the Concept of Genocide in Lithuania's Criminal Law and the Principle of nullum crimen sine lege. Jurisprudencija, No. 4(118), 2009, pp. 333–348; Law of the Seimas of the Republic of Lithuania Regarding Responsibility for the Genocide of the Lithuanian Population [Del atsakomybes u Lietuvos gyventoju genocida], 15 April 1992. Available: https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.2006?jfwid=xrbliefas [last viewed 06.01.2026]; In 1992, Lithuania acceded both to the Genocide Convention, and to the 1968 United Nations Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. Simultaneously Lithuania's 'Law on responsibility for genocide of inhabitants of Lithuania' specifically recognised Soviet actions as genocidal; In 1998, these provisions were revoked, and the crime of genocide was thereafter incorporated into Articles 49 and 71 of the Criminal Code; In 2003, Article 99 of the new Criminal Code stipulated: "a person, who, seeking to physically destroy some or all of the members of any national, ethnic, racial, religious, social or political group, organizes, is in charge of, or participates in killing, torturing, or causing bodily harm to them, hindering their mental development, deporting them or otherwise inflicting on them situations which bring about the death of some or all of them, restricting births to members of those groups or forcibly transferring their children to other groups, shall be punished by imprisonment for a term of from five to twenty years or by life imprisonment."; Law of the Seimas of the Republic of Lithuania Supplementing the Criminal Code of The Republic of Lithuania with Articles 62(1), 71 and amending of Articles 8(1), 24, 25, 26, 35, 49, 54(1), 89, 21 April 1998. Available: https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=rivwzvpvg&documentId=a84fa232877611e5bca4ce385a9b7048&category=TAD [last viewed 06.01.2026].

[57] Sagatiene D. 2020, pp. 776–791.

[58] ECtHR Registrar of the Court. Conviction of an officer in the State security services for genocide was not justified. 20 October 2015. Available: https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-5204869-6446796&filename=Grand%20Chamber%20Judgment%20Vasiliauskas%20v.%20Lithuania%20-%20conviction%20of%20an%20officer%20in%20the%20State%20security%20services%20for%20genocide%20was%20not%20justified.pdf [last viewed 06.01.2026].

as comprising significant part of the Lithuanian nation. The ECtHR specifically agreed that their systematic killing was genocide of the Lithuanian nation in part.

The broader concept of genocide in Lithuanian law and Lithuanian historical cases before the ECtHR remains controversial among legal scholars.[59] One major point of criticism was the expansion of the definition of genocide to include "ethno-political" genocide as it potentially stretched the legal boundaries and retroactively broadened the scope of the Genocide Convention.[60] Some other scholars indicate that the numeric threshold for a substantial part of the group under the genocide definition was not met, and there was a lack of the required genocidal motive for cultural destruction.[61] Yet, for the first time, an international judicial institution had recognised that some crimes committed by USSR could be regarded as genocide. It is especially important given the context, that the ECtHR has repeatedly classified Soviet deportations of tens of thousands of Baltic peoples as crimes against humanity, not genocide.[62] Regardless, cases adjudicated before the ECtHR regarding (Soviet) genocide against Lithuanian partisans have together created more options, and provided confidence, for further victims of crimes committed under the USSR's occupation to fight for recognition of what they endured as genocide at both national and international levels.[63]

Moreover, as in the Estonian and Latvian cases, Lithuanian cases at the ECtHR engaged with another important dimension of Baltic state identity and continuity – the importance of politically active citizens supporting independence and defending it through armed resistance, specifically highlighting the significance of the partisan movement. Soviet repressions in Lithuania targeted eliminating the politically influential Lithuanian nationals who sought an independent state, considering the political community as a vital element of the nation. Partisans, representing a form of self-defence against occupation, played a crucial role in obstructing Soviet repression and maintaining Lithuanian statehood. In the Drelingas case, Lithuanian domestic courts highlighted the importance of

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[59] Bruskina N. 2022, pp. 137–159; Sagatiene D. 2020, pp. 776–791; Berster L. The Soviet Crackdown on Lithuanian Partisan Movements (1946–1956) – a Genocide? Background Deliberations on the ECHR Judgment in Drelingas v. Lithuania. International Comparative Jurisprudence, Vol. 7, No. 2, 2021, pp. 135–145. https://doi.org/10.13165/j.icj.2021.12.002; Kuris E. Vasiliauskas, Drelingas and beyond – an insider's view. In: International Scientific Conference Two Years After Drelingas Case: Changes and Perspectives for the Future. 10 September 2021, Vilnius. Available: https://cris.mruni.eu/server/api/core/bitstreams/fe08b331-8a95-46ef-9a53-57fcb73860b5/content [last viewed 06.01.2026].

[60] Minervini G. The Principle of Legality and the Crime of Genocide: Drelingas v. Lithuania. Human Rights Law Review, Vol. 20, No. 4, 2020, pp. 810–828.

[61] Berster L. 2021, pp. 135–145; Kuris E. 2021.

[62] Pettai E.-C. Prosecuting Soviet Genocide: Comparing the Politics of Criminal Justice in the Baltic states. European Politics and Society, Vol. 18, No. 1, 2017, pp. 52–65; Muiznieks N. Latvian-Russian Memory Battles at the European Court of Human Rights. In: Muiznieks N. (ed.). The Geopolitics of History in Latvian-Russian Relations. Riga: Academic Press of the University of Latvia, 2011, pp. 219–238.

[63] Sagatiene D. 2022, pp. 396–405.

Lithuanian partisans as an integral and indivisible part of the nation, reflecting international legal standards set by the Genocide Convention.[64]

This indicates the direct link between the concept of genocide and the nation's right to exist, which helps to explain why Lithuania, despite many obstacles, is and has spent a great deal of political and legal capital into legally proving that genocide was committed against them. While some believe it is too late to investigate post-war crimes, others contend that justice is essential for post-conflict societal recovery: providing insight into historical events, upholding the right to truth, and allowing victims to confront the culprits.[65] The Lithuanian historical cases at the ECtHR indicate once more the social and psychological power of the concept of genocide, which protects specific human groups, instead of individuals like in other international crimes. As noted by Philippe Sands, "categorising such atrocities as genocide is a vital first step for the future of the wellbeing of the victims. Calling it a genocide recognizes the group's identity, recognizes what was being done to it, and most significantly recognizes the right of the group to exist. Crimes against humanity does not do that".[66]

## 2. Baltic states advocating for Ukraine's right to exist in the context of the Nuremberg legacy

Russia's unlawful aggression against Ukraine, beginning in 2014 and escalating to total invasion 2022, represents the final stage of the decolonisation process of the Soviet empire.[67] As Russia itself has never got shed that colonial identity,[68] in the 2000s the idea of *Ruskij mir* was reinforced to influence relevant

[64] Sagatiene D. 2020, pp. 776–791.

[65] Kuczynska H. Nazi Crimes in Poland: A Never-Ending Search for Justice. Contemporary Central & East European Law, No. 1(133), 2019, p. 153; Drumbl M. A. Atrocity, Punishment and International Law. Cambridge: Cambridge University Press, 2007, pp. 173–180; Simpson G. J. Law, War and Crime: War Crimes, Trials and the Reinvention of International Law. Cambridge: John Wiley & Sons, 2007, pp. 79–105.

[66] Sands P. Genocide and Crimes against Humanity under International Law: A Personal Story, 26 February 2018. Available: https://www.youtube.com/watch?v=Thb00-2OuN0 [last viewed 06.01.2026].

[67] Kang B.-K. Understanding the Ukrainian Conflict from the Perspective of Post-Soviet Decolonization. Regional Studies of Russia, Eastern Europe, and Central Asia, Vol. 9, No. 2, 2020, pp. 1–27.

[68] Gerdziunas B., Vegyte S. Is Russia colonising Ukraine? Interview. 25 June 2022. Available: https://www.lrt.lt/en/news-in-english/19/1726069/is-russia-colonising-ukraine-interview [last viewed 06.01.2026].

audiences.[69] Russia has taken for granted its hegemonic role in the vacuum left by the USSR's collapse, and the legitimacy of its interests within the region.[70]

One of the main features of colonial wars is the denial that nations are real.[71] The current invasion is not the inevitable outcome of historical, cultural or political trends, but rather a result of Putin's outright rejection of Ukrainian sovereignty.[72] In 2022 Ukraine was attacked by Russia to crush its identity and rightful claim to exist after its experiences with the 20th-century totalitarian regimes. Russia's exploitation of Ukraine's totalitarian traumas of the twentieth century has made it a national security priority, as the in-parts blurred identity of Ukraine is the main reason for Russia to claim that Ukraine is not a real state, which has no right to exist, and needs to be destroyed via genocidal war. Genocidal intent can be traced in the official or officially endorsed Russian statements denying the existence of an actual Ukrainian nation, portraying a significant portion of its population and government as Nazis or existential threats to Russia. This portrayal renders the country a legitimate target for destruction through continuation of a "denazification" process. There are many public cases by high Russian officials denying Ukraine's right to exist, calling for its destruction.[73] Probably the most notable high-level public declarations, which could be considered as genocidal, are the following: a) Putin's essay of July 2021;[74] b) Putin's speech before the invasion on 21 February 2022;[75] c) RIA Novosti editorial entitled 'What Russia should do with Ukraine 'on 3 April 2022;[76] and d) a Telegram post by Dmitry Medvedev on 5 April 2022.[77] Each of these pieces contribute to establishing the state ideology towards Ukraine and can be considered as elements of the Russian genocidal plan to exterminate Ukraine, denying the nation's right to exist in general.

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[69] Kudors A., Orttung R. Russian Public Relations Activities and Soft Power. Russian Analytical Digest, No. 81(10), 2010, pp. 1–13.

[70] De Waal T. The End of the Near Abroad. 16 May 2024. Available: https://carnegieendowment.org/research/2024/05/the-end-of-the-near-abroad?lang=en&center=middle-east [last viewed 06.01.2026].

[71] Gerdziunas B., Vegyte S. 2022.

[72] Wang J. How Putin's invasion of Ukraine connects to 19th-century Russian imperialism. 7 March 2022. Available: https://news.uchicago.edu/story/putin-invasion-ukraine-russian-empire-19th-century-imperialism-history [last viewed 06.01.2026].

[73] Wang Diamond Y., et al. An Independent Legal Analysis of the Russian Federation's Breaches of the Genocide Convention in Ukraine and the Duty to Prevent. May 2022. Available: https://newlinesinstitute.org/wp-content/uploads/An-Independent-Legal-Analysis-of-the-Russian-Federations-Breaches-of-the-Genocide-Convention-in-Ukraine-and-the-Duty-to-Prevent-1-2.pdf [last viewed 06.01.2026].

[74] Putin V. 2021. On the Historical Unity of Russians and Ukrainians. 12 July 2021. Available: http://en.kremlin.ru/events/president/news/66181 [last viewed 06.01.2026].

[75] The Kremlin. Address by the President of the Russian Federation. 21 February 2022. Available: http://en.kremlin.ru/events/president/news/67828 [last viewed 06.01.2026].

[76] Sergeytsev T. Chto Rossija dolzhna sdelat' s Ukrainoj [What Russia should do with Ukraine], 4 March 2022. Available: https://archive.ph/FoMBp [last viewed 06.01.2026].

[77] Medvedev D. O fejkah i nastojashhej istorii [About fakes and real history]. 5 April 2022. Available: https://t.me/medvedev_telegram/34 [last viewed 06.01.2026].

The Baltic states thus view legal accountability for historical Soviet crimes as fundamental: not only to attain albeit delayed justice for their victims, but furthermore to reinforce recognition of Ukraine's right to exist. The Baltic states have become perhaps the leading voice in Europe in support of Ukraine – continuously arguing in favour of EU and NATO membership, and for harsher sanctions against Russia.[78] The Baltics have further played a key role in advocating for justice and accountability across several legal arenas, too.[79] After Russia invaded Ukraine, Lithuania was the first to referred the situation to the ICC,[80] and with its fellow Baltic states furthermore championed the establishment of the Joint Investigative Team at Eurojust (JIT)[81] which is gathering evidence for potential war crimes trials, and has sent investigative teams to assist their Ukrainian colleagues.[82] It has additionally advocated for a special international tribunal to arraign Russia for this aggression, and supported Ukraine's genocide case against Russia at the International Court of Justice (ICJ[83]).[84] The actions of Lithuania, Latvia, and Estonia represent a fundamental challenge to this long-standing order of unaccountability of international crimes in eastern Europe, signalling a shift towards a more just and accountable international legal framework based on Nuremberg principles.

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[78] Budryte D. Memory, War, and Mnemonical In/Security: A Comparison of Lithuania and Ukraine. In: Resende E., Budryte D., Buhari-Gulmez D. (eds.). Crisis and Change in Post-Cold War Global Politics: Ukraine in a Comparative Perspective. Palgrave Macmillan, 2018, pp. 155–177; Budryte D. Memory Politics and the Study of Crises in International Relations: Insights from Ukraine and Lithuania. Journal of International Relations and Development, Vol. 24, No. 4, 2021, pp. 980–1000. https://doi.org/10.1057/s41268-021-00231-1

[79] Anderson J. H. Why Lithuania is at The Forefront of The Ukrainian Lawfare. 9 September 2022. Available: https://www.justiceinfo.net/en/106188-why-lithuania-forefront-ukrainian-lawfare.html [last viewed 06.01.2026].

[80] AFP. ICC: Historic State Referrals Accelerate Opening of An Investigation on Ukraine. 2 March 2022. Available: https://www.justiceinfo.net/en/88144-icc-historic-state-referrals-accelerates-opening-investigation-ukraine.html [last viewed 06.01.2026].

[81] Crawford J. 2022, Eurojust. Press conference – Joint investigation team on alleged core intl. crimes in Ukraine. 21 May 2022. Available: https://www.youtube.com/watch?v=_HW9AcF-AxI&t=351s [last viewed 06.01.2026].

[82] Anderson J. H. A Nuremberg for Russia's Crime of Aggression? 11 April 2022. Available: https://www.justiceinfo.net/en/91135-nuremberg-russia-crime-of-aggression.html [last viewed 06.01.2026]; Brzozowski A. Baltics call for special tribunal to try Russian leadership for 'crime of aggression'. 17 October 2022. Available: https://www.euractiv.com/section/europe-s-east/news/baltics-call-for-special-tribunal-to-try-russian-leadership-for-crime-of-aggression/ [last viewed 06.01.2026].

[83] The International Court of Justice, seated in The Hague, is the principal judicial organ of the United Nations. More information can be found at: www.icj-cij.org/home.

[84] Quell M., Cruvellier T. The International Court of Justice Orders Russia to Stop Its Invasion of Ukraine. 17 March 2022. Available: https://www.justiceinfo.net/en/88936-international-court-of-justice-orders-russia-stop-invasion-ukraine.html [last viewed 06.01.2026]; US Office of Public Affairs. Readout of Assistant Attorney General Kenneth A. Polite, Jr.'s Trip to Lithuania, 17 April 2023. Available: https://www.justice.gov/opa/pr/readout-assistant-attorney-general-kenneth-polite-jr-s-trip-lithuania [last viewed 06.01.2026].

The Baltic states and Ukraine share postcolonial trauma of past crimes by two totalitarian regimes during the twentieth century,[85] not to mention their common history within the Lithuanian Grand Duchy until the 18th century. The Baltics and Ukraine possess similar collective memories regarding their Soviet past, especially under Stalin, which were triggered in 2022. To this end, their countries have created similar memory regimes,[86] both of which came into force in 2014, thereby consolidating and somewhat codifying their collective traumatic experiences.[87] The consolidation and stimulation of traumatic memories can have a powerful impact on subject's sense of identity, and creates the desire, as well as resolve to act.[88]

In spite of these similarities, the Baltic states and Ukraine rode down quite different paths after (re)gaining independence from the USSR in 1991. The Baltic states relatively quickly attained membership in both the EU and NATO, whereas Ukraine, struggling with transitional and identity challenges, was more isolated from transatlantic communities and institutions. The newly-independent Baltic countries quickly revised their official narratives to both emphasise their historical and cultural ties to western Europe, and to criticise authoritarian regimes. The transition from a socialist economy, political domination of the communist party, and an eastern-oriented international strategy, to a liberal market economy, political pluralism, and integration into the Euro-Atlantic structures shaped the reframing of these narratives, memories, and related politics.[89] Although many communist leaders came from Ukraine, and though the country served as a major centre of Soviet agriculture and industry, the region was also resistant to Soviet rule. When Ukraine started moving westwards in development, particularly after the Euromaidan protests and the subsequent annexation of Crimea by Russia, discourse about Russian civilisation and the unity of Russia and Ukraine was dramatically enhanced.[90] Ukraine's recent reorientation and attempted

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[85] Gerdziunas B., Vegyte S. 2022; Milisic A. Bosnians relive past war trauma as Russia invades Ukraine. 3 March 2022. Available: https://www.aljazeera.com/features/2022/3/3/bosnians-relive-past-war-trauma-as-russia-invades-ukraine [last viewed 06.01.2026]; International Centre on Nazi Persecution. War in Ukraine: Trauma and re-traumatization. 30 March 2022. Available: https://arolsen-archives.org/en/news/war-in-ukraine-trauma-and-re-traumatization/ [last viewed 06.01.2026]; Zhurzhenko T. War and Memory in the Post-Soviet Space: Arming without Borders? Hamburg: Koeber Stiftung, 2022.

[86] Assmann A. Cultural Memory and Western Civilization: Functions, Media, Archives. Cambridge: Cambridge University Press, 2012; "Memory regimes" refer to the systems or frameworks established by societies or governments to manage, interpret, and memorialize historical events, especially those that are contentious, traumatic, or significant.

[87] Budryte D. Living through the other: Lithuania's emotional identification with Ukraine. 18 September 2022. Available: https://www.lrt.lt/en/news-in-english/19/1780392/living-through-the-other-lithuania-s-emotional-identification-with-ukraine [last viewed 06.01.2026].

[88] Budryte D. 2022; Budryte D. 2021.

[89] Mink G., Neumayer L. History, Memory and Politics in Central and Eastern Europe Memory Games. London: Palgrave Macmillan UK, 2013, p. 3.

[90] Gerdziunas B., Vegyte S. 2022.

strengthening of its western ties further threatened Putin's view of the country as "a buffer between himself and the West".[91]

This historical perspective influences Baltic support for Ukraine, as they see emotional parallels between Ukraine's struggle for sovereignty and their own historical fight for independence, reinforcing their commitment to Ukraine's right to exist as a sovereign nation, and not to become the part of the *Ruskij mir*. It is essential for Ukraine to approach its own twentieth century oppressive and totalitarian experience as a single narrative in order to claim the right to exist after the war, and to further align with the outside world.[92] This process was already underway since at least 2014, and was accelerated greatly after 2022. The question is, how will the war in Ukraine affect European identity and the EU's commitment to justice for international crimes?[93]

## Conclusions

This article has examined ECtHR jurisprudence concerning Soviet-era crimes prosecutions in the Baltic states, while comparing the case law of the European Court of Human Rights with the legacy of Nuremberg Tribunal. The analysis demonstrates that while these institutions differ fundamentally in mandate, structure, and legal function, their jurisprudential relationship reveals important continuities in the current development of international accountability.

The Baltic historical cases at ECtHR primarily aimed to give a voice to the history of Soviet victims and achieve a semblance of justice for them by empowering the principles established at Nuremberg after WWII. These cases, brought before the ECtHR in the 2000s by the three Baltic states, each emphasised distinct yet vital aspects of Baltic state identity and continuity. Estonia centred on the issue of illegal Soviet occupation, Latvia confronted Russian denial of Soviet crimes and the misleading narrative of liberation, while Lithuania secured recognition of certain Soviet crimes as the gravest offenses against a nation's right to exist, constituting the crime of genocide.

The analysis of these cases suggests that ECtHR jurisprudence contributes to the consolidation of a post-Nuremberg accountability framework in Europe, while simultaneously exposing the limits of contemporary international legal institutions in addressing historical and politically contested atrocities. The Baltic cases illustrate how domestic prosecutions of Soviet-era crimes are filtered through human rights standards that both enable and constrain accountability.

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[91] Wang J. 2022.

[92] Dickinson P. Ukraine's Unique Totalitarian Trauma Offers Key to Historic Healing. 9 May 2016. Available: https://www.atlanticcouncil.org/blogs/ukrainealert/ukraine-s-unique-totalitarian-trauma-offers-key-to-historic-healing/ [last viewed 06.01.2026].

[93] Zhurzhenko T. 2022.

Finally, these patterns offer broader analytical insights relevant to current debates on international responses to Russia's aggression against Ukraine.

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