Deportations, Extraditions and the Absence of Swedish Legal Proceedings Against Perpetrators of International Crimes in the Second World War

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1 The Legal Setting

Before and during the Second World War, legal proceedings against non-Swedish citizens for war crimes were precluded in Sweden (except, theoretically, if said crimes had been part of a Swedish military campaign). Existing law precluded proceedings against aliens as long as the crimes had not been perpetrated in Sweden or against Swedish interests. This followed from the Penal Code (of 1864), which stipulated that aliens could only be prosecuted for crimes perpetrated beyond Swedish borders if they had taken place on a Swedish vessel or, if the Swedish Government granted authorisation, against a Swedish national or other relevant Swedish interest. Swedish nationals on the other hand could be prosecuted also for "other crimes perpetrated outside the Realm", but only after Cabinet authorisation.[1] The reason why aliens could not be prosecuted was that when the law was conceptualised, Sweden did not have formal extradition rules. When the Government discovered an alien person on Swedish soil suspected of crimes perpetrated outside Sweden it could in most cases simply extradite the person after a simple Government decision and therefore had no reason to take on the costs for investigation and prosecution itself. During the second half of the nineteenth century, however, the network of bilateral extradition treaties grew progressively tighter and national extradition laws were adopted in most European states, such as Belgium 1833, Switzerland 1892 and Norway 1908. The Swedish Extradition for Criminal Offences Act was adopted in 1913 and like all the others it limited the possibilities of extradition, but at that point nobody seems to have worried over the resulting lacuna.[2] This was in turn a result of the idea that the Extradition Act should only protect people who had perpetrated "political" crimes that were not considered as crimes in Sweden. In preparation for the 1913 Extradition for Criminal Offences Act, envoy Albert Ehrensvärd made an inquiry in 1912 that highlighted among other things the advantages of making it possible for the government to refer a case to the Supreme Court for mandatory judicial proceedings. This suggestion was subsequently adopted and constitutes the most important change in the law (before that, access to judicial proceedings in extradition cases had not been regulated at all). Like Switzerland, Sweden chose a model where the Supreme Court was given the possibility to rule an extradition request inadmissible, but if it did not, it still was the government (in Cabinet meeting) that made the final decision. In that way, the Swedish law was a compromise between the earlier system and the practice that had been introduced in the Anglo-Saxon countries,

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1 Swedish Penal Code (1864) Ch. 1, paras 1-2. The possibility to prosecute nationalised aliens for crimes perpetrated before nationalisation had been considered by the Government Legal Committee (lagkommittén), but had never been effectuated (see Carlén, Richard, *Kommentar till Strafflagen*, Stockholm: P. A. Norstedts & Söner, 1866, p.10). The rules that regulated jurisdiction were consequently not part of the procedural law, but were placed in the introduction of the Penal Law (that had replaced the Law of the Swedish Realm from 1734). Consequently, the jurisdiction rules were part of the material law, that is, the definition of what is a crime, rather than an administrative regulation of the competence of Swedish courts. See also Deland, Mats, *Purgatorium, Sverige och andra världskrigets förbrytare*, Stockholm: Atlas förlag, 2010, pp. 196-216; 350-357.

2 In the government bill submitted to the parliament it was argued that "a loophole, that would result in the crime going unpunished, will not emerge". See Bill. 1913:50 *med förslag till lag angående utlämning av förbrytare samt till lag om ändring i 1 kap. strafflagen*, p. 28.

where the whole process was judicial. It was also stipulated that cases to be tried in Sweden should be decided on a case-by-case basis; consideration should be given to whether the crime perpetrated was to be considered as directed against the power of the state (absolute-political) or if there was a large enough ratio of ordinary crime which could still motivate the extradition of the person (relative-political).[3] The complex of problems was discussed anew by the Penal Code Commission of 1923. In its report, it proposed that with government authorisation it should also be possible to prosecute nationalised aliens who had committed crimes in other countries, in the same way as if they had been Swedish nationals when the crime was committed. Furthermore, the commission proposed that universal jurisdiction should be used in cases when extradition was not possible "because of war or other impediments".[4] However, none of these proposals were adopted. There was also another possible remedy, namely, the possibility to use administrative decisions (expulsion or voluntary or involuntary deportation) through the use of the Aliens Act of 1914. This act was provisional from the outset, but it was revised and renewed through government decrees in 1927 and 1937 and on a yearly basis during the war years. From the outset it had an approach to political crimes that was reminiscent of the Extradition Act, but following the revision of 1937 the necessary condition for blocking extradition, against the background of the rise of the totalitarian states, was changed from political crime to risk of political persecution. The Aliens Act could either be used to avoid extradition cases becoming a reality completely, or also to dispose of, or temporarily detain, those persons who it had not been possible to extradite (a refused extradition did not mean that the person received a residence permit).[5]

2 Swedish Deportations and Extraditions in the War Years and After

In order to illustrate the legal background, cases that were dealt with through the formal rules of extradition (Act of 1913) as well as cases dealing with expulsion/deportation (Act of 1914, renewed 1937 and forthwith) will be demonstrated. The two bodies of law supplemented each other: deportation was the administrative way, completely in the hands of the government, while extradition presupposed a judicial cooperation that both demanded some kind of friendly relations with the receiving country and added a judicial stage before the action of the government that could rescue the government from sensitive situations, while at the same time it introduced an element of insecurity, considering that the court decision could not be foreseen. Östen Undén, the

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3 For an exhaustive discussion, see Hammar, Tomas, *Sverige åt svenskarna. Invandringspolitik, utlänningskontroll och asylrätt 1900-1932*, Stockholm: Allmänna förlaget, 1964, pp. 119-133; SFS 1913:68 para. 7 and 11.

4 *SOU 1923:9 Förslag till strafflag, allmänna delen, samt förslag till lag angående villkorlig frigivning jämte motiv*, pp 79-80.

5 Only in the Swedish Act of Extradition from 1957, which built on a European convention and the conventions that had been adopted by the UN General Assembly, a rule was introduced that also covered the risk for a more generally defined political persecution, see SFS 1957:668 para. 7 (and a ban against extradition when there was a risk of capital punishment, see para. 12, mom. 3).

special advisor in international law at the Ministry for Foreign Affairs (appointed Minister for Foreign Affairs after the war), wrote as early as 1943 that the most convenient solution would be to get rid of the sensitive cases before they became subjects of extradition requests, but in the early post-war world this was complicated by the fact that all other countries had promised to help each other in the search for the most culpable criminals (to which Sweden had assented unofficially). Except for a couple of South American countries and the right-wing dictatorship in Spain there was simply nowhere to deport to if the deportation should not, de facto, also become an extradition (where the person is handed over to the police in the receiving country).[6] Only when becoming a member of the United Nations in November 1946 did Sweden officially accept a general responsibility to take part in the legal proceedings against war criminals (and the like). As a practical matter, these types of crimes were mostly dealt with as ordinary crimes.[7] For the handling of suspected criminals three countries received special treatment after the Second World War: Germany, or rather the occupation regime that was created by the allies after the end of the war, Denmark and Norway. In these three cases, suspected criminals were deported according to the Aliens Act, with the use of involuntary deportation (para. 25 if the decision was taken by the Aliens Board, para. 37 if it was taken by the Cabinet). Concerning Denmark and Norway, some legal discussion ensued, concerning the exceptional regulations (including capital punishment) that both countries had introduced during or shortly after the occupation. However, the prevalent view at the time was that both legal systems could be considered as sufficiently stable. Hundreds of people were deported to Denmark and Norway, suspected of participating in different kinds of collaboration and service in the German armed forces. Most of them were also prosecuted for various crimes, including atrocities during guard duties at the POW-camps in northern Norway. The most interesting cases, however, concerned people who had been part of auxiliary groups under the command of Sicherheitsdienst (SD), such as what was known in Norway as the "Rinnan Band" (formally SD Sonderabteilung Lola) and the Peter Group (Denmark, also known as the Brøndum band), a large number of whose members received death sentences and

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6 Memorial conc. Asylum Rights in Sweden for s-c. war criminals, Östen Undén 25 October 1943, Utrikesdepartementets arkiv R 68 K, Swedish National Archives (RA). See also Deland, 2010, pp. 205-216.

7 Resolution, General Assembly of the United Nations 3 (I) of 13 February 1946. On the Swedish discussion about these commitments, Memorandum from the embassy in London 25 February 1946 and Report from the UN Representation in New York to the Ministry for Foreign Affairs 8 November 1947, R 70 Ep, Archive of the Ministry for Foreign Affairs (kept in-house). In the UN Resolution it was pointed out that requests for extradition should be made without delay. Art. 16 in the "London Statute", that was the Foundation of the IMT in Nuremberg in 1945-46 and that was appended to the Resolution, pointed out that "[t]he Indictment shall include full particulars specifying in detail the charges against the Defendants", which was a less clear formulation than the one to be found in the Swedish Act of Extradition (para. 8), which asked for no less than a detention order from a (regular) court. The extradition matters are consequently a good starting point for an assessment of the legal state of affairs before Sweden started to prosecute war criminals itself in the 2000s. The demand for what was usually called prima facie-evidence was of course also a way to avoid the hunt for war criminals being used for forced repatriations of mostly Soviet and Yugoslav nationals. When assenting to the Resolution, Sweden pointed out that the Swedish Aliens Law still would be used (implicitly including bilateral treaties).

were executed shortly after the war. The Rinnan Band was part of the German counter espionage network and perpetrated thousands of cases of torture and several murders in the Trondheim area while the Peter Group conducted "counter terror" to deter assassinations of informers perpetrated by the Danish resistance movement, mostly in Copenhagen.

2.1 Norway

One of the cases, a Norwegian man (b. 1914) who had been apprehended for other crimes but afterwards discovered to be on the Norwegian warrant lists, was solved simply by letting him, at his own request, have a private conversation with representatives of the Norwegian diplomatic legation and then voluntarily travel to Norway as soon as his prison time in Sweden was complete. He was later sentenced to five years hard labour.[8] In another case, a person born in 1915 lived clandestinely in Sweden between 1945 and 1948. When travelling to Copenhagen he was apprehended there and extradited to Norway where he also was sentenced to five years hard labour (pardoned in 1950).[9]

2.2 Denmark

In June 1946 a Danish man (b. 1920) escaped to Sweden from Copenhagen and lived clandestinely with the help of Swedish Nazis. By request of the Danish police he was apprehended in October 1947, suspected of, among other things, the murder of the artist Kaj Munk and other members of the resistance movement. The fact that he was in Sweden without permission made an extradition procedure unnecessary. After a decision by the Aliens Board on November 18, 1947 he was handed over to Danish police on November 27, 1947. The fact that he had been deported pursuant to the Aliens Act also meant that the Danish judicial authorities were not restricted in how they handled the case going forward – an important fact considering that the people who had testified against him had been executed in May of the same year. In January 1949, he was sentenced to life for four murders (though not the murder of Munk) and his part in a number of attacks.[10]

It is interesting to compare the case mentioned above with the handling of a Danish man (b. 1921), who had also been a member of the Peter Group. After hiding in Copenhagen for a while, in May 1946 the man had moved to Sweden, where he went into hiding in Stockholm with the intent of continuing on to Argentina. He was arrested in June 1947. This man was born in Copenhagen to Swedish parents and had never tried to acquire Swedish citizenship. Consequently, he was Danish, but the nationality issue still caused some discussion since he had acquired a change of residence certificate from a partisan

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8 Hd 981/44, Archive of the Swedish Security Service (SÄPO), RA.

9 See Steinacher, Gerald, Immo Rebitschek, Mats Deland, Sabina Ferhadbegivic & Frank Seberechts, "Prosecutions and Trajectories after 1945", in Böhler, Jochen & Gerwarth, Robert (eds.), *The Waffen-SS: A European History*, Oxford: Oxford University Press, 2017, p. 298.

10 P 5727, Archive of the Swedish Security Police (SÄPO), RA.

priest stating he was of Swedish nationality. As a Swedish citizen he could not be extradited to Denmark nor prosecuted for treason in a Danish court. This case became the only one with a connection to war crimes during the Second World War where the Act of Extradition was used between Sweden and a Scandinavian country. The legal proceedings began with an interview in the Stockholm magistrates court, where the question of nationality was resolved. The Supreme Court therefore decided that an extradition could take place according to the existing extradition treaty between Sweden and Denmark from 1913. The extradition was granted with a caveat, namely that a distinction be drawn between the man's "ordinary" and "political" crimes. The fact that he had served in the German forces was considered as an act of treason according to post-war Danish law, but in the eyes of the Swedish authorities this would be considered a political crime. According to an extradition decision, the Danish court could only convict him for the attacks as ordinary crimes, and this also meant that an incident that the Danes considered as attempted murder (the victim could not be found at the time of the attack) was also ruled out by the Swedish court. On October 24, 1947 the Cabinet decided to extradite the man, which also came to pass on November 18, 1947. At the time, it was noted that the extradition appeared as a deportation since the Swedish police escorted the person all the way to Danish soil.[11]

2.3 Yugoslavia

A matter of principle in the discussion about the relationship between involuntary deportation and extradition arose in connection with a Yugoslav request for the extradition of four guards at the POW camps in northern Norway, who had escaped to Sweden.[12] The four men were former prisoners who had been recruited by the Germans and had then been involved in atrocities against their co-prisoners. On 15 February 1946, their extradition was requested by Yugoslavia, which during the war had changed from a monarchy dictatorship to a communist dictatorship. This case was delivered to the Aliens Board – Gösta Engzell, head of the Foreign Office Legal Department, explained to the Yugoslav Ambassador that the authorities "wanted to regulate the issue through administrative proceedings since difficulties always could occur, if the courts would decide the matter".[13] When the group – now for unknown reasons limited to three people – was questioned by the Aliens Board it underlined the differences between extradition and deportation. The Board argued that since the three men had not by their own actions made themselves undesirable in Sweden, but were wanted for acts perpetrated outside the country, according to the rules of jurisdiction, a deportation could not come into consideration. The board

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[11] HA 555/47; P 4884, Archive of the Swedish Security Police (SÄPO), RA; Justiedepartementets arkiv, AIa 24 October 1947, para. 58, RA.

[12] On these camps, see Dulić, Tomislav, *"De plågade oss som om de ville döda oss". Jugoslaviska fångar i Norge under andra världskriget i ljuset av nytt källmaterial*, Historisk Tidskrift (S), vol. 131, no. 5, pp. 745-771.

[13] Engzell to the State Aliens Board 7 March, 1946, Secret Diary 1204, Archive of the Department of Justice, RA.

decided to approve deportation with impediments to enforcement, but one of the members expressed a reservation calling for the use of extradition instead. That would, however, have presupposed that the Yugoslav authorities would have delivered a formal request meeting the prescribed requirements, but that was not the case and never happened.[14]

2.4 The Soviet Union

A similar case, but of larger dimensions, arose a couple of years later when the Soviet Union presented a long list – 556 names – of suspected war criminals primarily from Latvia and Estonia. Some of these had already been secretly investigated by the Swedish police. The majority of the persons mentioned were however ordinary refugees with a background as volunteers in the Finnish army. In contrast to the Latvian and Estonian Waffen-SS volunteers and conscripts who had fled to Sweden in May 1945 and who were later surrendered to the Soviet Union, these suspected war criminals had not arrived during the last nine days of the war and therefore they were classified as civilian refugees, regardless of whether they came in uniforms or not.[15] Also, in this case the request lacked the formal requirements needed for a legal procedure to start, and nothing happened in this regard.[16] It is plausible that the Soviet Union at that point prioritised friendly relations with Sweden over an upsetting conflict over Swedish confidence in the Soviet judicial system, and that this was a similar assessment as that made by the Yugoslav government in the case mentioned above. In another book I discuss the fact that this meant that Sweden became a refuge for a very large number of people who may be suspected of very grave breaches of international law – including partaking in the Holocaust.[17]

2.5 Finland

For a long while Swedish relations with Finland were characterised by worries about Soviet influence over the judicial system and how it was influenced by the terms of the peace treaty with the Soviet Union and the United Kingdom. A number of prominent persons, foremost from the administration of the Finnish camps for interment of segments of the civilian population in occupied areas and the part of the Finnish State Police (Valpo) concerned with security investigations, managed to get to South America through Sweden, more or less with the assistance of Swedish authorities.[18] However, there were also cases where the Finnish judicial system requested extradition of persons that were suspected for war crimes in the form of murder, manslaughter and other

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14 Statens utlänningskommission till Kungl. Maj:t 24 May 1946, Secret diary 1204, Archive of the Department of Justice, RA.

15 I deal with these events in Deland, 2010, pp. 283-285.

16 Foreign Office to the Soviet Embassy 19 September 1949, R 70 Er, Archive of the Foreign Office (kept in-house).

17 Deland, 2010; Mats Deland, *Purgatorium: Appendix*, Stockholm: Atlas förlag 2017.

18 See Deland, 2017, pp. 30-36.

atrocities against Soviet POWs. The first request arrived on October 23, 1945 and concerned a staff officer (b. 1916) who was mainly wanted as a witness against his superior officer, a general who had overall responsibility for the Finnish POW camps. The staff officer had been apprehended on October 6, 1945 and was kept in the city jail in Falun, central Sweden. The concern about the political developments in Finland was confirmed by a request on November 7, 1945 when the Aliens Board asked the Foreign Office for information on the Finnish judicial system. The decision in the Supreme Court did not arrive until February 12, 1946, and was followed by a Cabinet decision on March 1, 1946 to extradite the officer, and this decision was carried out on March 16.[19] On December 18, 1946 the staff officer was sentenced to 12 years hard labour (*tukthus*) for more than 30 cases of murder. The extradition made a deportation order that had already been decided irrelevant.[20] The following extradition requests of altogether six people were all handled according to a pre-war bilateral extradition treaty that had lower standards for required evidence than the Act of Extradition. The law required evidence of probable cause, while the treaty only required a request from the prosecutor (para. 7). This probably had consequences for a couple of the cases, where the Attorney General had objected that the executions that had taken place in and around the Finnish POW camps could be equivalent to the practice of summary courts that existed in the Swedish and Finnish armed forces in war-time, a comment that might have stopped some of the extraditions.[21] However, Sweden never refused an extradition to Finland.

2.6 Poland

More or less at the same time as the Finnish requests, there were also a number of requests from Poland, which had not yet become a communist dictatorship although the Soviet-led security police had a strong influence. These cases demonstrate a number of important aspects of the judicial handling from the Swedish side and will be explained at some length. The first detention request came in a verbal note to the Ministry for Foreign Affairs on June 6, 1946, only to be specified further 4 September the same year. The note concerned a Polish woman born 1916 who had come to Sweden with the UNRRA-transports from occupied Germany and was now suspected of being a "*Blockälteste*". This means that she, herself a prisoner, in spring 1945 had been appointed as the supervisor for a barrack in the concentration camp Bergen-Belsen. The Polish authorities invoked the still existing bilateral extradition treaty from 1930, and the final

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[19] Högsta domstolen protokoll 12 February 1946, para. 2 in Archive of the Department of Justice AIa 1 March 1946, para. 68, RA.

[20] Details about the further development are kept under Archive of the Department of Justice AIa 1 March 1946, para. 68, RA. An order for involuntary deportation had been decided 17 September 1945. Another six Finnish persons were during the following years extradited for murders of POWs and similar atrocities, see Archive of the Department of Justice 27 September 1946, para. 74; 8 November 1946, para. 64; 4 July 1947, para. 68; 1 August 1947, paras. 37-39, RA.

[21] See Justitiekanslern 8 May 1947, in Archive of the Department of Justice AIa 1 August 1947, para. 37 and Justitiekanslern 21 May 1947 in Archive of the Department of Justice AIa 1 August 1947, para. 39, RA. In both cases, the Supreme Court ignored the objections.

request for extradition was filed on October 24, 1946. The woman and a number of witnesses were interrogated in Malmö Magistrates' Court and on December 23, 1946 the Supreme Court decided to deny the request for extradition since the alleged cases of beating that she had committed in her service could, according to Swedish law, only be punished with a prison sentence while it was a legal requirement for extradition that the sentence could also include hard labour which was not available in relation to the case at hand. This decision came after the court had decided to use the extradition law instead of the treaty, which had less stringent demands. The Cabinet followed the decision of the court.[22] After this case, it took three years before two new Polish cases appeared which had many similarities in how they were handled. The case that first appeared concerned a woman (b. 1921) who was accused of having been a Gestapo informer. In this case, the Attorney General raised the question of whether the woman's actions (informing the police about certain individuals) could be considered as a political crime according to the Act of Extradition. In the end, the request was denied since in the meantime the woman had married a Swedish man and consequently, according to Swedish law at the time, had become a Swedish national. Some concern was raised about the fact that the marriage had been entered into after the first, incomplete Polish request but before the second, correctly formulated request that followed.[23] But although this obstacle was conclusive for stopping the extradition, the Attorney General had in an earlier stage of the proceedings, in a memorandum from August 26, 1948, spoken against the requested extradition with the motivation that the actions were to be considered as political, and consequently as grounds for asylum. It is true that the actions of the woman were not political in the usual sense, that is, directed against the state, but the Attorney General argued that it had to be taken into consideration that there was no doubt that the actions described had been determined by the current state of affairs in Poland and the peculiar political circumstances at hand. Nothing of what has been argued in the matter supports the idea that the actions would have been undertaken during normal circumstances. Consequently, there is a tangible connection between the actions and the prevailing political circumstances at the time. This can only be interpreted as the Attorney General arguing that since the woman would not have informed the Gestapo about her fellow Poles if Germany had not previously invaded Poland, which changed the political circumstances, her actions should be considered as political and consequently as grounds for asylum. The argument was strengthened by a reference to a settlement reached earlier between the Scandinavian countries, where it was decided that traitors on the run would be tracked down in all countries, although laws were used that were the result of the peculiar circumstances during and after the German occupation; in other words, Sweden had concurred that actions during German occupation had a political character but had decided to help its Scandinavian neighbours out anyway. However, it did not have the same kind of settlement with Poland.[24]

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[22] Archive of the Department of Justice AIa 30 December 1946, para. 154, RA. The Supreme Court invoked paras. 4 and 8 in the Act of Extradition of 1913.

[23] Archive of the Department of Justice AIa 4 November 1949, para. 12, RA.

[24] Justitiekanslerns yttrande 26 October 1948, in Archive of the Department of Justice AIa 4 November 1949, para. 12, Documents in Secret Diary 1277, RA.

This way of reasoning became even more important in another case that concerned a man (b. 1922), who was accused by the Polish authorities of informing and helping the German forces during the closing of the Jewish "ghetto" in Debica, east of Krakow, in 1942.[25] The request for extradition was turned down by the Cabinet whose decision on February 10, 1950 coincided with that of the Supreme Court who had decided that the crimes that the man was accused of were not serious enough for extradition.[26] The Polish request had been reinforced by a number of witness statements from Polish courts, that could hardly be counterbalanced by the stream of pleas from individuals and voluntary societies – also Jewish societies – that simultaneously tried to argue in the man's interest. However, also in this case, the Attorney General argued that the situation was innately political and also included coercion on behalf of the German authorities. The decision to deny the request meant that after three requests none of the accused were handed over to Poland.[27]

2.7 Federal Republic of Germany

After these requests, it took eight years before extradition became an issue again, this time concerning a citizen of West Germany (FRG). Directly after the war both military men and women and many civilians from Germany had, as mentioned, been deported directly either to the British occupation zone or to the Soviet Union. Twelve years later the conditions had been normalised and instead of occupation zones, there were two German states. The last extradition relating to the Second Word War that was implemented concerned a person (b. 1906) who had come to Sweden from the FRG in 1951 as a labour migrant, and who had a family with three children in Sweden. In 1957, the man became a subject of interest in connection with the first large scale West German war criminal trial and he was interrogated in Gothenburg as part of international legal assistance in April, the same year. It was clear from the outset that he was suspected of partaking in mass executions in southern Lithuania directly after the German invasion on June 22, 1941. Around the time of the request, Sweden was preparing the shift to the new Extradition Act of 1957 and earlier, on April 9, 1954, Sweden had cancelled the bilateral Extradition Treaty with Germany that, according to Swedish authorities, had been in force uninterrupted since 1878 (Sweden never accepted the Allied Control Council as the Government of occupied Germany 1945-1949). However, the new law was not yet in force, and therefore, the law from 1913 had to be used. According to the West German view the Genocide Convention was also applicable (ratified by Sweden in 1951).[28] The Swedish authorities agreed. In a memorandum from the new Head of the Legal Department of the Ministry for Foreign Affairs, Love Kellberg, dated August 26, 1957, the refused requests from Poland almost ten years earlier were discussed, and it was argued that this request was of a different kind than those

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25 Archive of the Department of Justice, AIa 18 November 1949, para. 11, RA.

26 Archive of the Department of Justice, AIa 10 February 1950, para. 8, Act 1709/49, RA.

27 ibid.

28 Erster Staatsanwalt Schüle at the Oberlandsgericht Stuttgart to Mettler, Staatsanwaltschaft Ulm 19 February 1957, in 205 AR-Z 51/58, Bundesarchiv Ludwigsburg.

two. One difference concerned the Genocide Convention, which explicitly stated that actions of this kind should not be considered as political crimes (as the Attorney General had argued). Although the Convention could not, by itself, be used in the case, it was presented as an example of changed legal circumstances, especially considering the discussion that had preceded the forthcoming Extradition Act.[29] On December 5, 1957 the Landgericht Ulm had produced an order of detention, so on February 28, 1958 the case was delivered to the Prosecutor-General who ordered the County Police in Värmland to question the individual. Under interrogation the man denied the accusations that he would later admit, his main defence being that acts were committed under duress, that is, principally the same defence that had been successful in the Polish cases. Humanitarian reasons (his frail health and family in Sweden) were also advanced by invoking a large amount of testimonials from, among others, his employer and a dignified representative of the clergy. The Prosecutor-General explained March 19, 1958 in more or less the same way as Kellberg, that the crimes could not be considered as political, particularly if the Genocide Convention was taken into account. On April 29, 1958, after the interrogation, the Supreme Court declared that it could not see any obstacles for an extradition. On May 23,1958 the Cabinet decided for an extradition.[30] Following the extradition, on December 29, 1958 the FRG came back with a request for an expansion of the case after the man had confessed having committed further crimes. The man did not object to this expansion, which was also decided on by the Supreme Court and the Cabinet. In the early sixties he was back in Sweden after serving his sentence.[31]

3 Conclusion

As I have dealt with elsewhere, a large number of suspected war criminals arrived in Sweden during and after the Second World War. The large majority came from the occupied Baltic republics and were never the objects of any interests from the judicial system, except in a few cases surveillance and delayed permission for Swedish citizenship.[32] There were never any legal proceedings against these people in Sweden. Some of them were deported – either to occupied Germany or to the Scandinavian neighbours Denmark and Norway. There were also some extradition cases and the legal complications of these cases have been discussed above. These cases were the existing legal background when, 50 years later, Sweden started legal processes against war criminals in Swedish courts.

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[29] See Bill. 1957:156 med förslag till lag om utlämning för brott, p. 52. Kjellberg's memorial 26 August 1957, R 70 Ct, Archive of the Foreign Office (kept in-house).

[30] The documents of the case are kept in the Secret Diary (Hemliga Arkivet) Act 1292, Archive of the Department of Justice.

[31] Secret Diary Act 1300, Archive of the Department of Justice, RA.

[32] Deland, 2010; 2017.

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