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REVERSING HISTORICAL INJUSTICES, FACING NEW LEGAL CHALLENGES:

Lithuanian Liberation and post-Soviet Transition (1987–2004)

Abstract

The aim of this article is to reconstruct the process of the restoration of Lithuania's independence in the context of the fall of Communism and the transition to democracy. The chronological boundaries are the year 1987 (the first mass demonstration in Lithuania after the suppression of so-called Kaunas Spring in 1972) and the early 2000s (symbolic years marking full Lithuanian transatlantic integration, joining the EU and NATO). Special attention will be given to the social transition, followed by almost a uniform demand for restoring the rule of law and rebuilding historically-threatened justice. Law and justice were the essential planes of Lithuanian post-Soviet transformation – but in its historiography these dimensions are receiving less attention than the economic or political transition.

Keywords: post-Soviet transition, law, democracy, transitional justice, Lithuania

Introduction

On 11 March 1990 the Supreme Soviet of the Lithuanian SSR (serving as the parliament after the first democratic election since the Soviet occupation in 1940) officially declared Lithuania's independence from the Soviet Union. However, the process of transition into democracy and claims for independence did not start from this particular date – and did not end on this date either. In his article I attempt to reveal a particular period of Lithuanian late modern history – from the late 1980s protests and so called “Singing revolution,” through external and internal struggles for democracy, security and recognition until the final success in the early 21st century, namely Transatlantic and European integration. In this article I have chosen a specific approach – to discuss the key events of Lithuanian liberation and post-Soviet transition primarily through the lens of law and justice. Although I am also keeping other processes and transformations (political, economic, social, geopolitical) in mind.

Most of Lithuania's attempts related to the restoration of the rule of law after the long years of Soviet occupation focused on the dimension of transitional justice. Researching the transition from communist regimes to democracies in the late 20th century is a well-established tradition in Eastern and Central European historiography and political science (Tismaneanu 1998). However, the novelty of the research presented here lies in its legal history-oriented approach. In Lithuanian and foreign historiography on the Lithuanian post-Soviet transition, the legal dimension has received less attention than economic or political transitions – or such topics as nation building and identity policies. Here the work by Richard C.M. Mole can be mentioned, which had focused on the transition of Lithuanian, Estonian and Latvian national identities during and after the collapse of the USSR (Mole 2002).

The economic transition – as well as political change and building democracy – has been analysed by such authors as Zenonas Norkus (2008), Rasa Čepaitienė (2023), and Jaroslav Volkonovski (2019); furthermore, Alvydas Nikžentaitis (2019) focused on changes in the culture of remembrance. There was also research on the post-Soviet generational shift and the experiences of people, born and socialised in the Soviet Union, but entering adult life in as citizens of a free Lithuania (*Soviet and Post-Soviet Lithuania – Generational Experiences* 2022).

However, there are much fewer works related to the transition of law. The issues of transitional justice were researched by Justinas Žininskas

(2002). Dainius Žalimas explored the topic of Lithuanian and other Baltic countries' attempts to prove the fact that the Soviet occupation was a crime of aggression and a violation of the international legal order (Žalimas 2001; 2003; 2006). Eugenijus Palkšys focused on the transition of criminal law in the period of 1990–1994 (Palskys 1995). Julija Ravaitytė studied the topic of lustration (Ravaitytė 2014). The author of this article has also previously published on the Lithuanian post-Soviet legal transition – but from the point of view of exact legal reforms, using purely historical criminological methodology and without broader political context as in this article – and without a clear focus to transitional justice (Rogers 2023).

So there is a lack of a broader analysis of both transitional justice and the criminal law shift in the context of state-building, democratic reform and consolidation of Lithuanian independence and statehood. Therefore this article aims to focus on these aspects.

Methodology

The research presented in this paper is strongly related to the tradition of focusing on transitional justice – the process of the transformation of post-conflict and post-dictatorship societies from an authoritarian or totalitarian government model to democracy, while addressing previous violations of human rights.

The roots of transitional justice are often associated with the post-World War II period in Europe, with the establishment of the International Military Tribunal at Nuremberg and the general process of denazification. According to the International Center for Transitional Justice, “transitional justice refers to how societies respond to the legacies of massive and serious human rights violations”:

“It asks some of the most difficult questions in law, politics, and the social sciences and grapples with innumerable dilemmas. While every context is unique, societies and individual stakeholders the world over must find answers to the same difficult questions about whether, when, and how to embark on a path toward a peaceful, just, and inclusive future where past crimes have been acknowledged and redressed and citizens and leaders agree that violence and human rights abuses can never again happen” (“What Is Transitional Justice?”).

The process of transitional justice is seen as a universal agenda, applied in various societies in the world when wars, dictatorships, and

other incidents of “massive” and “serious” human rights violations, end. It is based on a victim-centered approach – seeking, one way or another, to establish justice for victims and their families and compensate them for their losses that happened due to the violations of their fundamental human rights, including political repressions, war crimes, crimes against humanity and genocides (“What Is Transitional Justice?”).

In the social sciences and humanities, the theoretical and methodological background to research transitional justice has been developed by various scholars and often applied to vast number of geographic areas that had experienced mass cruelties and injustices – from South America to post-communist (or post state-socialist) Eastern Europe. Scholars such as Ruti G. Teitel (2000), Arthur Paige (2009), Jens Iverson (2013) and others were searching for a theoretical background for the concept of transitional justice. Here we can also mention the numerous works of Raluca Grosescu which she wrote (Grosescu 2024; Grosescu and Ursachi 2009) and co-edited (*Transnational Advocacy Networks and the Globalisation of Anti-Communism after 1989* 2020; *Justice, Memory and Transnational Networks. European and South American Entanglements* 2019; *State Socialism and the Evolution of Post-War International Criminal and Humanitarian Law* 2019; *State Socialist Experts in Transnational Perspective. East European Circulation of Knowledge during the Cold War (1950s–1980s)* 2018; *Transitional Criminal Justice in Post-Dictatorial and Post-Conflict Societies* 2015).

Transitional justice is usually understood in a narrow sense – as the way to deal with past non-democratic regimes and compensate past injustices. However, the methodological focus of this article is broader. In order to focus on transitional justice and the victims of past crimes (Nazi Germany and communist USSR), independent Lithuania, first of all, had to create a functioning system of criminal justice and implement a large-scale legal reform. This process was not easy and smooth due to several factors: a) legacies of the Soviet law and criminal justice system; b) the need to address the potential corruption of politicians, lawyers and officers of the criminal justice field; c) organised crime that was flourishing in the whole post-Soviet and post-state-Socialist sphere.

One of the authors who noticed and identified the struggles of the legal systems of post-Soviet societies in that regard very early was Loise I. Shelley. She realised that the whole post-Soviet sphere in the early and mid-1990s shared similar patterns: difficulties in the reform of criminal and criminal procedure law, the growth of criminal offences and organised crime (Shelley 2002, pp. 223, 226–227).

According to Shelley, with no exception, organised crime grew in post-Soviet countries and penetrated their societies, economies and political elites, thus preventing a rapid and successful transition to democracy, building the rule of law and increasing the economic and social well-being of citizens of the new states that emerged. Growing crime numbers, especially organised crime, created great challenges to legal reform (Shelley 2002, pp. 223, 226–227).

In this article, as its scope does not include organised post-communist and post-Soviet 90s crime and corruption, I will not analyse these phenomena in detail. However, it is worth mentioning that these indeed were factors, somewhat preventing many 1990s societies achieving quick legal reforms related to a rule of law-based order. And post-Soviet Lithuania in that respect was no exception (Rogers 2023).

Humberto Cantú Rivera, whose research was focused on establishing the rule of law in organised crime-torn Mexico, claims that there are key elements in the process of transitional justice: a) attempts to enforce the rule of law and human rights; b) claims “to recognise the official truth of authorised misconduct that took place in the past”; c) a need “to punish perpetrators,” and d) a requirement “above all, to ensure victims’ rights to truth and reparation” (Rivera 2014, pp. 57–81). As we see, in Rivera’s theoretical interpretations, the victim is in the central position – whether of political, war or criminal (meaning non-political crime) violence. According to Rivera:

“While many experiences of traditional transitional justice have taken place in post-authoritarian contexts, the convergence of the main elements used in those traditional cases leads us to suggest that these models could also apply to societies in transition, not from a particular form of government to another, but from a developing democracy into a law-abiding society. In this sense, a bottom-up approach that aims at attaining truth, reform and change will be necessary to break a cycle of impunity and develop social and government institutions that respect and enforce the rule of law and human rights.” (Rivera 2014, p. 57)

Back in 2014, when the article was published, Rivera hoped that if the tendencies of the Mexican governments’ attempt to restore rule of law and focus on transitional justice will prevail, “it could potentially lead to the restoration of public trust in the authorities and pave the way for reconciliation between society and the State” (Rivera 2014, p. 57). Although Mexico’s case is not directly related to the post-Soviet realities,

the general principles and theoretical insights expressed in Rivera's analysis are very helpful in understanding the fundamental principles of mass violence-caused trauma, and the process of transitional justice and reconciliation. These, despite huge cultural differences around the world and variety of different cases, are somewhat fundamental.

So, not only the exact process of transitional justice, related to the crimes and perpetrators of the political and state violence – but restoration of the rule of law in general can be seen as the key elements of successful legal reform.

It is important to stress that this view lines up with the attitude towards transitional justice of the European Union. For example, as the Council of EU suggests “the EU seeks to prevent violations and abuses of human rights throughout the world and, where these occur, to ensure that victims have access to justice and redress and that those responsible are held to account,” and “transitional justice is therefore a key priority for the EU when engaging in situations of gross violations of human rights and serious violations of international humanitarian law and international criminal law” (“Conclusions on EU's support to transitional justice” 2015).

Key elements of transitional justice are mentioned in this EU document: a) “fighting impunity,” b) “providing recognition and redress to victims,” c) “fostering trust,” d) “strengthening the rule of law,” e) “contributing to reconciliation and non-recurrence.” The “victim-centered approach to transitional justice” is also stressed (“Conclusions on EU's support to transitional justice” 2015).

Keeping the above-mentioned processes and perspectives in mind, in this article I propose the use of a methodology that focuses on three types of historical injustices and rule of law-based order related post-Soviet challenges, experienced by Lithuanian state and society (that became evident after the liberation from the USSR and during the post-Soviet transition):

Occupation and annexation of an independent country – interwar Republic of Lithuania (dealing with crime of aggression).

Crimes and injustices against civilians: a) experienced by the victims of occupying regimes (Nazi, Soviet) and external powers such as the USSR in the 1990s (war crimes, crimes against humanity, genocide, nationalisation of property and so on); b) experienced by Lithuanian residents and minorities, committed by the residents and/or citizens of Lithuania (from genocide to discrimination).

I will attempt to measure how successful the attempts to reverse the abovementioned injustices were.

However, the article will not exclude economic or social injustices, and those caused by organised crime and generally high crime numbers. These are very important, however impossible to handle due to the limited scope of this article – and due to the fact that the lens of law is too narrow to explain the complexities of these problems.

The main research questions are: how Lithuanian society and state was claiming and rebuilding justice in the transitional period to democracy during and after the split from the USSR and the Lithuanian Declaration of Independence? What difficulties they faced? What challenges were dealt with? And what was helpful to overcome these challenges?

It is important to stress that claims for justice came out not (or not only) from the political discourse – but, as we will see in the coming chapters, originated from civic society and deep wounds and traumas (Gailienė 2021). Most of these claims for justice came from the “bottom level” and various grassroots initiatives – as, for instance, printing the memoirs of the former deportees in Soviet Lithuanian cultural journals as early as in the 1988 (Grinkevičiūtė 1997).

Dealing with Injustices Against the Lithuanian State: from Crime of Aggression to the Collaboration with the Enemy

Lithuania, along with other two Baltic countries, was occupied and annexed by the USSR (twice) and Nazi Germany in the 1940s. It ended the history of an independent, modern, national model-based Republic of Lithuania, which lasted for more than two decades. Nevertheless, the understanding that Lithuania was and should be an independent country, not a colony or territory, ruled by the Soviet powers, inside occupied Lithuania (Davoliūtė 2015) and among the Lithuanian diaspora in the West (Dapkutė 2016, 236–258) has survived Stalinism and was lingering in the deeper levels of society until the declarations of Perestroika and official regaining of the lost memory of Soviet atrocities in the USSR – the process that was more broadly described by Alexei Yurchak (2006).

Such understanding was based on the perspective of international law. The occupation of the Baltic countries was never recognised by major Western countries. The consensus formed, under which Baltic states were seen as still to exist as sovereign states under international law, despite the Soviet occupation (Mälksoo 2022).

First of all, such a stance in international law to the occupation of the Baltics emerged due to the fact that these countries were victims of Soviet and Nazi aggression (Žalimas 2003).

The first aggressive activity against Lithuania came from Nazi Germany. After Hitler's totalitarian state started international aggression, "especially after it made an accord with the Bolshevik USSR, a new threat arose for the independence of the states created after WWI, including Lithuania" (*Lithuania in 1940–1991: the History of Occupied Lithuania* 2015, p. 33).

"After Hitler occupied the Czech Republic," on 20 March 1939, Lithuanian Foreign Minister Juozas Urbšys was handed an ultimatum by German Foreign Minister Joachim von Ribbentrop to surrender the Klaipėda region to Germany. "The following day Lithuanian government decided to satisfy Berlin's demand." Thus, Lithuania lost two thirds of its access to the sea, including the economically very important harbour of Klaipėda (*Lithuania in 1940–1991: the History of Occupied Lithuania* 2015, p. 34).

On 23 August 1939, the infamous Molotov–Ribbentrop Pact was signed. Framed as a non-aggression treaty between Nazi Germany and the Soviet Union, it included a secret protocol that divided Eastern Europe into spheres of influence of either Germany or the Soviet Union. At that time Lithuania came under the Nazi sphere of influence, while the other Baltic states, Finland, Romanian Bessarabia, and Eastern Poland were claimed by the USSR. Following the pact, the Nazis invaded Poland on 1 September, 1939 (*Lithuania in 1940–1991: the History of Occupied Lithuania* 2015, p. 35).

At that time, Nazi Germany was trying draw Lithuanian into a war against Poland, encouraging the country to organise a "March of Lithuanians to Vilnius"; however, the Lithuanian government chose to pursue its interwar policy of neutrality. That changed very soon. After the USSR invaded Poland on 17 September 1939 and captured Vilnius, and after Germany and USSR signed the so-called "Boundary and Friendship Treaty" (28 September 1939) that handed over Lithuania to Moscow, the USSR "demanded that the Lithuanian government sign a mutual assistance treaty with the USSR, under which Vilnius would be handed over to Lithuania, but Red Army garrisons would be deployed in its territory." This time Lithuania gave in and officially lost neutrality – thus becoming an even easier target for USSR aggression. The treaty was signed on 10 October 1939 (*Lithuania in 1940–1991: the History of Occupied Lithuania* 2015, p. 37).

Soon repressions – deportations, imprisonments, forced displacements – began against the Polish population of the Vilnius region (Stravinskienė 2016; 2012, p p. 39–47).

Actual occupation followed soon afterwards. On 7 June 1940 Red Army began gathering at the Lithuanian border for a direct invasion. On 14 June 1940, Urbšys and the Lithuanian government were presented with a Soviet ultimatum, which demanded the formation of a new government, acceptable to Moscow and the admission of an unlimited contingent of the Red Army into Lithuania. President Antanas Smetona first proposed resisting, but most ministers were in favour of surrendering. Thus, on 15 June 1940, Lithuania was occupied by the USSR (*Lithuania in 1940–1991: the History of Occupied Lithuania* 2015, p. 47).

Repressions against residents, as well as active Sovietisation, followed quickly. The first targets were the members of former political elite, state institutions employees, business owners, and representatives of the intelligentsia such as teachers. Some of them were imprisoned during the first days of the occupation (Purs 2024).

Multiple crimes against civilians were committed at that time by the Soviet regime. The largest in scale was the June deportation of 1941. It was a mass deportation of people from Estonia, Latvia, Lithuania, present-day western Belarus and western Ukraine, as well as present-day Moldova. The June deportation of 1941 targeted tens of thousands of people. Various nationalities, including the Jews, were targeted in the Baltic states, as the Soviet regime was often repressing people due to their social status (*Narratives of Exile and Identity: Soviet Deportation Memoirs from the Baltic States* 2018).

During the Soviet period, according to Vitalija Stravinskienė, all ethnic groups living in Lithuanian territory “were subjected to forced migrations and to mistreatment and injustice due to their political, religious, ethnic, or social status.” According to her, “during the periods from 1940 to 1941 and from 1944 to 1953, about 260 000 individuals not only of Lithuanian but also of Polish, Jewish, German, Russian, Belarus, Tartar, Karaites, or other descent or nationality were deported or imprisoned” (Stravinskienė 2012, p. 19).

There were brutal crimes committed inside Lithuanian territory too – including the Rainiai massacre, the mass torture and murder of between 70 and 80 Lithuanian political prisoners by the NKVD, with help from the Red Army, in a forest near Telšiai, during the night of 24–25 June 1941 (Šiušaitė 2005).

It is estimated that 23 000 residents of Lithuania were imprisoned, deported or killed by the Soviet regime in the period between 15 June

1940, and 22 June 1941 (“Lietuvos gyventojų netektys 1940–1986 ir 1991 metais”).

After the war between Nazi Germany and USSR broke out on 22 June 1941, Lithuania was occupied by Nazi Germany. This period was extremely tragic for Lithuanian Jews, the the Romani (also called Roma) minority, Poles and other groups. It is estimated by historians today that, for example, one of three Roma people were killed during the Nazi genocide, which would be around 500 people (Selenis, 2023; Bubnys 2023; Lissauskaitė 2004).

Already in the summer of 1941, mass killings of Jews started in Lithuania. Ghettos for Jews were established in Vilnius, Kaunas and Šiauliai. Before the Nazi-Soviet War, about 208,000 Jews lived in Lithuania. During the Nazi occupation the Lithuanian Jewish community (Litvaks), famous for its history and culture, was almost completely destroyed – about 195–196,000 Lithuanian Jews were murdered (“Holokaustas Lietuvoje”). It is estimated that at least several thousand Lithuanians participated in the murdering of Jews or other Holocaust-related actions, such as, for instance, planning and enabling the killing (Cedor 2021).

The Soviet Union reoccupied most of the territory of the Baltic states in its 1944 Baltic Offensive during World War II. The Red Army regained control over the three Baltic capitals.

In today’s Lithuanian historiography it is agreed that the annexation of the Baltic States by the USSR in 1940 had no basis in international law. It is considered that, due to this fact, a large part of the international community refused to formally approve this annexation (Anušauskas 2014).

Interpreting the Baltic occupation under the international, the principle established earlier by the Stimson Doctrine was applied in the Welles Declaration. The declaration on the Baltic case was issued on 23 July 1940 by the then acting Secretary of State, US Under Secretary of State Sumner Welles, defining the basis for the non-recognition by the United States of the Baltic occupation. The Stimson Doctrine, articulated in 1932 by US Secretary of State Henry L. Stimson, was a policy of non-recognition of territories acquired through aggression. However, the British and US governments eventually reached the consensus to recognise the Soviet occupation *de facto* – if not *de jure*. So, in the terms of international law, the legality of Lithuanian occupation and annexation was never recognised. It is considered a crime of aggression (Žalimas 2003; Liivak 1987, p p. 329-348; Mälksoo 2022; Hough III 1984, p. 301; Juda 1975, p p. 272–290; Whitmore 2019, pp. 20–22; Crowe 1983, p. 401).

After re-capturing Lithuanian territory, the Soviets restarted mass repressions. Large part of the Soviet terror was related to forced collectivisation. In the period of 1944–1953, 186,000 people were arrested and imprisoned, 118,000 deported. It is estimated that 20–25 thousand victims died in prisons and gulags, 28,000 died in the places of deportation – the USSR’s far North-East, where the living conditions were extremely harsh, and forced labour and illnesses contributed to high mortality (*Lietuvos gyventojų netektys 1940–1986 ir 1991 metais*).

Despite this, the armed resistance was still ongoing. It is not a coincidence that, during the time of Soviet occupation, the ambassadors of this belief in Lithuanian independent destiny were, first of all, members of Lithuanian armed anti-Soviet resistance (1944–1953). On 16 February 1949 the leaders of the Lithuanian Armed Resistance signed a document, called the “Declaration of the Union of Lithuanian Freedom Fighters (ULFF),” in Lithuanian “Lietuvos laisvės kovos sąjūdžio deklaracija” (“LLKS Tarybos 1949 m. vasario 16 d. Deklaracija ir signatarai”; Girdzijauskas and Sajauskas; “Lithuanian Partisans Declaration of February 16, 1949”).

Together with other documents passed at the meeting, the Declaration provided the legal and political basis for the Lithuanian armed resistance. The document proclaimed the ULFF as an organised armed resistance to the Soviet occupation and its council as the sole legitimate authority in the territory of Lithuania. By signing the declaration, the ULFF assumed the responsibility of leading the restoration of an independent democratic state of Lithuania, where equal rights for all citizens and social care is guaranteed. The document also states that the “Communist party, as dictatorial and essentially opposite to the main aim of the Lithuanian nation and the keystone provision of the Constitution – independence of Lithuania, – is not considered a legal party” (“Lietuvos Laisvės Kovos Sąjūdžio Tarybos 1949 m. vasario 16 d. deklaracija – vakarietiškos politinės kultūros, laisvės ir demokratijos idėjų pergale šiaipus Geležinės uždangos”; “Declaration of the Council of the Movement of Struggle for Freedom of Lithuania, 16 February 1949, information by the Lithuanian Special Archives”).

It is worth mentioning that the discussed declaration was eventually recognised as a legal act of Lithuania. On 12 January 1999, the Seimas (Lithuanian Parliament) passed a decree stating that the Council of the Union of Lithuanian Freedom Fighters, which signed the Declaration of 1949, exercised functions of the highest political and military structure and was the only legitimate authority in the

territory of the occupied country (“Lietuvos Respublikos įstatymas dėl Lietuvos Laisvės Kovos Sąjūdžio Tarybos 1949 m. vasario 16 d. deklaracijos”).

When the armed resistance collapsed against the NKVD and MGB forces and Soviet military units (20,500 of its members and supporters died; *Lietuvos gyventojų netektys 1940–1986 ir 1991 metais*), dissidents and peaceful resistance members were continuing the memory and tradition of Lithuania’s statehood. Some underground organisations, such as the anti-Soviet organisation, the Lithuanian Liberty League, even officially declared the claims for independent political statehood and demanded that the USSR grant Lithuania the right to leave (*Lietuvos laisvės lyga: nuo „Laisvės šauklio“ iki nepriklausomybės*, 2004).

Others, such as the Catholic underground and dissidents, were more modest with their rhetoric – but kept hope alive for independence in their discourse and underground publishing as well (Archive (online) and information about Lithuanian Catholic Anti-Soviet underground periodical “Lietuvos Katalikų Bažnyčios kronika”).

Even Lithuanians and persons of other nationalities, living in the country, who did not actively participate in dissident circles and did not have direct access to dissident discourse (for instance, to the illegal publications), still preserved the memory of Lithuania’s political independence. The memory and trauma of Soviet repressions – kept in the families – was also defining the negative attitude towards the Soviet regime (Gailienė 2021).

Hence Lithuanian society arrived at the turning point of the late 1980s still having a certain understanding and memory about the need for political independence – and a feeling of injustice of acts committed by the Soviet regime against the Lithuanian state. Such an understanding was also encouraged by the Lithuanian diaspora from the other side of Iron Curtain that was actively lobbying for Lithuanian independence in the United States and Western Europe. The discourse of the Western diaspora could reach Soviet Lithuania through the underground press that was smuggled to the West and back to occupied Lithuania (Vegyte 2021).

When the processes of Perestroika started in the USSR, for Lithuania it became a window of opportunity to reinstate justice – and to reverse the crime of aggression committed against the Lithuanian state by Hitler and Stalin. There were attempts to organise larger demonstrations and claim political independence already in the 1950s and 1970s – but those protests were soon crushed, and their participants repressed by the KGB (Kareniauskaitė 2012a).



This time, due to the changed political climate in the USSR, the situation was different. A group of dissidents with long oppositional experience organised a demonstration and a rally in front of a monument of Adam Mickiewicz in Vilnius on 27 August 1987. The choice of date was not a coincidence. The Molotov–Ribbentrop Pact and its secret protocols, which determined the fate of the Baltic States before World War II, were publicly condemned during this event. So, the political claims to reverse the injustices inflicted on the occupied Lithuanian state, caused by the mentioned pact, were crystal clear (Ganusauskas 2006; “Kaip prokuratūra ir KGB bandė sužlugdyti mitingą prie Adomo Mickevičiaus paminklo, iš Antano Terlecko dienoraščio“ 2006, pp. 57–58; “Apie Lietuvos laisvės lygos organizuotą pirmąjį okupuotoje Lietuvoje viešą protesto mitingą, įvykusį 1987 m. rugpjūčio 23 d. Vilniuje, prie Adomo Mickevičiaus paminklo“ 2006, p. 68).

The rally was attended by some 500–1000 people. During this demonstration, speeches were given and the pre-war Lithuanian National Anthem was sung. Nijolė Sadūnaitė – the first speaker at the rally, a nun, political prisoner and famous personality of Catholic anti-Soviet underground – condemned Joseph Stalin and Adolf Hitler for their crimes against humanity, for the occupation of the Baltic States, and the millions of victims of the regimes. Speakers of the demonstration demanded Lithuania’s independence. The event was attended by foreign news media correspondents. The participants of the mentioned demonstration were targeted, threatened and even experienced physical violence by the KGB. But, due to the fact that the Soviet regime now posed itself as the one that respects human

Lithuanian Freedom League rally at Vilnius Cathedral, accompanying a hunger protest demanding the release of Lithuanian political prisoners (August 1988). Photo: Maciej Kossowski (1988). Institute of National Remembrance Archives, Maciej Dariusz Kossowski Collection, ref. no. 2328/14

rights, mass arrests did not happen at this time. This opened the door for the new developments (Kareniauskaitė 2012b).

The protests and activities – from appeals for Lithuanian autonomy within the USSR to open demands for independence – grew in number and scale. On the next anniversaries of the Ribbentrop-Molotov Pact – 23 August 1988 and 1989 – the protests were massive. In 1989 the protest joined the three Baltic countries, now referred to as the Sisters of the shared fate, together in the famous “Baltic Way” (“1989 m. rugpjūčio 23 d. – Baltijos kelias”).

Another key step was the formation of the Lietuvos Persitvarkymo Sąjūdis (LPS, known as “Sąjūdis”, in English – the Lithuanian Reform Movement) in June 1988. It became the basis for the political opposition that actually designed the Lithuanian exit from the USSR, with the use of tools of the Soviet law, and free elections. Sąjūdis won the first democratic elections to the Lithuanian Soviet Socialist Republic Supreme Council, and declared the independence of Lithuania on 11 March 1990. The members of Sąjūdis argued that the Soviet Constitution itself declared a right of the so-called Soviet Republic to leave the USSR. It was true “on paper,” but not imaginable in practice (Senn 1991).

Also, the Communist Party of Lithuania (LKP) split from the Communist Party of the Soviet Union (CPSU) on 19–23 December 1989, at the 20th Congress of the LKP. (Before that, there was a split of Lithuanian communist party into an independent LKP and the pro-Soviet LKP-TSKP, which continued to remain a constituent part of the Communist Party of the Soviet Union). Thus, the only opponents of Lithuanian independence were the not numerous and practically marginal members of the Communist party who refused to leave the CPSU and formed the “alternative” communist party (Tamošaitis 2016, p. 53; Kareivaitė 2014).

However, the Lithuanian Declaration of Independence was not seen as an opportunity by the Soviet Union, despite the official rhetoric of restoring rule of law and the fact that the Soviet Constitution itself – only formally, of course – allowed the republics to leave. While Lithuania, just like the other Baltic countries, had seen itself as the state that never joined the USSR voluntarily, but was occupied by a military force – according to the Soviet attitude, the occupation had never happened and Lithuania was a legitimate part of the USSR (Žalimas 2001; 2006).

The political tension between Vilnius and Moscow grew drastically from March 1990 – and eventually brought more victims. In violent

actions of the Soviet Armed Forces against civilians in Vilnius between 11 and 13 January 1991, 14 civilians were killed and many more injured (in various sources it also often referred to 13 victims, as one them died not on the spot, but in the hospital later) (see Švedas 2021, p. 9).

First, an economic blockade was imposed by the USSR against Lithuania, together with increased military pressure. Soviet military units occupied the Vilnius buildings of the Political Education and the Party Higher School. Those later became the headquarters of the abovementioned “alternative” Communist Party of Lithuania, loyal to Moscow. As a result of the economic blockade, in January 1991, the Lithuanian government raised prices of important supplies several times. The move was followed by protests. The Prime Minister of Lithuania Kazimira Prunskienė resigned, the pro-Moscow *Yedinstvo* (Unity) movement organised a rally in front of the Parliament building. According to Human Rights Watch, the Soviet government at that time had planned a propaganda campaign designed to increase ethnic tensions, or use any social tension to destabilise the Lithuanian population – in order to drag the country back to the USSR (“Glasnost in jeopardy: human rights in the USSR. A Helsinki Watch Report,” pp. 36–37).

On 10 January Mikhail Gorbachev addressed the Lithuanian Parliament, demanding a restoration of the Soviet Constitution in Lithuania and the revocation of “all anti-constitutional laws.” Here it is worth mentioning that the 1990 Lithuanian Declaration of Independence explicitly denied the legality of alien constitutions in Lithuania (in fact, primarily of Soviet constitution) – and thus was seen by the Soviet leadership as “anti-constitutional” (Kasperavičius, “Sausio tryliktoji”).

As it appears, the violence exercised by the Soviet Army in Lithuania in January 1991 was meant to be a prelude to a well-planned coup. The process was planned and pursued together with part of the local Communist party loyal to the Soviets (“1991 m. sausio įvykių byla: prieš 20 metų ir šandien” 2019).

On 11 January 1991, the Soviet armed forces began operations in Vilnius. They seized the building of the Department of National Defense, the Press Palace, used violence and injured some civilians who gathered to defend these buildings. Lithuanian residents gathered massively to protect the Parliament, TV broadcasting tower, TV and Radio buildings, and other important state’s infrastructure. On the night of 13 January 1991, Soviet troops stormed the buildings of the Radio and Television, the TV tower, killing 13 civilians that night.

One seriously wounded person died on the 18 February, there were also 837 wounded and injured (*Sausio 13-oji: tarp atminties ir istorijos* 2021; “1991 m. sausio įvykių byla: prieš 20 metų ir šiandien” 2019; Mickevičiūtė and Mozūraitienė 2022).

A group of Moscow-loyalist “alternative” communist party individuals, such as Mykolas Burokevičius, Juozas Jermalavičius, and others, announced that they had seized power, but major Lithuanian state institutions, municipalities and the majority of the population remained loyal to the legitimate government. As crowds of civilians continued to surround the parliament, Soviet troops did not attack again (*Sausio 13-oji: tarp atminties ir istorijos* 2021).

After the January 1991 events, Lithuania gained more and more political support from foreign countries, as well as from the democratic opposition in Russia, Ukraine and elsewhere. Eventually, after the political changes in Russia, the independence of Lithuania was protected and gained full diplomatic recognition. (*Sausio 13-oji: tarp atminties ir istorijos* 2021).

From the very beginning, the January 1991 events were understood in Lithuania as a crime of aggression. Justice was demanded in the case of both – for Soviet and Nazi occupations in the past, and for this crime in the present moment. Seeking such justice became the consensus of both the 1990s legislators and the community of lawyers, seeking to implement the law (Sagatienė, 2022).

Although it was not possible anymore to put on trial the Soviet and Nazi leaders, their officers and local collaborators, responsible for the occupations and annexations of the Baltic countries – the ones responsible for the January 1991 events were eventually prosecuted. This included the mentioned Burokevičius and Jermalavičius, who were apprehended in Belarus on the request of Lithuanian prosecutors in 1994 and brought to Vilnius (Vireliūnaitė 2015). The accusations at this time consisted of attempts to overthrow the government of Lithuania, anti-State activity. (LRT video archives on the January 13 trials). Accusations at that time were placed against more suspects, including Soviet security forces and military officers, but as these persons were not physically captured and the law in 1994 did not allow *in absentia* trials, the criminal prosecution processes against them were cancelled (Vireliūnaitė 2015).

According to the public information report submitted by the Vilnius District Court, the case concerning the investigation of the January 1991 events and criminal prosecution of the persons responsible for the crimes committed then, is one of the most significant cases in

Lithuania's law enforcement history. It took "almost twenty years" to investigate it, as both laws and forensic investigation tools and technologies were changing ("1991 m. sausio įvykių byla: prieš 20 metų ir šiandien" 2019).

It is important to stress that there were two 13 January trials: the first verdict was passed in 1999 and was focused mostly on the aspect of anti-state activity and planned coup. The second trial was at that time (1999) separated from the first one, due to the changed laws that now allowed trying the suspects *in absentia*. Also, when the 'first case' reached the Vilnius District Court, gross violations of the criminal procedure valid at that time were found, so the case was eventually examined against six suspects only. The 'second' case against the remaining 42 defendants was returned to the General Prosecutor's Office for investigation ("1991 m. sausio įvykių byla: prieš 20 metų ir šiandien" 2019).

The first case of 13 January was not investigated for crimes against civilians as defined by international humanitarian law (crimes against humanity, war crimes, as in the "second" case). The defendants were convicted at that time according to the following articles of the Criminal Code then in force: for the crimes specified in Article 68 (public instigation to overthrow the sovereign government and take over the control of the state by force) and in Article 70 (creation and participation in the activities of anti-state organisations). The indictment also covered sabotage (Article 67 of the Code), but the accused was acquitted (European Court of Human Rights. Second Section Case of Kuolelis, Bartoševičius and Burokevičius v. Lithuania (Applications nos. 74357/01, 26764/02 and 27434/02). Judgment. Strasbourg, 19 February 2008. Final 07/07/2008, 10–11).

So, the January 1991 events were understood in the legal discourse around this case primarily as a crime against the Lithuanian state. Thus, the first trial was not primarily focused on the prosecution of the perpetrators for the damage inflicted to the civilian victims. The verdict in the "first" trial, passed on 23 August 1999 by the Vilnius District Court demonstrated that it was extremely important for the law enforcement institutions to prove that the defendants acted deliberately, kept contacts with Moscow, knew about the plans to overthrow the democratically elected government, supported these plans, and assisted the Soviet actors involved ("1991 m. sausio įvykių byla: prieš 20 metų ir šiandien" 2019).

The investigation of the second January 1991 case took place over many years, the verdict of the court of first instance, the Vilnius District Court, was passed on 27 March 2019. This was a process of

a different, victim-centered approach (Vilniaus apygardos teismo 2019 m. kovo 27 d. nuosprendis Sausio 13-osios byloje).

It is worth mentioning that in the first case of January the accused were sentenced to imprisonment. Both Burokevičius and Jermalavičius served their prison sentences in Lithuania (Černevičiūtė and Zaksaitė, 2025).

In the second case 67 persons in all were finally convicted, but 65 were tried in absentia. However, all of them received sentences of imprisonment (Sinkevičius 2022; “Lietuvos Aukščiausiasis Teismas paskelbė nutartį Sausio 13-osios byloje”, 30 June 2022).

Dealing with Historical Injustices Against Civilians

Since the late 1980s, Lithuanians started collecting information about the victims of repressions by the occupational regimes against civilians. The “Sajūdis” had established the Commission for the Investigation of Stalinist Crimes in July 1988. This Commission began distributing special questionnaires, collecting data on Lithuanians deported, imprisoned, or murdered by the Soviet authorities. In 1991, another institution investigating the crimes of the occupation regimes began operating in Lithuania – the Center for the Investigation of Repressions in Lithuania, headed by Teresė Birutė Burauskaitė (*Interview with Teresė Birutė Burauskaitė* 2025; Vitkus 2024).

At that time there were still living witnesses of these atrocities. Such grassroot initiatives, after regained memory, eventually transformed into institutions of transitional justice and memory.

After regaining independence, Lithuanian state was also putting in efforts to re-establish itself in the international community. In order to be accepted by democratic countries, the new independent state had to ensure the application of standards of international law. This meant in regard to the historical damages:

- a) Reforming criminal law according to the standards of rule of law and human rights protection, ensuring justice for the victims and a fair trial for suspects.
- b) Granting justice for the victims of repressions, war and political violence: honouring and compensating the victims, punishing the perpetrators.
- c) Addressing justice-related issues with other nations and national minorities (through law or diplomacy). For example, the legacy of the

interwar conflict with Poland needed to be solved – and the shared experience of the Soviet terror inflicted on Lithuanians and Poles was a catalyst for seeking reconciliation. The real bleeding wound was the Holocaust – silenced during the Soviet era, its remembrance reappeared as the political regime was changing.

d) Ensuring public access and education about the repressions and perpetrators.

Reforming Criminal Law According to the Standards of the Rule of Law

From Soviet Union Lithuania has 'inherited' criminal law and the whole system of criminal prosecution. Therefore, in order to seek justice for victims of the Soviet and Nazi occupations, a legal reform was necessary.

It took some time to design new laws. The reformed Soviet Criminal Code (The Criminal Code of the Soviet Lithuania) and Criminal Prosecution Code (The Criminal Prosecution code of the Soviet Lithuania) were also still in use for the transitional period.

There were reasons for slow reform. In the first half of the 1990s, the number of crimes was significantly rising in Lithuania – and therefore the decision was made to apply the Soviet criminal and criminal procedure codes during the transitional period. The fast drafting new codes and a super quick large scale criminal law reform at that time appeared to require too much time, effort, and expense – as the staff of the criminal prosecution system were putting all of their efforts into fight crime and bring back public safety. Thus Lithuania chose the strategy of maintaining the Soviet codes in force, but replacing the undemocratic laws with more just ones. Another important need was to ensure that the norms of the Lithuanian Constitution (Lietuvos Respublikos Konstitucija 1992) were included in the criminal laws – as, for example, a new definition of the principle of presumption of innocence. Soviet ideological terms and vocabulary were also quickly removed from criminal and criminal procedure codes (Palskys 1995).

The Soviet Criminal Prosecution Code had multiple amendments. Significant changes were enacted between 1990 and 1994. Pretrial detention was limited to 18 months. Some other changes also addressed the rights of suspects. The defense rights and its participation in criminal proceedings were expanded. The amended Soviet Criminal Prosecution Code also separated the prosecution, defense and court

functions, which were to be performed independently. These changes increased the fairness and objectivity of the prosecution process. The updated code was harmonised with the new judicial system. A total of 320 changes were made in the former Soviet Code of Criminal Procedure from 1990 to 1994. The most important of them were the change of Soviet terminology, deleting the Soviet institutions, and references to Soviet laws (Palskys 1995).

The criminal law reform process was very important, because it ensured the right to a fair trial – and prevented turning criminal law into a political tool to repress opposition, as it was during the Soviet era.

Also, some discriminatory norms against civilians, originating from the Soviet law, had to be changed. The attempts of the new Lithuanian state to observe human rights led to various other changes in the penal law. For example, decriminalisation of male homosexuality (that was considered a crime and punished by law in the Soviet Union) was seen as an important issue in the early 1990s – also, but not only, due to the pressure of foreign human rights activists. As archival documents of the Lithuanian Ministry of Interior show, several people had been imprisoned after the Lithuanian Declaration of Independence for homosexual intercourse. The Minister of Interior of that time, Petras Valiukas, had the opinion that male homosexual intercourse should be decriminalised and an amnesty granted for those imprisoned – soon it was achieved (Lithuanian State Modern Archives, f. 79, inv. 1 c. 7, pp. 4–5).

One more important step towards more democratic system of criminal prosecution was the abolishing of the death penalty. It was abolished in 1998 when the Constitutional Court of Lithuania declared that the death penalty is unconstitutional in Lithuania (The decree of the Constitutional Court of Lithuania of 9 December 1998 “Regarding the compliance of the death penalty, provided as the sanction by the Article 105 of the Criminal Code of the Republic of Lithuania, with the Constitution of the Republic of Lithuania”).

The new Criminal Prosecution Code was adopted on 14 March 2002 (Baudžiamojo proceso kodekso patvirtinimo, įsigaliojimo ir įgyvendinimo įstatymas, 2002) and came into operation on 1 May 2003 (Švedas, Veršekys, Levon and Prapiestis 2017, p. 9). The new Criminal Code was adopted in 14 March 2002, and came into power on 1 May 2003 (Lietuvos Respublikos baudžiamojo proceso kodekso patvirtinimo, įsigaliojimo ir įgyvendinimo įstatymas, 14 March 2002).

The main difference between the 'old' Soviet and transformation period Lithuanian penal codes and the newly drafted one, can be

seen in the very way of structuring and definition of crime. In the old code the crimes against the Soviet state were of the main focus and importance. The new code was drafted in such a way that the violation of fundamental human rights and major international crimes, such as genocide, war crimes and crimes against humanity, are seen as having the greatest importance. These crimes are now defined first, they trigger the harshest sanctions and penalties. The articles criminalizing most major international crimes can be applied retroactively and have no extinctive prescription (Rogers 2023; *Lietuvos Respublikos baudžiamasis kodeksas. Tekstas su pakeitimais ir papildymais iki 1994 m. liepos mėn. 19 d.*; *Lietuvos Tarybų Socialistinės Respublikos Baudžiamasis kodeksas*, 1978; *Lietuvos Respublikos Baudžiamasis kodeksas*).

However, it is important to emphasise that the crime definition itself was changed already on 4 October 1990. In the Soviet Lithuanian criminal code, a crime was defined as “an unlawful, socially dangerous act (action or omission) provided for in the criminal law, which encroaches on the Soviet social or state system, the socialist economic system, socialist property, citizens’ personality, their political, labour, property and other rights, and also any other kind of socially dangerous activity, which would encroach on the socialist legal system” (*Lietuvos Tarybų Socialistinės Respublikos Baudžiamasis kodeksas*, 1978). From 1990, the new definition of a crime was “... an action dangerous to society (an act or an omission) envisaged by the Criminal Law, which encroaches on the order of the Republic of Lithuania, its political and economic systems, property, the personality of citizens, political, labour, property and other rights and freedoms of citizens, as well as any other dangerous activity, defined by criminal law, which encroaches on the legal order established by Lithuania” (*Lietuvos Respublikos baudžiamasis kodeksas. Tekstas su pakeitimais ir papildymais iki 1994 m. liepos mėn. 19 d.*, p. 3).

So, while the transitional period (“reformed Soviet”) code, used in the 1990s, despite considerable changes, still reminded some scholars of “a badly made mosaic”, where the new, human rights orientated norms contradicted the old Soviet ones – the new code was considerably different in its very core and focused on democratic principles and the rule of law (Rogers 2023; Palskys 1995).

In general, the Lithuanian criminal prosecution system in the 1990s and early 2000s was getting more and more features of the rule of law-based structure. However, as the following sections will demonstrate – many struggles still existed and needed to be addressed.

Also, the practical implementation of the reformed law was not in all cases successful, when it came to the victims and perpetrators of the repressions, violence and even genocide during the Soviet and Nazi occupations.

Granting Justice for Victims of War, Repressions and Political Violence

The process of honoring and compensating victims in the 1990s was functioning, first of all, by passing the required laws. Lithuania recognised violence committed during Lithuania's occupations, and honored victims of the Soviet Union and Nazi German regimes' leaders, officers and their collaborators. The laws passed granted victims and resistance fighters legal status: "Law of the Republic of Lithuania on the Legal Status of Persons who became Victims of the Occupations of 1939–1990" (Lietuvos Respublikos asmenų, nukentėjusių nuo 1939–1990 metų okupacijų, teisinio statuso įstatymas), adopted 30 June 1997, entered into force on 1 July 1997; b) "Law on the legal status of participants in the resistance to the occupations of the Republic of Lithuania in 1940–1990" (Lietuvos Respublikos pasipriešinimo 1940–1990 metų okupacijoms dalyvių teisinio statuso įstatymas), adopted on 23 January 1997, entered into force on 2 July 1997.

Both laws defined categories and provided definitions of the victims and perpetrators, including the victims of Nazi genocide and Stalinist mass repressions (deportations, sending to the gulag, unfair imprisonment and politically-motivated death sentences). Repressions against anti-Soviet dissidents and other opposition were also included. These categories of people were turned from the "deviants" and "criminals" (as the Soviet legal system defined them) into victims.

According to the law defining legal status of victims and the law defining legal status of resistance and freedom fighters, a person who committed war crimes or violated international humanitarian law during the Soviet and Nazi occupations could not obtain these statuses (that encompassed also a material compensation). This also meant that if a person was fighting against Soviet occupation, but collaborated with the Nazis (or vice versa), he or she could not be granted the status of a hero or victim. These statuses could be granted posthumously as well. (Lietuvos Respublikos asmenų, nukentėjusių

nuo 1939–1990 metų okupacijų, teisinio statuso įstatymas; Lietuvos Respublikos pasipriešinimo 1940–1990 metų okupacijoms dalyvių teisinio statuso įstatymas).

The transitional justice and recognition of the Soviet and Nazi victims was seen as an important issue, as Lithuania was aiming to be incorporated into the Western legal order, and because of the claims for justice by the victims of the former occupying regimes. Former Soviet political prisoners of Lithuania actively participated in post-Soviet debates and claimed their rights and justice. For instance, due to their efforts and protests, in the former KGB headquarters and prison building in Vilnius, the Museum of Occupations and Freedom Fights (formerly the Museum of Genocide Victims) was established in 1992 by the Minister of Culture and Education of the Republic of Lithuania and the President of the Union of Political Prisoners and Exiles. (See more in “Istorija”, on the Genocid website. The signing of international treaties and conventions sped up the process; Žilinskas 2002, pp. 154–155).

Lithuania was also attempting to organise the criminal prosecutions of the perpetrators. A draft of the law “on criminal responsibility for crimes against the residents of Lithuania” was prepared in 1992 (Minutes of the session of the Lithuanian Parliament, 24 March 1992).

It targeted genocide, war crimes, and crimes against humanity. The draft law declared that the crime of genocide was committed in Lithuania by both Nazi Germany and the Soviet Union. It included political and social groups as the victims in the definition of genocide (Lithuanian State Modern Archives, f. 79, inv. 1, c. 7, p. 136).

This act was adopted on 9 April 1992 under a slightly modified title – the “Law on Liability for Genocide of the Lithuanian Residents.” The act entered into force on 15 April 1992 (Lietuvos Respublikos Įstatymas dėl atsakomybės už Lietuvos gyventojų genocidą). It is important to mention that tortures and deportation were defined in this law as forms of genocide. So, the concept of genocide in this law, according to Lithuanian legal scholar Justinas Žilinskas, had a broader meaning than in the UN Genocide Convention (Žilinskas 2002, p. 155).

Later, genocide and other serious crimes defined in the international law were included as delicts in Lithuanian Criminal Code – that was adopted on 26 September 2000, and came into operation on 1 May 2003 (Lietuvos Respublikos Baužiamasis kodeksas).

Another important issue was the restitution of the property lost during the wars and occupations. The process of restitution of property

took place in the 1990s. The majority of the population was affected as all private real estate (buildings, land) had been nationalised already at the beginning of the Soviet occupation. (On the restoration of the ownership rights of citizens to residential houses, see the ruling of the Constitutional Court of Lithuania, Case No. 11-1993/9-1994).

However, the situation with the Jews was different. As the majority of the Lithuanian Jews were killed during the Holocaust, and after the war majority of those who survived emigrated to Israel – most of the survivors were not Lithuanian citizens at the time and could not claim the property rights (“Information of the Foundation for Disposal of Good Will Compensation for the Immovable Property of Jewish Religious Communities” 2023).

The situation needed to be improved. On 21 June 2011, the Lithuanian parliament (Seimas) adopted the law aimed at providing compensation for Jewish private property expropriated by the Nazis and Soviets (Republic of Lithuania Law on Good Will Compensation for the Illegally Expropriated Immovable Property of Lithuanian Jews and Jewish Religious Communities of Lithuania).

However, the implementation of the law did not function properly. Therefore, on 20 December 2022, Seimas approved 37 million euros in compensation for Jewish private property expropriated by the Nazis and Soviets, by passing the amendments to the Law on Good Will Compensation for the Property of Jewish Religious Communities. Under the new amendments, the funds had to be allocated to the Good Will Foundation in permanence. The money was intended to be allocated to these Jews whose private property was seized during the occupations, as well as their heirs. The foundation can allocate 5 million to 10 million euros to meet individual requests for compensation for lost property. The compensations had to be paid for the property that belonged to persons of Jewish ethnicity who lived in Lithuania before or during World War II and that was illegally expropriated during the occupation. The law came into force in January 2023 (“Lithuania to compensate expropriated Jewish private property”, 20 December 2022).

Attempts to bring the perpetrators to justice were crucial to the victims – but difficult in practice. Most of the Soviet and Nazi crimes took place several decades ago – so prosecution of those responsible was complicated. But Lithuania did attempt to prosecute several persons, who were suspected of crimes of genocide, war crimes or crimes against humanity. In these cases, the victims were Lithuanian citizens (both ethnic Lithuanians and of other ethnicity).

When it comes to laws, the already mentioned reformed Soviet criminal code and the "Law on Liability for Genocide of the Lithuanian Residents" of 1992 were used for the criminal prosecution of suspects of genocide, crimes against humanity, and war crimes (Nazi and Soviet). As already mentioned, when it comes to Soviet crimes, the concept of genocide in Lithuanian legislation and courts was understood and interpreted in a broader sense than in the Genocide convention – and this eventually led to difficulties at the European Court of Human Rights (Žilinskas 2002) that we will discuss soon.

In general, there were not very many court cases in Lithuania related to genocide and crimes against humanity. For instance, in the beginning of 2004 courts of first instance had five such cases. In that year they received three new cases, finished five cases in total (of which four finished with a verdict). Five persons received sentences. In 2005 there were only two such cases in courts. In 2007 and 2008 there was not even a single case. In 2009 there were three old cases and thirteen added. Courts managed to resolve nine cases that year in total – and that was one of the busy years ("Lietuvos teismai. Statistika").

Trials of Nazi perpetrators in Lithuania were the real issue. After the declaration of Lithuania's Independence Restoration of 1990, also due to newly-found archival material, multiple deportation proceedings were initiated by the US institutions against Lithuanian nationals. They were suspected by the US authorities of hiding their past involvement in the Holocaust. Some of these persons were deported to Lithuania in the early and mid-1990s, where local prosecutors started to investigate their cases ("Praeitį nuslėpę tautiečiai vejami iš Amerikos", 13 May 2008).

Only two of these cases eventually reached the Lithuanian courts, as investigations of crimes committed by the suspected Nazi collaborators Aleksandras Lileikis and Kazys Gimžauskas started ("Praeitį nuslėpę tautiečiai vejami iš Amerikos", 13 May 2008).

During the Nazi occupation, Gimžauskas (1908–2001) worked for Vilnius District of the Lithuanian Security Police. After an investigation of his activities began in the US, he returned to Lithuania in 1994 and he lost his US citizenship in 1996. In 1997, a criminal case was brought against him in the General Prosecutor's Office of Lithuania: he was accused of crimes of genocide under the abovementioned law. K. Gimžauskas became the first Lithuanian citizen to be found guilty of Holocaust crimes by the Vilnius District Court in 2001; he was exempted from serving the sentence due to old age and poor health (Stankeras, "Gimžauskas Kazimieras").

Aleksandras Lileikis (1907–2000) served as the commander of the Lithuanian Security Police in Vilnius District during the German occupation (1941–1944). In 1996 the United States revoked his citizenship on the grounds that the person had concealed his past. In fact, the US Department of Justice had been investigating the Lileikis case since the 1980s, but it was not until 1990–1991, when Lithuania regained its independence and the archives in Vilnius were opened, that Lileikis' signature was confirmed to be on the documents that said Jews were being handed over to a special squad and had to be killed in Panerai. In 1996, Lileikis left the USA and settled in Vilnius. He was accused of the genocide of Jews and put on trial. The case was actively followed by American Jewish organisations and Israeli officials, as well as representatives of the US Congress. A. Lileikis died in 2000, before the trial was completed. Before his death, he was recognised as unable to participate in his trial due to illness (Vereikis 2004). There were other attempts prosecution, but these were unsuccessful due to lack of evidence – the historical research on Nazi occupation perpetrators in Lithuania is still ongoing.

So the trials of potential Holocaust perpetrators in Lithuania took too long, although attempts were made to secure justice for the victims. One of the problems was that the suspects lived abroad. Another was their old age and the fact that many potential suspects were not alive anymore. The statistics, quoted earlier, of total cases concerning genocide and crimes against humanity in Lithuanian courts demonstrate that there were not that many such cases in general (“Lietuvos teismai. Statistika”). So, the slow and not very efficient prosecution of Nazi perpetrators was rather the rule in Lithuania than the exception – similar trends can be detected in the case of Soviet crimes.

Historical research on these topics also took quite a long time, causing many debates on whether one or another person really could have served the Nazis and committed genocide – or if the documents proving their involvement were in fact authentic (many existing documents in Lithuania originally came from Soviet post-war trials of Nazis). There is still a certain reluctance to publish the already known names of the Holocaust perpetrators, claiming a lack of evidence. For example, in 2016 the Genocide and Resistance Research Center of Lithuania has composed a list of suspected Lithuanians who became Nazi collaborators and were involved in the Holocaust. The list was made using archival data. The General Prosecutor's Office was hoping to use this new information to start pre-trial investigations into the genocide, based on a request of the Lithuanian Jewish community and

the Genocide and Resistance Research Center. However, it turned out that none of the 2039 people on the list were alive (Želnienė 2016).

In regard to the Soviet perpetrators, Lithuanian courts at first struggled to correctly define the crimes committed. They were using a definition of genocide, based on targeting political groups, and these attempts failed. In the *Vasiliauskas v. Lithuania* case (2015), the European Court of Human Rights (ECtHR) found Lithuania in breach of the European Convention on Human Rights, Article 7 (a retroactively applied broadened definition of genocide, embedded in the national law) (see *Case of Vasiliauskas v. Lithuania*, Judgement. Strasbourg, 20 October 2015).

In this case, the Lithuanian Prosecutor's Office in 2001 started an investigation against Vasiliauskas on charges of genocide. In 1953, he participated in an operation by Soviet services against two Lithuanian ex-Soviet partisans, brothers J.A. and A.A., who were hiding in the forests of the Šakiai district. When M.Ž., who was tried together in a criminal case for genocide, provided the Soviet authorities with information about the location of the partisans, an operation to capture or liquidate the partisans was planned. Several soldiers were used to carry out the operation, and Vasiliauskas also participated in it. J.A. and A.A. resisted the attempt to detain them and opened fire on MGB officers and Soviet soldiers. Those returned fire, killing the partisans (*Didžioji kolegija. Byla Vasiliauskas prieš Lietuvą*, p. 5).

In its judgment of 4 February 2004, the Kaunas Regional Court found that there was sufficient evidence to convict the accused of the crime of genocide. So the investigation took 3 years (*Didžioji kolegija. Byla Vasiliauskas prieš Lietuvą*, p. 6).

Kaunas Regional Court convicted the defendant of genocide under Article 99 of the Criminal Code and sentenced him to six years imprisonment. M.Ž. was also convicted as an accomplice in the commission of genocide under the same provision of the Criminal Code. She was sentenced to five years imprisonment. Both were exempted from the sentence due to illness (*Didžioji kolegija. Byla Vasiliauskas prieš Lietuvą*, p. 7).

The Kaunas Regional Court noted that the 1992 Law "On Liability for the Genocide of Lithuanian Residents" provided for the possibility of criminal liability for genocide retroactively. The court of appeal of Lithuania also noted that social and political groups are covered by Article 99 of the Lithuanian Criminal Code that defines genocide. It recognized that such a definition is broader than in the Genocide Convention. But, according to the Lithuanian court, such

an inclusion of additional groups was “justified and reflected reality.” The Lithuanian courts considered that the Genocide Convention does not contain provisions on the possible broad interpretation of the concept of genocide, but also does not prohibit such an interpretation; according to the court, the concept of genocide has also been broadened in the criminal codes of other states (Didžioji kolegija. *Byla Vasiliauskas prieš Lietuvą*, pp. 7–8). It seems that although such interpretation was not received well by the ECtHR, it did fit the Eastern European reality.

However, the courts finally learned how to apply the term “genocide” in more precise way. In the *Drėlingas v. Lithuania* case (2019), the ECtHR found that the Soviet repressions and violence against a targeted national group can be classified as a genocide. In this case the group in point was the members of the Lithuanian armed resistance. The court ruled that the actions of the Soviet repressive structures against resistance members could be classified as a genocide, because partisans represented Lithuanians as a national group – and attempted to protect the continuation of its existence (*Case of Drėlingas v. Lithuania*, Judgement. Strasbourg, 12 March 2019).

Addressing Injustice-Related Issues with Other Nations and Minorities: Attempts at Reconciliation

The recreation of an independent state in Lithuania also meant the end of discriminatory practices towards minorities. But the process was not smooth, either. For instance, some religious minorities, which suffered under the Soviet law, were finally recognised – but others feel discriminated against even until today (Ališauskienė, 2023).

Lithuania’s policy towards national minorities in some cases was crucially important – and the failure of such a policy could mean a failure of international relations. This is particularly true in respect to the Polish and Jewish minorities regarding Poland and Israel. In both cases Lithuania’s situation was complicated due to historical reasons. Interwar conflict with Poland and tragic loss of almost all of the Lithuanian Jewish population during the Holocaust with the assistance of local collaborators.

However, Lithuania’s case was different from Latvia and Estonia. Lithuania during the Soviet period did not have a large Russian minority, and therefore did not perceive Russian nationals as a threat

to national security. Differently than in Latvia and Estonia, Russians living in Lithuania during the process of liberation were granted citizenship with no conditions attached.

In the case of Polish and Jewish minorities, the issues were, as mentioned, connected to historical traumas and the process of reconciliation.

The interwar conflict with Poland did not become a political problem in the late 1980s and early 1990s as a result of efforts from both sides to move on from the painful past. Already during the Cold War, some Polish and Lithuanian intellectuals – such as Polish émigré activists Juliusz Mieroszewski, Jerzy Giedroyc and Lithuanian dissident, writer and member of the Lithuanian Helsinki group, Tomas Venclova, who was inspired by the Polish example – promoted the idea of peaceful coexistence between Lithuania, Poland, Belarus and Ukraine when their communist regimes would fail (Sirutavičius 2017; 2022).

Also, members of the “Solidarność” Trade Union supported the Lithuanian struggle for freedom. Pope John Paul II was a great inspiration, leading to mutual forgiveness. The role of this Pope was very important in Lithuania – a country where Catholics form the majority of the population. In 1994 the Pope visited Lithuania, and in his speeches encouraged both Lithuanians and local Lithuanian Poles to reconcile. Politicians and diplomats from both sides also made efforts for Polish-Lithuanian reconciliation. Finally, in 1994, the state treaty was signed expressing mutual friendship, good neighborhood and respect for each other’s borders (Sirutavičius 1997, p. 346).

It was a great achievement that the memory of the Polish-Lithuanian Interwar conflict did not define the international relations of these countries in the 1990s. This painful past could not be further exploited by such currently hostile countries as Russia, which has been putting in efforts to abuse such memory in their narratives, so supporting their current aggression and hybrid warfare (Chivvis 2017).

So, Lithuanian and Polish reconciliation can be considered a real success story. Today it is considered a great achievement and an example for post-conflict societies. However, not everything was perfect as some tensions have existed and still exist.

These tensions with Poland lasted for many years, and were related to Lithuania’s unwillingness to allow the use of Polish spelling in official documents and geographic names. Here, first of all, it should be mentioned Lithuania’s state policy not to allow the original spelling of the names of persons who belong to national minorities – affecting, most of all, the Polish minority in Lithuania. The debates if it is a good idea

to give in to Polish requests, lasted for decades. Finally, on 18 January 2022 the Lithuanian parliament adopted a law on spelling of surnames in identity and civil-status documents. According to the law, documents confirming the identity of Lithuanian citizens will be spelled using the Latin alphabet. It means that the characters “q”, “x”, “w” as well as the digraphs “cz”, “sz” and “nn” may be used. However, the use of diacritical marks from other languages was not allowed – for example, letters such as “ł”, “ć” (from Polish) will not be used (Chmielewski 2022).

According to the Polish Centre for Eastern Studies (OSW), “The adopted law does not include Polish diacritics, thus it does not fully meet the expectations of Lithuanian Poles. At the same time, however, it marks a significant change in the approach of the authorities to the postulates of, among others, the Polish minority and may positively influence the atmosphere of the mutual relations” (Chmielewski 2022).

In the case of the Jewish minority, the process of reconciliation was more complicated – mostly due to Lithuania’s reluctance to admit that some ethnic Lithuanians willingly took part in the Holocaust. The role of Lithuanian collaborators in the Holocaust was an issue in the 1990s, and it still is today. Also, the status of those who rescued Jews needed to be recognised – it was done only in June 2014, when the Seimas adopted amendments to the Law on the Legal Status of Participants in the Resistance to the Occupations of 1940–1990 (project No. XIP-1968(4), which equated the rescuers of Jews during the Holocaust with participants in the fight for freedom (“Žydų Gelbėtojai prilyginti Laisvės Kovų Dalyviams”, 17 June 2014).

There were reconciliation efforts. Lithuanian president Algirdas Brazauskas travelled to Israel to apologise to the Jewish nation for the Lithuanians who participated in the Holocaust. Such a diplomatic action opened a door for warming the relationship between Lithuania and Israel. Lithuania also introduced a program to grant a national award to those Lithuanian citizens who rescued Jews.

But state’s honors after the declaration of Lithuania’s independence were given to some members of the Lithuanian armed anti-Soviet resistance without precise vetting. Only later, historians established that some Lithuanian resistance members had their role in Holocaust. For example, in 2014 the Genocide and Resistance Research Centre of Lithuania published the evidence that partisan Juozas Krištaponis, who was awarded legal status of Resistance Fighter in 1997, was involved in the Holocaust and responsible for killing Jews in the territory of Belarus (Dėl Juozo Krikštonio (Krištaponio) veiklos nacių okupacijos metais, 19 December 2014). The exact number of Lithuanian anti-

Soviet resistance fighters involved in the Holocaust is not clear even today – as well as names of many perpetrators (Noreika 2020).

As we already mentioned, attempts to obtain and publish such data were made. The Genocide and Resistance Research Center has created a list of suspected Lithuanian Holocaust perpetrators (Želnienė 2016). However, the list has still not been published.

Publishing Data on Repressions and Perpetrators, Sanctions, Education and Remembrance

The historical debates – such as the one about the role of Lithuanians involvement in the Holocaust and other crimes – are still ongoing. These debates trigger the memory conflicts and “monument wars.” Some local communities resist the idea of removing the monuments of Lithuanian collaborators with Nazi or Soviet regimes – justifying such reluctance with the lack of historical data about the activities of certain persons and with different interpretations of historical phenomena (Pumprickaitė 2015; “Klausiate – atsakome. Kuo nusikalto S. Nėris?” 8 September 2015).

So, in Lithuania the question remains, for instance, what to do with the monuments of anti-Soviet resistance fighters who were allegedly associated with crimes of genocide or others, such as war crimes against civilians. The other issue is collaboration with the Soviet regime. Even today it is not finally clear how to interpret the actions of great Lithuanian poets and other artists who were also Soviet collaborators.

Here it is worth mentioning that public demonstration of Soviet and Nazi symbols is banned in Lithuania by the Code of Administrative Offences in 2008 (188-18 straipsnis. Nacistinių ar komunistinių simbolių platinimas ar demonstravimas).

Many issues related to the material and symbolic heritage of totalitarian regimes (including monuments, street names, other practices of memorialisation and heroisation) still need to be resolved. The so-called “law of de-Sovietisation” is attempting to achieve these goals. This law, officially called “Law of the Republic of Lithuania on the Prohibition of Propagation of Totalitarian, Authoritarian Regimes and Their Ideologies” was adopted in 2022 (Lietuvos Respublikos draudimo propaguoti totalitarinius, autoritarinius režimus ir jų ideologijas įstatymas). This legislation was intended to force the removal

of Soviet-era monuments and streets in the country (“Lithuania passes ‘desovietisation law,’” 13 December 2022) – although, according to the law, the same applies to the monuments and street names of the Nazi-regime collaborators as well (Lietuvos Respublikos draudimo propaguoti totalitarinius, autoritarinius režimus ir jų ideologijas įstatymas).

I should also discuss the process of lustration. In comparative studies of post-communist countries, Lithuania was usually seen as one of the countries that have taken the strictest lustration measures. But in the local mass media discourse, an exclusively negative attitude towards the implementation of the lustration policy in Lithuania can be seen. According to the researchers, the truth lies somewhere in between: some part of the lustration in Lithuania could be seen as a success story, some – as a failure (Ravaitytė 2014, pp. 6–42).

The law was strict with regular (“cadre”) employees of the Soviet repressive apparatus. “Law of the Republic of Lithuania on the assessment of the State Security Committee of the USSR (NKVD, NKGB, MGB, KGB) and the current activities of the staff of this organisation” (adopted on 16 July 1998, entered into force on 1 January 1999) has regulated that “the State Security Committee of the USSR (NKVD, NKGB, MGB, KGB)” was “recognised as a criminal organisation that committed war crimes, genocide, repression, terror and political persecution in the USSR-occupied Republic of Lithuania.” For 10 years from the entry of this law into force, restrictions were applied to the former personnel – they were not allowed to work in the Republic of Lithuania as state officials or employees in government, municipalities, national defense institutions, the State Security Department, the police, the prosecutor’s office, courts, the diplomatic service, customs, the State Audit Office and other state institutions of control and supervision. They also could not take a job as lawyers and notaries, work in banks and other credit institutions, strategic economic facilities, security and detective services, communication systems, educational institutions as pedagogues, tutors, or managers of these institutions, and hold any duties related to the possession of a weapon (Lietuvos Respublikos įstatymas dėl SSRS valstybės saugumo komiteto (NKVD, NKGB, MGB, KGB) vertinimo ir šios organizacijos kadrių darbuotojų dabartinės veiklos).

However, the controversy happened with the secret informers of the Soviet repressive system and with the reserve personnel. The “Law of the Republic of Lithuania on registration, confession, crediting and protection of persons who secretly cooperated with the special services of the former USSR,” adopted on 23 November 1999, in

force from 1 January 2000, regulated that “persons who cooperated with the special services of the USSR must come to register at the so-called ‘lustration commission’ within 6 months from the date of acceptance of law”, its registration and publication. They were required to “voluntarily admit in writing to the State of Lithuania that they have secretly cooperated with the former activities of the special services of the USSR.” In this case, the law ruled that “the information and data provided by registered and credited persons are classified and stored in accordance with the established procedure.” (Lietuvos Respublikos asmenų, slapta bendradarbiavusių su buvusios SSRS specialiosiomis tarnybomis, registracijos, prisipažinimo, įskaitos ir prisipažinusiųjų apsaugos įstatymas).

So, if the secret informer admitted ties with KGB and confessed to the state – the information of his or her activities became secret. Such situation limited victim’s rights to get information about their perpetrators. The society also lost the right to full archival information – even former repression institutions’ archival documents, except that the names of the confessed people are available to general public and are published at the special website since 2010 (“KGB Veikla”). Therefore, the lustration was criticised by victims’ organisations, such as the unions of former deportees and political prisoners (“Stringantis KGB archyvų viešinimas”, p. 3).

Until today, there lingers a lack of clarity about the number and fate of particular former KGB employees and secret informers. According to historians Arūnas Streikus and Kristina Burinskaitė, there were several thousand new secret informers recruited every year, but most of them remained rather passive – they just signed the agreement, for instance, in order to be able to travel abroad (Jurčenkaitė 2023). Also, the level of damage done by the secret informers was very different: from almost none or minimal to severe (Jarusevičius 2023).

In 2023 the number of confessed KGB secret informers in Lithuania was 1589 (Jarusevičius 2023). It is speculated that about 1000 secret informers did not confess to the commission (“Svarbus pokalbis. Knygos apie KGB agentus autorė Burinskaitė: Lietuvoje šiuo metu gali būti apie tūkstantį neprisipažinusių agentų” 2023).

Unfortunately, the numbers of KGB informers and officers who were subject to any sanctions are not available.

Even the specific already-mentioned website on KGB activities does not list the numbers of such KGB employees, although biographies on this organisation’s leadership are available (LSSR KGB vadovų ir pavaduotojų biografijos, “KGB Veikla”).

Conclusions

The Lithuanian process of transitional justice overall can be termed a success story – but it had some problems.

The regaining of political independence from Moscow was successful, but the cost of it was paid by the victims of January 1991. The attempts to honour the victims of political violence and genocide were made in both the legal and political sphere. The January events trials can be seen, also, from the standpoint of symbolic justice. It was a way to name the crime of aggression towards Lithuania in legal terms.

Restored relationships and friendship with Poland and Israel, as well as the attempts to protect the rights of local minorities are also parts of the success story.

The problem was and still is a lack of justice – actual and symbolic – towards the victims of both Nazi and Soviet collaborators from Lithuania. The process of lustration did not go as smoothly as expected. Also, the number of crimes of genocide and crimes against humanity taken to the courts was low – first of all, due to the old age of the perpetrators. And even when they were sentenced, serving a prison sentence was rather an exception – because, due to their poor health conditions, even convicted criminals could be released.

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