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## THE MOLOTOV-RIBBENTROP PACT AND IMPERATIVE NORMS IN INTERNATIONAL LAW

I am an expert in international law from Finland and I shall consider the status of the Molotov-Ribbentrop Pact and the Secret Protocols from the perspective of international law.

And firstly I intend to speak about the Pact and Finland.

After the conclusion of the Molotov-Ribbentrop Pact, the Soviet Union made, in October 1939, territorial demands to Finland to prevent the possible shelling of Leningrad with artillery from the Finnish territory, and to establish a naval base of the Soviet Union on the southern coast of Finland. It appeared to the Finns that the Soviet Union was afraid of Nazi Germany's attack against the Soviet Union through Finland. Finland consented to some demands, but altogether it took a restrained attitude to the Soviet Union's demands, so it rejected many of the demands. As to the result of the negotiations ending in this agreement, the Soviet Union perpetrated an armed attack against Finland at the end of November 1939, and the attack was followed by the so-called Winter War of a hundred days. The Finnish Government made a miscalculation in the sense that the Government did not believe that the Soviet Union would attack. If that miscalculation had not been made, possibly Finland would have been a bit more lenient in the negotiations. By attacking Finland the Soviet Union clearly violated international law, bilateral treaties between the two countries, the so-called Kellogg-Briand Pact and the Covenant of the League of Nations. The reaction of the League of Nations was clear: the Soviet Union was dismissed from the League because of its attack against Finland. In the Winter War the Soviet Union was able to defeat Finland and to impose its territorial demands in March 1940. But the Finnish resistance was so strong and the international reaction against the Soviet Union was so hostile that the Winter War was felt in the Soviet Union in many ways as a failure. The establishment of the Kuusinen puppet régime in the border area at the beginning of the Winter War was a complete failure. It actually helped to unite the Finnish people to energetic resistance fight. In June 1941 Finland allowed Nazi Germany's troops to enter Finland with the purpose of attacking the Soviet Union. Finland joined Nazi Germany's war of aggression against the Soviet Union and became Nazi Germany's cobelligerent. At first Finland's goal was to recover the territories lost in the Winter War, but when the invasion progressed well, the Finnish forces invaded parts of the Soviet Union's territory. Finnish Government relied on the so-called Doctrine of Secure Borders to push the border further towards the territory of the Soviet Union. Nazi Germany paid tribute to Finland for its part in Nazi Germany's aggressive war effort even though the Finnish Army did not advance as far to the east as it could have done; for example, Finland did not participate in the effort to blockade Leningrad, nor did Finland follow the pattern of extermination policy of Nazi Germany, Finland did not take part in that policy. Ultimately Finland paid a price for having joined in the aggressive war effort of Nazi Ger-



many. The Allied Powers confirmed in the Paris Peace Treaty in 1947 Finland's territorial losses, limitations of the Finnish Army and Finland's reparations to the Soviet Union. It can be said that by joining the aggressive war effort of Nazi Germany Finland lost her moral justification to demand later that the pre-1939 boundaries between Finland and the Soviet Union be returned to. The Paris Peace Treaty settled the matter between the International Community of States and Finland. That's how the matter appears to be, at least from the perspective of today.

Secondly, I will deal with the status of the Secret Protocol of the Molotov-Ribbentrop Pact of August 23rd, 1939. Even though the Secret Protocol did not spell out outright the claims of the two hostile Great Powers to proceed to armed invasions, many of its statements give an indication of designs of armed invasions. What is most important is that after the conclusion of the Pact the two Great Powers resorted to armed invasions consistent with the terms of the Secret Protocol. Thus the subsequent events give an uncontestable answer that the Molotov-Ribbentrop Pact was concluded with an aggressive intention. The Soviet Union's armed forces occupied the Baltic States in June 1940, after a successful threat of an armed attack. It was clear that if any of the Baltic States had rejected the Soviet Union's dictatorial ultimatums, the result would have been an armed attack and invasion by the Soviet Union's armed forces. The elections under the guardianship of the Soviet Union were *mala fide*, dishonest. The annexation of the Baltic States did not correspond to the will of the peoples of the Baltic nations. The taking over and annexation of the Baltic States violated the bilateral treaties between the Baltic States and the Soviet Union, the Kellogg-Briand Pact and the Covenant of the League of Nations. It is my opinion that the Soviet Union's occupation and annexation of the Baltic States after a successful threat of an armed attack was equivalent to a war of aggression. And five years later, in 1945, the Soviet Union joined the other leading Allied Powers in stipulating in the Charter of the Nuremberg International Military Tribunal that wars of aggression constituted an international crime, a crime against peace. Furthermore, in the period between World War I and World War II, the prohibition of wars of aggression gained the status of a norm of *ius cogens* in international law, meaning a norm which obligated all Member States of the Community of States and from which no derogation was permitted in any circumstances. It is the current opinion of the International Community of States that treaties in violation of norms of *ius cogens* are void in absolute terms, they do not become legal in the course of time, they remain void. Thus the conclusion is that the Secret Protocol of the Molotov-Ribbentrop Pact was and remains to be void and illegal, even if one may understand the Soviet Union's reasons of fearing Nazi Germany's attack through the Baltic States and Finland. Knowing Finland's policy in the 1920s and 1930s, I admit that the Soviet Union's fears regarding at least Finland were not entirely baseless. And even if one tries to understand the Soviet Union's precautionary coercive measures vis-à-vis Finland and the Baltic States as a so-called "Realpolitik" as the term is in German, the annexation of the Baltic States does not find any justification whatsoever. Thank you.



## MOLOTOVI-RIBBENTROPI PAKTID JA IMPERATIIVSED NORMID RAHVUSVAHELISES ÕIGUSES

On antud ülevaade Molotovi-Ribbentropi paktide (MRP) otsest mõjust Soome käekäigule, s. t. Nõukogude Liidu poolt territoriaalsete nõudmistest esitamistest ja Talvesõjast ning väidetud, et Soome, olles Teises maailmasõjas Saksamaa liitlane, on kaotanud moraalse õiguse tagasi nõuda Nõukogude Liidule reparaatsiooni korras loovutatud territooriume (vastavalt 1947. aasta Pariisi rahulepingule).

MRP ja kahe suurriigi järgneva käitumise analüüs ei loo kahtlusi, et sobingud tehti agressiivsete kavatsustega toime panna sõjalisi invasioone. Võimalik vastupanu kolmandates riikides oleks ultimatiivsete nõudmistest mitterahuldamise korral maha surutud sõjalise jõuga. Autor ei kahtle, et Nõukogude Liidu juhtimisel toimunud valimised pole ausad ning et Balti riigid annekteeriti nende rahvaste tahtest olenemata.

On jõutud järeldusele, et hoolimata ajafaktorist või muudest asjaoludest (näiteks Teine maailmasõda kui reaalsus) on MRP õigustühine ja ka jääb selleks, sest tegemist on nimelt imperatiivsete normide rikkumisega.

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## ПАКТ МОЛОТОВА—РИББЕНТРОПА И ИМПЕРАТИВНЫЕ НОРМЫ МЕЖДУНАРОДНОГО ПРАВА

В форме обзора рассматриваются советско-финляндские отношения, которые сложились под прямым воздействием пакта Молотова—Риббентропа (ПМР), т. е. территориальные притязания со стороны Советского Союза и Зимняя война, и утверждается, что Финляндия, как союзник Германии во второй мировой войне, потеряла моральное право на востребование с Советского Союза уступленной ему по репарации территории (согласно Парижскому мирному договору 1947 г.).

Анализ ПМР и дальнейших действий двух великих держав не оставляет сомнений в том, что створ между ними был заключен с агрессивными намерениями инвазии. Возможное сопротивление третьих государств подчиниться ультимативным требованиям было бы подавлено военной силой. Автор не сомневается в том, что проведенные под давлением представителей сталинского режима выборы были нечестными и аннексия Прибалтийских государств осуществлена против воли их народов.

Сделан вывод, что вне зависимости от временного фактора или от других обстоятельств (к примеру, второй мировой войны как реального факта), ПМР не имеет никакого позитивного правового значения, поскольку имело место нарушение императивных норм.