

Would the Slovenian post-WWII massacres today be described as crimes against humanity under modern international humanitarian law?

Maria Velikonja

Planinca Press

www.planincapress.com

Legal Concept Paper 4

August 2026

Version 1.0

Suggested Citation:

Maria Velikonja, *Would the Slovenian post-WWII massacres today be described as crimes against humanity under modern international humanitarian law*, Legal Concept Paper No. 4, Planinca Press (2026).

ABSTRACT

This paper examines whether the mass executions and enforced disappearances that occurred in Slovenia following the end of the Second World War, particularly during May and June 1945, would today be characterized as crimes against humanity under modern international criminal law. Although the term "crimes against humanity" first became a codified offense with the 1945 London Charter of the International Military Tribunal, its contemporary legal meaning has been substantially developed through the jurisprudence of the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and Article 7 of the Rome Statute of the International Criminal Court. Applying these modern legal standards, the paper analyzes whether the post-war killings satisfy the required contextual elements of a widespread or systematic attack directed against a civilian population or persons hors de combat, carried out pursuant to a State or organizational policy and with the requisite knowledge of the perpetrators. It further examines the underlying offenses that may arise under contemporary international law, including murder, extermination, persecution, imprisonment, torture, enforced disappearance, and other inhumane acts, while emphasizing the fundamental principle that criminal responsibility is individual rather than collective. Distinguishing legal analysis from historical and political debate, the paper concludes that there is a substantial legal basis for characterizing many of the post-war atrocities in Slovenia as crimes against humanity under present-day international criminal

law, provided that the necessary evidentiary requirements and standards of individual criminal responsibility are satisfied.

From the perspective of modern international criminal law, many historians and legal scholars have argued that the mass summary executions and enforced disappearances that occurred in Slovenia in May–June 1945 would likely satisfy the legal elements of crimes against humanity, assuming sufficient evidence established the required contextual elements and individual responsibility. It is important to distinguish this legal analysis from the historical and political debates surrounding the events. Modern international criminal law focuses on whether specific legal elements are met, regardless of the victims' political affiliations or military service.

The term “crime against humanity” first became a formal legal category with the Charter of the International Military Tribunal (London Charter) on 8 August 1945.

Article 6(c) defined crimes against humanity as:

Murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, as well as persecutions on political, racial, or religious grounds in connection with crimes within the Tribunal's jurisdiction.

This marked the first time crimes against humanity became an enforceable offense under international law.

The Modern Legal Framework

Today, crimes against humanity are defined in Article 7 of the Rome Statute of the International Criminal Court and have been extensively interpreted by the International Criminal Tribunal for the former Yugoslavia and other international tribunals.

Unlike war crimes, crimes against humanity do not require an international armed conflict. They require:

- A widespread or systematic attack;
- Directed against a civilian population (or, under ICTY jurisprudence, a population containing civilians even if some victims were former combatants who had become hors de combat);
- Pursuant to a State or organizational policy;
- With knowledge of the attack by the perpetrators.

These contextual elements are then coupled with one or more prohibited acts such as murder, extermination, imprisonment, torture, persecution, or enforced disappearance.

Widespread and Systematic Attack

The post-war killings in Slovenia occurred across dozens of locations over a relatively short period, including areas such as Kočevski Rog, Teharje, Huda Jama, Macesnova Gorica, Barbara Pit, and numerous anti-tank trenches and mine shafts.

Modern tribunals distinguish between:

- Widespread attacks: involving large numbers of victims or extensive geographic scope.
- Systematic attacks: involving organized methods, planning, repeated patterns, and logistical coordination.

The evidence developed over several decades—including excavated mass graves, archival documents, transportation records, and survivor testimony—has led many scholars to conclude that the killings display characteristics of both widespread and systematic conduct.

State or Organizational Policy

Modern crimes against humanity generally require that the attack be carried out pursuant to a State or organizational policy.

Numerous historians have argued that the post-war executions were not isolated reprisals by individual soldiers but were organized through the Yugoslav communist security apparatus, including military intelligence, OZNA, KNOJ units, and military authorities.

If proven in an individual criminal proceeding, this would satisfy the policy requirement recognized by modern international criminal jurisprudence.

Victims Were No Longer Lawful Military Targets

One of the most significant legal characteristics concerns the status of the victims.

Many victims included:

- members of the Slovene Home Guard,
- Slovene National Forces,
- civilians,
- women,
- clergy,

- teenagers,
- refugees,
- Croatian forces,
- Serbian anti-communist forces,
- and others.

Regardless of their prior military affiliation, once individuals had:

- Surrendered or requested asylum from the British,
- been disarmed,
- been captured,
- or otherwise placed under complete control,

they became persons hors de combat and could no longer lawfully be killed.

Modern international humanitarian law absolutely prohibits the summary execution of surrendered prisoners.

Their previous political or military affiliation would therefore not eliminate criminal responsibility for their unlawful execution.

Murder as a Crime Against Humanity

The primary underlying crime would be murder.

Unlike ordinary homicide, murder as a crime against humanity requires that the killings occur as part of the widespread or systematic attack.

The post-war executions were characterized by:

- prisoners transported under military guard,
- organized detention,
- removal in groups,
- execution without trial,
- concealment of bodies.

These characteristics are consistent with the type of murder prosecuted before modern international criminal tribunals.

Extermination

If prosecutors demonstrated that the executions involved exceptionally large numbers of victims carried out as part of a campaign of mass killing, the conduct might also satisfy the separate crime of extermination.

International tribunals distinguish extermination from murder primarily by its mass scale.

Some scholars have argued that portions of the Yugoslav post-war executions would meet this threshold because of the very large numbers of victims executed over a short period.

Enforced Disappearance

Another modern characterization would be enforced disappearance.

Families often:

- were never informed,
- received false information,
- were denied burial locations,
- were prohibited from mourning,
- and remained uncertain for decades whether relatives were alive.

Many burial sites remained concealed until after Slovenian independence, and some remain concealed still today.

Under contemporary international criminal law, enforced disappearance is considered a continuing offense that persists until the fate or whereabouts of the victim are revealed.

Persecution

If prosecutors proved that victims were selected because of their political opinions, anti-communist beliefs, religion, social status, or perceived class identity, the killings could also constitute persecution.

International tribunals define persecution as severe deprivation of fundamental rights because of membership in an identifiable political, religious, ethnic, or other protected group.

The targeting of political opponents has repeatedly been prosecuted as persecution before international criminal tribunals.

Imprisonment and Torture

Many victims were first confined in camps such as Teharje or Šentvid before execution.

If detention was arbitrary and accompanied by severe mistreatment, additional crimes against humanity could include:

--imprisonment,

--torture,

--other inhumane acts.

These crimes would be evaluated independently from the killings themselves.

Individual Criminal Responsibility

One of the defining principles of modern international criminal law is that criminal responsibility is individual, not collective.

Accordingly, neither membership in the Yugoslav Partisans nor membership in the communist government would, by itself, establish criminal liability. A prosecutor would need to prove beyond a reasonable doubt each accused person's own conduct and mental state, whether through direct participation, ordering, planning, aiding and abetting, or command responsibility.

Similarly, the military or political affiliation of the victims would not by itself justify summary execution or establish their guilt. Contemporary international law rejects collective punishment and requires individualized legal process.

Conclusion

Analyzed under today's legal framework, there is a substantial basis to argue that many of the post-war mass executions and disappearances in Slovenia would fall within the legal category of crimes against humanity, provided the evidence established the contextual elements and the responsibility of particular individuals. Potential charges could include murder, extermination, persecution, imprisonment, torture, and enforced disappearance. This assessment rests on the legal criteria developed in modern international criminal law and does not predetermine the liability of any specific individual, which would require proof in accordance with due process and applicable standards of evidence.