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## THE FUNCTIONING OF THE TRIBUNALS FOR THE PROTECTION OF THE NATIONAL HONOUR OF THE CROATS AND SERBS IN CROATIA IN 1945

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The article presents a brief period during 1945 when the honour of the Croats and Serbs was the subject matter of legal regulations. One of the primary objectives in the establishment of a new government included the standardization of the legislative framework. Political, propagandistic, cultural, artistic, economic and administrative collaboration with the occupying powers and “domestic traitors” were adjudicated by the Tribunals for the Protection of the National Honour of the Croats and Serbs. Their judgements had multiple significance and far-reaching consequences.

**Key words:** tribunal, honour, legislation, 1945, Croatia/Yugoslavia, judgements

When seeking a definition for the term honour, one rapidly comes to the realization that this term has been the subject of numerous theoretical discussions. In order to provide the most accurate possible explanation, it is necessary to bear in mind its long and fascinating developmental path. The term *personal honour* in modern civilization is linked to the development of feudalism in Western Europe. During the 19<sup>th</sup> century, honour also underwent its own “nationalization”, and the First World War signified its culmination. According to some interpretations, the trauma of trench warfare took the shine off of the term honour. In this sense, the Second World War further unravelled the social fabric.

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In rather general terms, honour may be defined as a reflection of individual's responsibility to moral norms but also as a prerequisite for that individual's integration into a community. Honour can therefore be defined as both a personal and social good. It is acquired and lost in social processes.<sup>1</sup> This mutability of the term honour comes to the fore during periods of thorough-going social turmoil and change.

An objective criterion is introduced to the legal conception of these actions, so that the decision must be made by a judicial body as the representative of the public, setting forth from – among other things – the system of moral values upon which an individual society rests. This decision is certainly not simple, because a problem which emerges is the question of how to subordinate value judgements to laws, from which a certain level of definition is required to ensure the legitimacy of said laws. Thus, the task of a judicial body in a society whose institutions aspire to justice is to strike that balance and safeguard it.

In order to ensure this, it was important to standardize the legislative framework. The new authorities organized a legal system based on a complete break with all links to the pre-war or wartime models. On 3 February 1945, the presidium of the Antifascist Council of the People's Liberation of Yugoslavia (AVNOJ) decided to revoke all laws and regulations enacted during the occupation period, as well as those enacted prior to 6 April 1941 insofar as they contradicted the values of the People's Liberation Struggle (NOB).<sup>2</sup> Simply stated, post-war Yugoslav criminal law rested on entirely new regulations, while the older regulations "lost their legal force".<sup>3</sup>

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<sup>1</sup> Igor Bojanić, "Kaznena djela protiv časti i ugleda De legelata i moguće promjene De lege ferenda", *Hrvatski ljetopis za kazneno pravo i praksu* 17 (2010), no. 2: 627-628 (and the sources cited therein); Sanja Badrov, "Kaznena djela protiv časti i ugleda u hrvatskom kaznenom pravu", *Pravnik*, časopis za pravna i društvena pitanja 41 (2007), no. 1: 62.; Cf. Thorstein Veblen, *The Nature of Peace* (New Brunswick-London, 1998), 27-30.

<sup>2</sup> *Službeni list Federativne Narodne Republike Jugoslavije*, god. I., no. 4, 13 Feb. 1945.

<sup>3</sup> Slobodan Nešović, ed., *Zakonodavni rad Pretsedništva Antifašističkog veća narodnog oslobođenja Jugoslavije i Pretsedništva Privremene narodne skupštine (19 novembra 1944 - 27 oktobra 1945) po stenografskim beleškama i drugim izvorima* (Belgrade, 1951), pp. 22-28, 40-45; Bogdan Zlatarić, "Razvitak novog jugoslavenskog krivičnog prava", in: *Nova Jugoslavija. Pregled državnopravnog razvitka povodom desetogodišnjice Drugog zasjedanja AVNOJ-a*, Ferdo Čulinović, ed. (Zagreb, 1954), pp. 323-324; Nikola Srzentić, Aleksandar Stajčić, *Krivično pravo Federativne Narodne Republike Jugoslavije. Opšti deo* (Belgrade, 1957), p. 63.; Hodimir Sirotković, Lujo Margetić, *Povijest država i prava naroda SFR Jugoslavije* (Zagreb, 1990), p. 386; Roman Ferjačić, Lovro Šturm, *Brezpravje. Slovensko pravo so djepoletu 1945* (Ljubljana, 1998), pp. 33-34; Jera Vodušek Starić, *Kako su komunisti osvojili vlast 1944.-1946.* (Zagreb, 2006), p. 213; Jera Vodušek Starić, "Ozadje sodnih procesov v Sloveniji v prvem povojnem letu", *Prispevski za novejšo zgodovino* 32 (1992), no. 1-2: 141.-142.; Mirjana Gulić, "Ustroj i nadležnost kotarskih/općinskih sudova grada/kotara Zagreb 1945. – 1970.", *Arhivski vjesnik* 51 (2008): 276.

In the first months after the war, the Decree on Courts Martial of 24 May 1944<sup>4</sup> was the sole penal law foundation for criminal prosecution. The courts martial conducted all trials regardless of whether the cases were military or civilian. According to the Decree on Courts Martial, no specific penalties were stipulated for individual crimes, so in each case the courts were allowed to apply a penalty which corresponded “to the specific social peril posed by the act and its perpetrator”.<sup>5</sup> The transition to regular courts was signified by the Crimes Against the People and State Act of 25 August 1945 (amended in July 1946).<sup>6</sup> This was also meant to serve as the criminal code of Democratic Federal Yugoslavia.<sup>7</sup> The model for the Crimes Against the People and State Act was the Soviet Criminal Code, according to which counter-revolutionary criminal acts became the primary and general form of offense against the state.<sup>8</sup> Even though this Crimes Act declaratively marked the transition to a regular judiciary, it in fact only adapted the content of the preceding Decree on Courts Martial, amending to suit post-war circumstances. Specifically, criminal legislation was supposed to above all protect the new authorities by preventing any change in hands of power.<sup>9</sup>

The importance placed on regulating economic collaboration with the enemy is demonstrated by the fact that it was specified three times in legislation: in the Decision on the Protection of the National Honour of the Croats and Serbs (24 April 1945), the Voter Rolls Act (11 August 1945) and the Crimes Against the People and State Act (25 August 1945).<sup>10</sup> In each of their provisions, the difference between the financial and non-financial aspect of the crime of economic collaboration with the enemy is clearly notable. The financial aspect implied placing an enterprise or expertise at the disposal of the enemy, which enhanced the latter's economic strength and military potential. Non-financial

<sup>4</sup> Marko Kalodera, *Vojni pravosudni organi i pravne službe JNA* (Belgrade, 1986), pp. 13-17; Makso Šnuderl, *Materialno kazensko pravo v Narodnoosvobodilni vojni Slovenije* (Ljubljana, 1947), pp. 6-9; *Dokumenta Centralnog komiteta KP Jugoslavije i Vrhovnog štaba NOV i PO Jugoslavije* (Belgrade, 1982), pp. 174.-185.

<sup>5</sup> Srzentić, Stajić, *Krivično pravo Federativne Narodne Republike Jugoslavije. Opšti deo*, p. 62.

<sup>6</sup> *Službeni list Federativne Narodne Republike Jugoslavije*, god. II, no. 59, 23 Jul. 1946.; *Zbirka krivičnih zakona sa komentarom*, [Belgrade] 1947, pp. 9-25.

<sup>7</sup> *Službeni list Demokratske Federativne Jugoslavije*, god I., no. 66, 1 Sept. 1945; *Borba*, organ komunističke partije Jugoslavije (Belgrade), 27 Aug. 1945, p. 4.; *Službeni list Federativne Narodne Republike Jugoslavije*, god II, no. 59, 23 Jul. 1946; *Zbirka krivičnih zakona sa komentarom*, pp. 9-25.

<sup>8</sup> Ljubo Bavcon, *Kazneno-pravna zaštita države i njenog društvenog uređenja* (Zagreb, 1988), p. 179.; Vodušek Starič, “Ozadje sodnih procesov v Sloveniji v prvem povojnem letu”, p. 140.; Srđan Cvetković, *Između srpa i čekića. Represija u Srbiji 1944-1953*. (Belgrade, 2006), p. 158.

<sup>9</sup> Vojislav Koštunica, Kosta Čavoški, *Stranački pluralizam ili monizam. Obnova i zatiranje posleratne opozicije* (Belgrade, 2011), p. 242.

<sup>10</sup> *Službeni list Federativne Narodne Republike Jugoslavije*, god. II, no. 59, 23 Jul. 1946; *Zbirka krivičnih zakona sa komentarom*, [Belgrade], 1947, pp. 9.-25.

accountability, according to the prevailing interpretation, pertained to a degree of goodwill that was presented as a condition for culpability.<sup>11</sup>

The question of enemy assets and their confiscation clearly imposes itself here. Certain ambiguities were noted when implementing confiscations during the wartime period. The Confiscation Act of 9 June 1945 was an attempt to eliminate them. To the public, confiscation was described as a “court martial action, a penalty which must be borne by all of the people’s enemies”.<sup>12</sup> Confiscated assets became a part of the People’s Liberation Fund that was managed by the People’s Liberation Committee, although the military authorities made use of the assets in the Fund in line with their own needs.

Assets were defined quite broadly, so that this category encompassed fixed property, movable goods and rights, land, houses, furniture, forests, mining rights, enterprises with all companies, associations, trusts, all means of payment, receivables, copyrights, rights to industrial capital, etc. Virtually every form of ownership was actually covered. The political and economic objectives of the Communist Party of Yugoslavia had to be aligned when implementing confiscation and the primary demonstration of guilt. Thus, at the Party’s Fifth Congress held in 1948, Justice Minister Dušan Brkić asserted that the entire economic sector had emerged from confiscated assets, with implementation based on the classical principle. According to Brkić: “These confiscations had and have, without doubt, their revolutionary significance and class basis”.<sup>13</sup> Confiscation of the assets of occupation collaborators impeded the economic basis for fascism, whereby the penal measure of confiscation acquired a broader context.<sup>14</sup> The seizure of assets was therefore an effort to create a classless society with economically dependent individuals.<sup>15</sup>

Foreign citizens who worked for foreign companies were tried pursuant to the Crimes Against the People and State Act, while domestic citizens were tried pursuant to the Decision on Protection of the National Honour of the Croats and Serbs. According to the latter Decision, voluntary economic assistance to the occupying powers and their collaborators, placing one’s own enterprise in the service of the occupying powers, significant work for any economic concern or enterprise utilized by the occupying powers and engaging in procurement for the latter were deemed crimes and infractions. Punish-

<sup>11</sup> Jan T. Gross, “Themes for social history of war experience and collaboration”, in: *The politics of retribution in Europe – World War II and its aftermath*, István Deák, Jan T. Gross and Tony Judt, eds. (New Jersey, 2000), p. 16.

<sup>12</sup> Božidar Novak and Vladimir Stopar, eds. *Vjesnik jedinstvene narodno – oslobodilačke fronte Hrvatske 1941. – 1945. (izbor – tom I)* (Zagreb, 1970), p. 421.

<sup>13</sup> Zdenko Radelić, *Hrvatska u Jugoslaviji 1945.-1991.: Od zajedništva do razlaza* (Zagreb, 2006), p. 183.

<sup>14</sup> Nataša Miličević, *Jugoslovenska vlast i srpsko građanstvo 1944 – 1950* (Belgrade, 2009), p. 140.

<sup>15</sup> Radelić, *Hrvatska u Jugoslaviji 1945.-1991.: Od zajedništva do razlaza*, pp. 178., 179.

ment of voluntary economic collaboration and the provisions of the Crimes Against the People and State Act protected the most important outcome of the struggle, the state, and in this voluntary good will was absolutely implied. "Since this is a matter of protecting the most valuable legal good, the people and the state, it is understood that this law will encompass the majority of the culpable parties, and that the least degree of voluntary consent will be sought for the essence of the criminal act of economic collaboration."<sup>16</sup>

The tribunals of honour were tied to the Soviet concepts for similar courts organized within military units. At the end of the Second World War, the concept of honour was tied to national identification, so in the territory of the Yugoslav federal units, special tribunals for the protection of national honour were established. They prosecuted political, propagandistic, cultural, artistic, economic and administrative cooperation with the occupying powers and "domestic traitors". They functioned in Croatia from 24 April<sup>17</sup> until 8 September 1945, when the Presidium of the People's Diet of Federal Croatia passed the Act amending the Decision on the Protection of the National Honour of the Croats and Serbs in Croatia, and their tasks were assumed by the people's circuit courts.<sup>18</sup> Persons who did not belong to one of the constitutive nations of Yugoslavia but who resided in Croatia and were charged with the aforementioned crimes were tried by courts martial.

According to the Decision on Crimes Against National Honour, all acts "which offended or offend national honour or are aimed against the fundamental interests and values upon which Democratic Federal Yugoslavia rests" were deemed crimes against national honour. The Decision therefore did not pertain to the acts of war criminals and enemies of the people. Any "perpetration of actions and propaganda to the benefit of the occupiers and their collaborators through the incitement of religious or racial intolerance or justification of the occupation and condemnation of the liberation struggle of the people" was subject to sanctions. The third paragraph contains the stipulation that even maintaining close and friendly relations with members of the occupying armed forces and authorities must be sanctioned. The question of pillaging assets was also not neglected. Culpability "based on the position of accountable individuals in state administration" who failed to undertake efforts "to avoid the shameful defeat and capitulation of Yugoslavia" also had to be investigated. Service in "the bureaucratic apparatus [...] and the simultaneous ren-

<sup>16</sup> "O dobrovoljnoj privrednoj suradnji s neprijateljem", *Slobodna Dalmacija* (Split), 4 Dec. 1945, p. 2.

<sup>17</sup> *Službeni list Federalne Hrvatske*, god. I, no. 2, 7 Aug. 1945; *Zbornik zakona, uredaba i naredaba*, god. I, Zagreb, 1945., pp. 24-25.

<sup>18</sup> *Zbornik zakona, uredaba i naredaba*, god. I, svezak VII, Zagreb, 1945, p. 488; Zdravko Dizdar et al., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. - 1946. Dokumenti* (Slavonski Brod, 2005), p. 263; Ivo Perić, *Hrvatski državni sabor 1848. - 2000. Treći svezak: 1918. - 2000.* (Zagreb, 2000), p. 175; Zlatarić, *Razvitak novog jugoslavenskog krivičnog prava*, p. 322.

dering of public and private services, particularly preferential treatment” were also punishable. According to the decision, voluntary economic assistance, as well as participation in or assistance to treasonous, political and military organizations were also subject to punishment. And, ultimately: “Any activity that would have the effect of serving the occupier and its collaborators”.<sup>19</sup> This meant that any form of cooperation with the occupying powers could apply, insofar as the perpetrated act did not designate the perpetrator as a war criminal or people’s enemy in the sense of the Decree on Courts Martial.<sup>20</sup>

These acts carried the penalty of loss of national honour (exclusion from public life, loss of the right to hold public office and loss of civil rights), compulsory labour, partial or complete confiscation of assets and/or monetary fines and exile. Particular note was made of the fact that the accused could be simultaneously subject to more than one penalty. In the additional explanations it is stated that loss of national honour was the primary penalty and that it could be pronounced in individual cases without any other penalty. The penalty of asset confiscation was pronounced, albeit not exclusively, against persons who “earned assets during the occupation as a result of or in connection with dishonourable conduct”. The penalty of partial confiscation was pronounced in “a proportional share of overall assets”. Exile was ordered insofar as “the convicted individual’s further residence in this place or territory would be detrimental to public interests”.<sup>21</sup> It is important to note that “the culpability under this decision is not subject to the statute of limitations”.<sup>22</sup>

According to guidelines, the tribunals for the protection of the national honour of the Croats and Serbs in Croatia were to be established in the seat of a district, and their territorial jurisdiction could extend over several districts. The tribunal’s seat was in Zagreb, and it operated through councils which were situated in the seats of individual districts (Bjelovar, Delnice, Dubrovnik, Gospić, Karlovac, Makarska, Nova Gradiška, Osijek, Petrinja, Slavonski Brod, Split, Sušak, Šibenik-Zadar, Varaždin, Virovitica). The members of the tribunal were appointed by the Presidium of the Territorial Antifascist Council for the People’s Liberation of Croatia (ZAVNOH), designating one member each among them to serve as the tribunal presidents. The members of the tribunals were therefore accountable in their work to the ZAVNOH. The respective tri-

<sup>19</sup> *Službeni list Federalne Hrvatske*, god. I, no. 2, 7 Aug. 1945, p. 17; *Zbornik zakona, uredaba i naredaba*, pp. 24-25; Ferdo Čulinović, *Pravosuđe u Jugoslaviji* (Zagreb, 1946), p. 204.

<sup>20</sup> Srzentić, Stajić, *Krivično pravo Federativne Narodne Republike Jugoslavije. Opšti deo*, p. 62.

<sup>21</sup> Vladimir Geiger, ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Slavonija, Srijem i Baranja*, (Slavonski Brod, 2006), pp. 157-158.

<sup>22</sup> The law governing the tribunal for prosecuting crimes and infractions against the national honour of the Serbs, Muslims and Croats in Federal Bosnia-Herzegovina, which was enacted on 26 May 1945, contained a correction whereby a twenty-year statute of limitations was placed on culpability under that law’s provisions. Vera Katz, “Komunizam i represija: Sud narodne časti u Bosni i Hercegovini”, in: *60 godina od završetka Drugog svjetskog rata – kako se sjećati 1945. godine*, Husnija Kamberović, ed. (Sarajevo, 2006), p. 156.



bunal president was responsible for the council's schedule, and it was presided over by one of the judges elected by the council. Each council had a secretary from among the ranks of lawyers, who handled administrative tasks. An investigative judge was also appointed at the proposal of the tribunal president, and this judge was charged with conducting investigations (of both charges and the defence against them). The tribunals were obliged to maintain registers and rolls of suspects and convicts.<sup>23</sup>

Parallel to this, similar tribunals began to be organized in all more important public (scholarly, cultural, sports) institutions, chambers of commerce, vocational associations, social organizations and the army. Thus there was: the Tribunal of Honour in the Association of Writers, the Tribunal of Honour in the Croatian State Conservatory, the Tribunal of Honour of the Croatian National Theatre and Composers Association, and the Tribunal of Honour of the University of Zagreb. In their work, they cooperated with the Survey Commission on the Investigation of the Crimes of the Occupiers and Their Collaborators. The point of these tribunals was, first and foremost, to punish the adherents of the preceding regime among the intellectual class, but also to create room for the establishment of a new relationship with an intellectual elite that was more favourable to the authorities.<sup>24</sup>

Proceedings before the tribunals were launched by a motion filed by the Public Prosecution, the People's Protection Department (OZNA), the People's Liberation Committees (NOO), the committees of the People's Front and individual citizens. The ONZA's reports generally pertained to larger groups of persons who were of particular significance. It is worthwhile noting that the OZNA's reports were automatically received as indictments. An unvarying formula to describe a specified form of "guilt", regardless of the number of culpable parties, circumstances, etc. was used in them.<sup>25</sup>

Upon the initiation of prosecution, the prosecutor was obliged to notify the District People's Goods Administration, and if the latter had not yet been established, the District People's Liberation Committee. Suspects and charges were examined by the public prosecution's investigators, the courts martial and the OZNA. The ensuing interrogations were rapid, and the statements in the minutes accompanying them did not differ greatly from what was cited in

<sup>23</sup> Geiger, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Slavonija, Srijem i Baranja*, p. 160.

<sup>24</sup> Magdalena Najbar–Agičić, "Sud časti Sveučilišta u Zagrebu kao element politike vlasti prema intelektualcima nakon 1945. godine", in: Drago Roksandić et al., ed., *Desničini susreti 2009. zbornik radova* (Zagreb, 2011), p. 152; Tatjana Šarić, "Kulturna politika vlasti u NR Hrvatskoj - primjer Matice hrvatske 1945. – 1952." (master's thesis, University of Zagreb, 2008), pp. 33-34; Ivo Goldstein, *Zagreb 1941. – 1945.* (Zagreb, 2011), p. 379; Momčilo Mitrović, "Prilog izučavanju Suda časti na beogradskom univerzitetu", in: Drago Roksandić et al., ed., *Desničini susreti 2009. zbornik radova* (Zagreb, 2011), p. 178.

<sup>25</sup> Matea Čoh, "V imenu slovenskega naroda: Krivi!", *Zgodovina za vse* 9 (2000), no. 1: 70.



the formal charges. The prosecution which pursued the charges most often equated such charges with indictments.<sup>26</sup> The charges contained: the personal data of the suspects, their domicile address, occupation, property status, marital status and number of children. This was also accompanied by a statement signed by one or more persons who reported this individual. Additionally, the OZNA stated the nationality and religion of the suspects.<sup>27</sup>

In the proceedings, the suspect was entitled to a defender who could be any “suitable” legal adult, particularly in terms of “moral character”, but this was not implemented in practice. Hearings were brief. The prosecutor first read the indictment, after which the suspects were summoned to state their defence. It generally corresponded with what had been said during interrogation. After this, the prosecutor would present the evidence and propose a penalty on the basis thereof. The tribunal rendered a judgement on the basis of judicial discretion. The judgements made by the tribunal became effective immediately, and they had to be forwarded to the relevant institutions for execution (People’s Circuit Court, District People’s Liberation Committee, Justice Ministry), after which the suspects were sent to prisons or camps. The time that transpired between arrest and the submission of the file to the tribunal and the pronouncement of the judgement was very short.

The final article of the Decision states that it becomes effective “on the date of its publication, and applies to all acts regardless of the time of their perpetration”. In the additional instructions issued by the Justice Ministry of the People’s Government of Croatia on 9 May 1945, it states that the Decision pertains to already perpetrated acts and those acts that may be perpetrated in the future.<sup>28</sup>

It is precisely this article which highlights one of the more contestable aspects of the work of the tribunals of national honour. For according to legal regulations, it follows that insofar as there are no laws which sanction acts which “offended the sense of national honour” at the moment of perpetration, one of the fundamental legal principles has been violated: *nullum crimen sine lege, nulla poena sine lege* (essentially, there is no guilt if a given act has not been stipulated as punishable by law). In the explanations published in the press of the time, it was asserted that crimes against national honour were a qualitative novelty in criminal law. Furthermore, “[t]hey were largely perpetrated during the enemy occupation of our country, and the people’s understanding was the first to give such acts a penal significance”. The text continues: “The people deeply felt the affront caused by such deeds and sought their punishment. Al-

<sup>26</sup> For an example of such charges, see: Mate Rupić, Vladimir Geiger, ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Dalmacija* (Slavonski Brod; Zagreb, 2011), pp. 463-464.

<sup>27</sup> Čoh, “V imenu slovenskega naroda: Krivi!”, p. 69.

<sup>28</sup> Geiger, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Slavonija, Srijem i Baranja*, p. 157.

ready then, the people's consciousness formulated a law on the violation of national honour". Only after this did the legislator legally ratify this awareness. Because of this, the prevailing opinion was that the aforementioned legal principle did not apply for if it did, "[...] it would mean leaving gross offenses against national honour unpunished, which would run counter to the people's understanding and justice. The aforementioned principle must give way before the will of the offended people and concede to the so-called principle of retroactive effectiveness, according to which one must answer for acts perpetrated prior to the time when the law was written, because this is the demand of the people who are the foundation of all social principles and written rules. This would mean that the peoples understanding served as the foundation for the Decision on the Protection of National Honour and that it is a written law, while the Decision is only a formal expression of this understanding".<sup>29</sup> This principle was even excised from the penal legislation of the Federal People's Republic of Yugoslavia, because the possibility of pronouncing penalties of all types for each crime was foreseen. Such a move was also justified by the chief public prosecutor, Jože Vilfan, according to whom the existing revolutionary principle was dictated "by flexibility in the importance of crimes to the stability of the political system, because not everything can be determined in advance. [...] a crime may be less important today, but already over night it may gain first-class importance."<sup>30</sup>

The organization and beginnings of the work of the tribunals and judicial councils in the entire territory of Yugoslavia, and also Croatia, proceeded at varying intensities. Many practical problems emerged, and the majority of them pertained to the lack of qualified judicial personnel who were needed in other judicial and investigative institutions as well. Additionally, some members did not report for service on time, while others did not hold hearings regularly.<sup>31</sup>

Most tribunals in Croatia's territory began functioning at the beginning of June and up to mid-July 1945 at the latest. Thus, for example, on 8 June 1945, at the proposal of the People's Committee of the City of Zagreb, the members of the Tribunal for the Protection of National Honour in the City of Zagreb and the Zagreb District were appointed. The tribunal's president by Branko Tučkorić (the head of the Architecture Section of the Construction Ministry) from Zagreb, and the vice-presidents were Kata Govorušić (housewife) and

<sup>29</sup> "Osnovne značajke Suda za zaštitu nacionalne časti Hrvata i Srba u Hrvatskoj", *Slobodna Dalmacija* (Split), 13 Jul. 1945, p. 2.

<sup>30</sup> Radelić, *Hrvatska u Jugoslaviji 1945.-1991.: Od zajedništva do razlaza*, p. 64.

<sup>31</sup> Momčilo Mitrović, *Srpska nacionalna čast pred zakonom 1945. godine* (Belgrade, 2007), pp. 27-29; Milko Mikola, *Rdeče nasilje: represija v Sloveniji po letu 1945* (Celje – Ljubljana, 2012), pp. 284-285; Roman Brunšek, "Procesi pred sodiščem slovenske narodne časti v Ljubljani", *Kronika* 43 (1995): 107; Matea Kobale, "Sodišče narodne časti" (undergraduate thesis, University of Maribor, 2010), p. 26.

Mladen Zorić (sales assistant).<sup>32</sup> The qualifications of the tribunal's members were truly diverse, and the situation was even worse in smaller communities.<sup>33</sup> Data on the members of the tribunals in Serbia and Slovenia reflect the same principle.<sup>34</sup> However, they all had one thing in common: they belonged to the People's Liberation Movement, and most of them unwaveringly support the Communist Party.<sup>35</sup>

Thus, it is vital to consult the reports of public prosecutors who described the actual situation "in the field" and how much overall circumstances were advantageous to the work of the tribunals. Thus, the public prosecutor for the Lika District (two days after the Decision on the Protection of National Honour was adopted) stated that the situation in the district was rather difficult. The entire staff consisted for three people who had to actively function "in the field", while they were not helped by the fact that a high number of criminal cases were arriving every day. Because of this situation, cooperation with the courts also obviously suffered.<sup>36</sup> In the territory of Nova Gradiška, instructions were followed, so that "the larger, more persistent and important enemies were taken before the tribunal and tried, especially those who, as the more economically better-off, collaborated with the occupier".<sup>37</sup> Similar problems were indicated by the report from the Karlovac and Banija District dated July 1945, according to which: "the work of the tribunals of national honour was meagre until my arrival. This is because public prosecutors did not conduct the necessary cooperation with the remaining authorities in order to gather the required data and conduct investigations against the persons who had offended the national honour". In order to improve the efficiency of the tribunals of national honour, conferences were held in Karlovac and Petrinja and at them it was decided that materials would be gathered and proceedings conducted jointly (representatives of the tribunals of national honour, courts martial, OZNA and the district People's Liberation Committee), primarily against those persons who economically collaborated with the occupier and those who were

<sup>32</sup> "Sastavljeni narodni sudovi u Zagrebu", *Vjesnik* (Zagreb), 10 June 1945, p. 5.

<sup>33</sup> Zoran Božić, "Svi sudci postavljeni su po direktivi Komunističke partije Jugoslavije!", *Hrvatsko Slovo* (Zagreb), 7 Apr. 2006., p. 13.

<sup>34</sup> Cvetković, *Između srpa i čekića. Represija u Srbiji 1944 – 1953*, 278.; Srđan Cvetković, *Između srpa i čekića. Knjiga prva: Likvidacija "narodnih neprijatelja" 1944 – 1953.*, drugo dopunjeno i izmijenjeno izdanje, (Belgrade, 2015), p. 360; Mitrović, *Srpska nacionalna čast pred zakonom 1945. godine*, p. 123; Brunšek, "Procesi pred sodiščem slovenske narodne časti v Ljubljani", p. 109.

<sup>35</sup> Momčilo Mitrović, *Izgubljene iluzije* (Belgrade, 1997), p. 77.; Mitrović, *Srpska nacionalna čast pred zakonom 1945. godine*, p. 24.; Cvetković, *Između srpa i čekića. Knjiga prva: Likvidacija "narodnih neprijatelja" 1944 – 1953.*, p. 360.

<sup>36</sup> Dizdar et al., ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti*, pp. 98-99.

<sup>37</sup> Geiger, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Slavonija, Srijem i Baranja*, p. 269.

“even today plotting against the people’s authorities, and to try them as soon as possible”.<sup>38</sup> Virtually the same problems were mentioned in the reports from the districts in Bjelovar, Osijek and Varaždin.<sup>39</sup>

An attempt was made to bypass a part of the aforementioned problems through active propaganda which also constituted a vital component of the operation of the tribunals for the protection of national honour. Beyond the legal system’s institutions, the question of honour also arrived on the “street” through the press, thus assuming the form of hearsay and scheming. Almost every newspaper carried the Decision on the Protection of the National Honour of the Croats and Serbs in Croatia (the first being the Split-based *Slobodna Dalmacija* at the end of April).<sup>40</sup> This was then generally followed by commentary, among which that of Justice Minister Dušan Brkić is worth highlighting. To sum them up, he noted that the enemy had been militarily defeated, but that he is appearing “in other areas of our state and public life and his activity will appear in other forms and by other methods. For these, the Decision will be applied even in the future, because it is our duty to reveal and eliminate from public life those who with their transgressions can continue their anti-people work or, to even the least extent, impede the regular flow of the arduous but great task of renewing and reconstructing our country”.<sup>41</sup>

During June, the rhetoric became considerably more pointed, so that it was noted that it would be necessary to “purge all of the disgrace from among us”.<sup>42</sup> The image of suspects was associated with degenerates, cowards and egoists who were unconcerned with the suffering of their own people, rather they “sold out the national soul” to secure their own benefit.<sup>43</sup> In the first half of July, there was no significant response among the people to report cases, but on 21 July the public prosecutor thoroughly elaborated the importance of the work of the courts and among other things noted that their judgements were significant to the upcoming elections, because the persons sentenced to the loss of national honour also lost the right to vote and they were erased from the voter rolls.<sup>44</sup>

<sup>38</sup> Dizdar et al., ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti*, 195.-196.; Vladimir Geiger et al., ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Zagreb i Središnja Hrvatska* (Slavonski Brod – Zagreb, 2008), pp. 515-516.

<sup>39</sup> Geiger et al., ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Zagreb i Središnja Hrvatska*, pp. 266, 554, 631.

<sup>40</sup> “Odluka o zaštititi nacionalne časti Hrvata i Srba u Hrvatskoj”, *Slobodna Dalmacija* (Split), 30 Apr. 1945, p. 7.

<sup>41</sup> “Zaštita nacionalne časti Hrvata i Srba u Hrvatskoj”, *Glas Slavonije* (Osijek), 29 May 1945, p. 6.

<sup>42</sup> Milko Mikola, *Sodni procesi na celjskem 1944 – 1951*. (Celje, 1995), p. 91.; Mikola, *Rdeče nasilje: represija v Sloveniji po letu 1945*, p. 284.; Brunšek, *Procesi pred sodiščem slovenske narodne časti v Ljubljani*, p. 106.

<sup>43</sup> Brunšek, “Procesi pred sodiščem slovenske narodne časti v Ljubljani”, p. 106.

<sup>44</sup> Brunšek, “Procesi pred sodiščem slovenske narodne časti v Ljubljani”, p. 109.

The trials against industrialists, entrepreneurs, i.e., persons with considerable assets, were chosen as the first to be covered by the press. Thus, the tribunal in Šibenik pronounced the first judgement pursuant to the Decision on the Protection of the National Honour of the Croats and Serbs in Croatia against the major industrialists Stipe and Frane Šare. They were sentenced as “speculators and reactionaries”; Frane Šare received 20 years of compulsory labour and the permanent loss of civil rights, while his father received five years of compulsory labour and permanent loss of rights to honour. Additionally, it was decided that the entirety of their assets had to be confiscated.<sup>45</sup> In Split, several enterprise owners, otherwise brothers, Frane, Niko and Mate Bonačić were tried. Testimony from witnesses and partial admissions from the accused themselves confirmed their anti-people activity for which the four of them were given sentences entailing loss of civic honour for a duration of 10 to 15 years, compulsory labour for a duration of 4 to 5 years and confiscation of their entire assets. Such a conviction was “[...] welcomed [by the crowd] with a tumult of delight, which did not die down for several minutes”.<sup>46</sup> At its first trial, the tribunal in Osijek convicted, among others, Ljerka Planer, who worked “for the Ustasha at her own behest, so she held ballet instructions in the opera house”. Additionally, she conducted a campaign to collect voluntary donations for those wounded in the war. She fully acknowledged these facts. Although she appealed to humanity in her defence, the prosecutor sought a strict penalty, so she was sentenced to ten years of loss of national honour, two years of compulsory labour and confiscation of all of her assets.<sup>47</sup> All of these examples clearly indicate that the first trials ended with lengthy sentences.

In further press reports, examples were chosen which illustrated the full breadth of cultural and economic collaboration with the occupying powers (individuals and entire companies) and of acquiring undeserved wealth. This meant that the accused included persons who performed various political functions, as well as members of the bureaucratic apparatus, persons in culture in the arts, industrialists and merchants, and almost all public activity, publication of poetry, and even “particularly brazen ways of socializing with the officers of the occupation army” were punished.<sup>48</sup> A case that received par-

<sup>45</sup> “Okružni sud u Šibeniku osudio je suradnike okupatora, špekulante i privredne sabotere Franu i Stipu Šaru,” *Slobodna Dalmacija* (Split), 13 May 1945, p. 5.

<sup>46</sup> “Protunarodni rad splitskih trgovacabraće Bonačić. Stigla ih je pravedna kazna”, *Vjesnik* (Zagreb), 6 June 1945, p. 4; Mitrović, *Srpska nacionalna čast pred zakonom 1945. godine*, pp. 241-243. A trial against Leandro Bonačić, one of the co-owners, was conducted separately, as he was in the army, so the hearing was held on 13 June. Even though he had joined the Yugoslav Army in November 1944, which was taken into account as an extenuating circumstance, the tribunal sentenced him to 5 years loss of national honour, 2 years of compulsory labour and confiscation of movable and fixed shares in the company. “Osudjen suradnik okupatora Leandro Bonačić”, *Slobodna Dalmacija* (Split), 15 June 1945, p. 2.

<sup>47</sup> “Počelo je suđenje za povrede nacionalne časti”, *Glas Slavonije* (Osijek), 17 June 1945, p. 1.

<sup>48</sup> “Dr. Mihovil Cindro i njegova porodica pred narodnim sudom”, *Slobodna Dalmacija* (Split), 29 June 1945, p. 4.

ticular attention was the trial against Dragutin and Milan Schulhof, the owners of the printing company Tipografija d.d., which was charged with voluntarily printing and publishing “Budak’s newspaper *Hrvatski narod*”.<sup>49</sup> Even though it was assessed that this “cronyism with the Ustasha” was only a way for him and his family to spare themselves persecution by the authorities of the NDH, Schulhof was sentenced to 10 years of loss of national honour, two years of compulsory labour and confiscation of his entire assets.<sup>50</sup>

In the descriptions, particular care was accorded to meticulously presenting the courtroom atmosphere and attitudes of the spectators who followed the trials in high numbers. Thus, for example, one of the reports mentions that the tribunal’s judgements were met with approval by the large crowd “[...] because they recognize those convicted as the ones who took advantage of arduous wartime conditions to increase their wealth even more, providing services to the occupier and causing harm to their people”.<sup>51</sup> An explanation carried in the Sarajevo-based newspaper *Oslobođenje* also testifies to the work of the tribunals: “They emerged at a time when our people made the transition from armed struggle to the peaceful construction of their country and when it was necessary to cleanse themselves from what experience had shown was treasonous and anti-people. (...) [T]hese legal acts served the vital interests of our peoples at the time in which they were passed”.<sup>52</sup> Therefore it came as no surprise that constant contacts were maintained with the editors and editorial boards of daily newspapers, through which “the judgements were published and popularized”.<sup>53</sup>

All of the tasks that had to be fulfilled by these trials are rather interesting. Thus, for example, two cases from Gospić merit consideration. It was important that the trials be held on the same day, “in the large chamber of the Workers’ Hall, so that the broadest possible public could attend them”. Additionally, “due consideration was given to the political effect that conduct of trials on the same day against a Croat and a Serb before a people’s court would have on the masses of people”. Even though their transgressions differed, in the interpreta-

<sup>49</sup> “Osudjeni bivši vlasnici i direktori ‘Tipografije’ Dragutin i Milan Schulhof”, *Vjesnik* (Zagreb), 21 Jul. 1945, p. 5; Geiger et al., ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti*. Zagreb i Središnja Hrvatska, pp. 556-558.

<sup>50</sup> Dragutin Schulhof was imprisoned on 27 June 1945, and released before the elections for the Constitutional Assembly in November of the same year. His release was based on a decision according to which those persons sentenced to prison terms not longer than two years and over 60 years of age were to be released. Ivo Goldstein, *Hrvatska 1918 – 2008*. (Zagreb, 2008), pp. 420-421; Marko Grčić, ed., *Tko je tko u NDH. Hrvatska 1941. – 1945*. (Zagreb, 1997), p. 355.

<sup>51</sup> “Ratne zločince stiže za služena kazna. Osude suda za zaštitu nacionalne časti Hrvata i Srba u Hrvatskoj u Brodu”, *Glas Slavonije* (Osijek), 8 July 1945., p. 3.

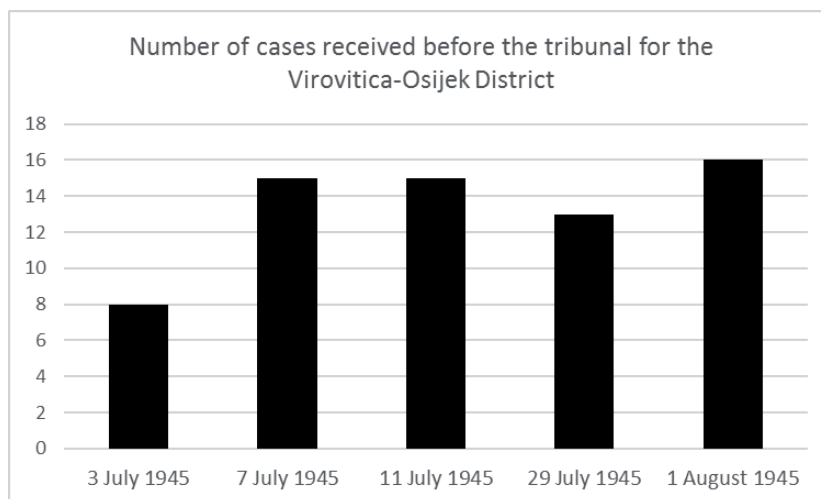
<sup>52</sup> Katz, “Komunizam i represija: Sudnarodnečasti u Bosni i Hercegovini”, pp. 150-151.

<sup>53</sup> Hrvatska/Croatia (hereinafter: HR) – Hrvatski državni arhiv/Croatian State Archives, Zagreb (hereinafter: HDA) – fond 421 – Javno tužilaštvo Socijalističke Republike Hrvatske, povjerljivi spisi 1945, no. 16/45., 19 August 1945.



tion of the authorities they were both directed “against the fundamental interests of the people and the values of the People’s Liberation Struggle, so linking them proved natural and politically opportune”.<sup>54</sup>

In the same report, it is noted that over the preceding fifteen days the summary conclusion of cases before the Tribunal for the Protection of National Honour was being insisted upon, so that work on remaining cases had lagged behind as a result. The same problem was observed in the Osijek district, where all of the prosecution’s work had generally been reduced to tasks involving the Tribunal for the Protection of National Honour. By July, 256 persons had been arrested. Of them, 99 were convicted, while “some” were released.<sup>55</sup> Based on the available register from the Virovitica-Osijek District, it is apparent that the time span from arrest to submission of the file to the tribunal and pronouncement of a judgement was very brief – two months on average. Convictions pursuant to the Decision on the Protection of National Honour were mainly pronounced forthwith, several days after the file was received (sometimes even the next day). According to available data, it follows that in its 60 days of operation, the tribunal in Osijek handled four cases per day. The data for July, the month in which the most intense work was done, show that these figures were quite high.<sup>56</sup>



In larger cities, 30 to 40 cases were processed daily. The pressure was also apparent in the Bjelovar District, so that a report contained the statement that

<sup>54</sup> Dizdar et al., ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti*, p. 213.

<sup>55</sup> Geiger, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Slavonija, Srijem i Baranja*, p. 266.

<sup>56</sup> Stjepan Sršan, “Sud za zaštitu nacionalne časti Hrvata i Srba u Hrvatskoj za okrug Osijek – Virovitica 1945. godine”, *Glasnik arhiva Slavonije i Baranje* 8 (2005): 266.



“certain ‘major suspects’ were not taken before the tribunal, because in many cases to which the Decision on the Protection of National Honour could have been applied, the Court Martial had already pronounced a conviction, given that these were persons who had been proclaimed people’s enemies and war criminals.”<sup>57</sup> In the territories of Virovitica and Varaždin, often “supervisory appeals” were compiled and lodged given the dissatisfaction of the authorities over what had been done.<sup>58</sup>

The people’s circuit courts had jurisdiction over the execution of compulsory labour sentences. The people’s circuit courts in Dalmatia, Primorje (Northern Littoral) or Istria deployed people to the Vrana Camp (Biograd na Moru), convicts from the territory of the district People’s Liberation Committee in Osijek were sent to the Bohn Camp (a former brick factory) next to Vinkovci, while convicts from other territories went to the Stara Gradiška Camp.<sup>59</sup> According to documents, the sentences were also served in a camp in Buzet (next to Glina).<sup>60</sup> For the execution of confiscations, the judgement would be forwarded to the administrative department of the district People’s Liberation Committee, the Justice Ministry and the People’s Liberation Committee in the superior district from which the convict originally hailed.

According to the data from the Justice Ministry of Democratic Federal Croatia dated 18 September 1945, the tribunals for the protection of national honour rendered a total of 1,083 judgements. According to the Ministry’s official opinion, these data were not complete, but they encompassed approximately 80% of all judgements rendered in Croatia. This memorandum closes with the notation that this number refers to “the total number of charged persons against whom criminal prosecution concluded with a judgement”. The number of rendered judgements is therefore smaller, given that in a part of these cases a single judgement concluded criminal prosecution against several individuals. Out of this total number, 1,039 judgements pertained to Croats, 42 to Serbs and 2 to Slovenes.<sup>61</sup>

<sup>57</sup> Geiger, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Slavonija, Srijem i Baranja*, p. 386.

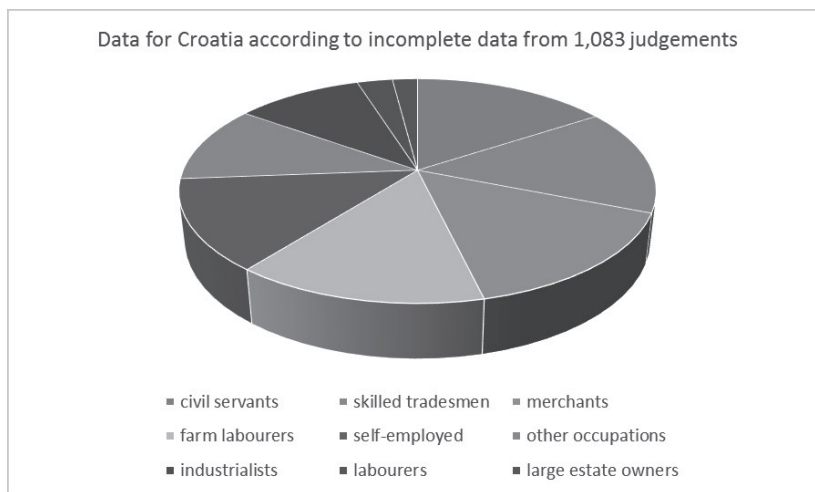
<sup>58</sup> Geiger, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Slavonija, Srijem i Baranja*, p. 378; Geiger et al., ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Zagreb i Središnja Hrvatska*, p. 631.

<sup>59</sup> Geiger, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Slavonija, Srijem i Baranja*, p. 159; *Zbornik zakona, uredaba i naredaba*, pp. 83-85; Sršan, “Sud za zaštitu nacionalne časti Hrvata i Srba u Hrvatskoj za okrug Osijek – Virovitica 1945.godine”, p. 264.

<sup>60</sup> Dizdar et al., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti*, pp. 215.-216; Geiger et al., ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Zagreb i Središnja Hrvatska*, p. 545.

<sup>61</sup> Dizdar et al., ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti*, pp. 250-264; Geiger, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Slavonija, Srijem i Baranja*, pp. 429-436; Geiger et al., ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Zagreb i Središnja Hrvatska*, pp. 711-718.

Most of the indictments were compiled pursuant to Article 2 of the Act on Protection of the National Honour of Croats and Serbs in Croatia. Based on social classification, most of the judgements pertained to industrialists, skilled tradesmen, merchants and civil servants.<sup>62</sup> As an example, I shall excerpt the data for the Virovitica-Osijek District, according to which the highest share of indicted and convicted persons belonged to the category of those who had earlier worked in the public or civil service. Generally, these were people who had a higher financial status, and almost 70% of them were from the territory of the city of Osijek.<sup>63</sup> In this case as well, the same principle was observed in Serbia and Slovenia.<sup>64</sup>



The data from the documentation collection of the Tribunal for the Protection of National Honour for the Karlovac District, i.e., its register, lucidly testifies to the 46 judgements rendered by this tribunal.<sup>65</sup> These 46 judgements encompassed 82 persons who were put before the tribunal. Even though a part of the files are missing, based on the register it is possible to clearly ascertain the names of the convicted individuals. If this is compared to the data included in the Report of the Justice Ministry of Democratic Federal Croatia submitted to the Public Prosecutor on 18 September, which indicates that 30 judgements (more precisely, against 30 persons) were pronounced by the tribunal in Karlovac, it is clear that the Report is not complete. According to the register of the

<sup>62</sup> Dizdar et al., eds., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti*, pp. 260-261.

<sup>63</sup> Sršan, “Sud za zaštitu nacionalne časti Hrvata i Srba u Hrvatskoj za okrug Osijek – Virovitica 1945.godine”, p. 266.

<sup>64</sup> Miličević, *Jugoslovenskavlast i srpskograđanstvo 1944 – 1950*, p. 329.; Cvetković, *Između srpa i čekića. Represija u Srbiji 1944 – 1953*, p. 283.

<sup>65</sup> Hrvatska/Croatia (hereinafter: HR) – Državni arhiv u Karlovcu/State Archives of Karlovac (hereinafter: DAKA) – fond 0530 – Sud za zaštitu nacionalne časti za okrug Karlovac, Registar Kz 1945. (until September 11, 1945).

tribunal in Karlovac, it is apparent that the tribunal concluded its operations on 11 September, and the report is dated 18 September. This means that the reason for conveying these erroneous data was not urgency nor the impossibility of concluding cases and then delivering the requested data.

The Report similarly contains information that the tribunal for the city of Zagreb rendered 169 judgements. According to data from the fund of the people's circuit court for the city of Zagreb, it follows that the Tribunal for the Protection of National Honour presided over 466 cases. According to the register on incoming cases between the Tribunal for the Protection of National Honour and the Circuit Court in Zagreb of 15 September, it follows that 784 persons were cited in the registers. Out of this, 358 persons are listed in register (K); 423 persons are listed in register (R), while three cases were being processed in confidential register (SU).<sup>66</sup> From this it is clear that even in this case the numbers far surpass which was cited in the Report. According to available data, not even a 20% increased number, as cited in a note in the, corresponds to the actual situation. In this case, the difference is four times greater. The same trend was also visible in the case of the tribunal in Karlovac, where the difference was almost three times higher. A slightly lesser increasing trend was also apparent before the other tribunals in Osijek and Slavonski Brod. The Report clearly indicates that the tribunals in Dalmatia (Makarska, Split, Šibenik-Zadar, and partially Sušak) had almost all convictions. This pressure was clearly reflected in the news stories carried in the daily newspaper *Slobodna Dalmacija*, which followed the trials most exhaustively. To be sure, the documentation collections in most cases are disorganized and a part of the judgements are evidently missing.<sup>67</sup> However, all of this leads to the conclusion that at the level of Croatia as a whole, this number was at least three times greater than that cited in the Report, specifically 3,000 judgements rendered by the tribunals of honour without special courts (with jurisdiction over cultural institutions).

For Serbia these estimates run from a thousand to several thousand people.<sup>68</sup> According to existing data, it follows that the tribunals were the "most

<sup>66</sup> Hrvatska/Croatia (hereinafter: HR) – Državni arhiv u Zagrebu/State Archives of Zagreb (hereinafter: DAZG) – fond 1216 – Okružni narodni sud za grad Zagreb (1945. – 1949.), kut. 9, SU: 290/1945., 15 September 1945.

<sup>67</sup> This problem becomes greater if the data from Croatian archives are compared to the data from Slovenian archives – in which there are documents testifying to the distinct organization of tribunals in individual parts of Slovenia, with precise lists of staff, and it is far simpler to perceive the structure of the actual tribunal system. In Croatia such documents are either very rare or entirely absent. It is worthwhile noting that, to the best of my knowledge, a very similar problem pertains to the materials for the territory of Serbia.

<sup>68</sup> Mitrović, *Srpska nacionalna čast pred zakonom 1945. godine*, p. 73.; Cvetković, *Između srpa i čekića. Knjiga prva: Likvidacija "narodnih neprijatelja" 1944 – 1953.*, p. 360. At the congress of the Communist Party of Serbia, Blagoje Nešković stated that up to May 1945 the courts martial in Serbia sentenced 300 persons to death, the courts martial and the tribunals of national honour convicted an additional 462 persons to loss of national honour, 1,464 persons to confiscation of assets and 363 persons to compulsory labour.

effective” in the territory of Serbia. Thus, there was no shortage of criticism of the new legislation, with the observation that people’s enemies were being too harshly sanctioned, particularly if one takes into consideration the standards applied in other Yugoslav federal units. Specifically, at a session of the Unified People’s Liberation Front of Serbia, it was stated that for a given crime in Croatia, 12 year prison sentences were handed out, while in Serbia it would incur the death penalty.<sup>69</sup> There are no specific data for Slovenia, but according to the assessment of the Slovenian public prosecutor, it follows that a total of 3,000 cases were processed.<sup>70</sup> Here certain similarities to the available estimates for Slovenia and Serbia can be seen.

The percentage of acquittals at the level of Croatia was below 10%, while, for example, in Petrinja, Split and Šibenik, not one person was acquitted of charges. In this sense, the report by the public prosecutor for the Šibenik District dated 7 May is quite interesting; in it, he called on: “Patriots from the city of Šibenik, workers and civil servants, peasants from the surrounding countryside, all who felt the brunt of foreign occupation on their backs, who felt the hardships due to concealment of goods in the deep and secret depots of war profiteers and the wealthy, to demonstrate against these criminal activities in organized fashion [...] to find and report to the People’s Courts all criminals, to help make them incapable of doing further harm and to demand that the People’s Courts convict all of these criminals in line with the people’s justice.”<sup>71</sup>

How they were made “incapable of doing further harm” was described quite well by Milan Prelić, who presided over the tribunal and according to whom: “convicted persons may not hold any post in the civil service, nor receive any perquisites from the state [...] They shall have no right to perform any public function [...] They may neither open nor run a business [...] All of this, as can be seen, renders the one encompassed by punishment effectively dead to public life.”<sup>72</sup>

Despite the high number judgements rendered, the Communist Party’s dissatisfaction was apparent, so that at the First Consultation of OZNA Chiefs and Administrators, Justice Minister Dušan Brkić noted that:

“The tribunals for the protection of national honour have not responded to their tasks because our district committees and courts did not comprehend

<sup>69</sup> Mitrović, *Izgubljene iluzije*, p. 76 (note 7); Mitrović, *Srpska nacionalna čast pred zakonom 1945. godine*, p. 23 (note 9); Cvetković, *Između srpa i čekića. Knjiga prva: Likvidacija “narodnih neprijatelja” 1944 – 1953.*, p. 360.

<sup>70</sup> Milko Mikola, *Zaplembe premoženja v Sloveniji 1943 – 1952* (Celje, 1999), pp. 146-147; Kobale, “Sodišče narodne časti”, p. 82.

<sup>71</sup> Rupiće, Geiger, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946. Dokumenti. Dalmacija*, pp. 447-448; “Narodni sud nemilosrdno kažnjava ratne bogataše i špekulante”, *Vjesnik*(Zagreb), 13 May 1945, p. 4.

<sup>72</sup> Mitrović, *Srpska nacionalna čast pred zakonom 1945. godine*, p. 206; Cvetković, *Između srpa i čekića. Represija u Srbiji 1944 – 1953.*, p. 278.

their significance as revolutionary tribunals, they did not understand that these are forms for the rapid and energetic purging of enemies from our ranks. We were given a brief period for the duration of these revolutionary tribunals, [...] to cleanse the country of hostile elements in the shortest possible time, whether by capital punishment or imprisonment, to halt the enemy and take matters into our own hands [...] We did not act quickly enough. The bourgeoisie was never for the People's Liberation Struggle and we did not, in fact, manage to take matters into our own hands. And the tribunal of national honour was formed several days ago. It was supposed to indicate the urgency of the work of the revolutionary tribunals".<sup>73</sup>

The dispatch from the deputy prime minister of Democratic Federal Yugoslavia, Edvard Kardelj (25 June 1945) sent to the prime minister of the People's Republic of Slovenia, Boris Kidrič, had a similar tone: "The tribunals of national honour will be dissolved within the next three days, courts martial will only try military personnel, and everything else will be assumed by the regular courts. You have no reason to be as slow in purges as you have been thus far".<sup>74</sup>

On 8 September 1945, parallel to the abolishment of the tribunals for the protection of national honour, the Decree on Amnesty of Persons Convicted under the Decision on the National Honour of the Croats and Serbs in Croatia was promulgated. The cases which were still being processed were turned over to the jurisdiction of the circuit courts.<sup>75</sup> Under the Decree, pardons were granted and sentences of compulsory labour were commuted, regardless of the length of the sentence, for all persons who at the time of publication of the Decree had been legally convicted for acts specified in the Decision on the Protection of the National Honour if they were 55 years of age up to that date, and for all others who had been sentenced to two years of compulsory labour. Persons sentenced to compulsory labour for a duration of two to five years had their sentences halved; persons sentenced to compulsory labour for a duration of five to ten years had their sentences reduced by a third; persons sentenced to compulsory labour for a duration longer than ten years had their sentences reduced by a fourth; persons sentenced to compulsory labour for life had their sentences reduced to twenty years. The decisions on penalties entailing loss of national honour and confiscation of assets and monetary fines, as well as

<sup>73</sup> Dizdar et al., ed., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944.-1946. Dokumenti*, p. 235; Geiger, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. - 1946. Dokumenti. Slavonija, Srijem i Baranja*, pp. 343-344; Rupić, Geiger, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. - 1946. Dokumenti. Zagreb i Središnja Hrvatska*, pp. 577-578; Brunšek, "Procesi pred sodiščem slovenske narodne časti v Ljubljani", p. 108.

<sup>74</sup> Mitja Ferenc, *Prikrito in očemzakrito. Prikrita grobišča 60 let po koncu druge svetovne vojne* (Celje, 2005), p. 18.

<sup>75</sup> HR-DAZG – fond 1216 – Okružni narodni sud za grad Zagreb (1945. – 1949.), kut.9, SU 290/45, 10 September 1945; HR-DAZG – fond 1216 – Okružni narodni sud za grad Zagreb (1945. – 1949.), kut. 9, no. 6791/45., 10 September 1945; "Ukaz o amnestiji. Opraštanje i sniženje kazni izrečenih od suda za zaštitu nacionalne časti", *Glas Slavonije* (Osijek), 12 Sept. 1945, p. 2.

exile, were not covered by the provisions of this Decree.<sup>76</sup> Petitions for pardons were attached to the character references which were issued by the Internal Affairs Ministry (for those who were serving terms of compulsory labour in penitentiaries), People's Liberation Committee or the People's Front. Then the Presidiums of the People's Liberation Councils in individual republics deliberated on these requests.

The data on amnestied individuals which the Justice Ministry sought on 17 September 1945 were generally delivered late, and this is probably why the complete documents do not exist in the archival collections.<sup>77</sup> Thus, for example, according to a report dated 21 September 1945, 136 persons were amnestied in the territory of the tribunal for the city of Zagreb.<sup>78</sup> The extent of the credibility of the proclaimed qualifications against convicted individuals was confirmed by the relatively quickly adopted Decree on individual pardons. After only a few months, compulsory labour sentences were "pardoned", either in whole or in part.<sup>79</sup>

Numerous debates ensued after the termination of the tribunals, given that certain penal activities did not come under the Crimes Against the People and State Act which became the authoritative legislation.<sup>80</sup> Similar debates were held on the retroactive application of the law, but once more and as expected, it was concluded that it had its "legal foundation, given that during the Second World War crimes (offenses) emerged which previous legislators could not have foreseen. According to the interpretations of the day, not all provisions of the National Honour Protection Act were retroactive given that some crimes had already been defined as such by the Penal Code of the Kingdom of Yugoslavia of 27 January 1929.<sup>81</sup>

The tribunals for the protection of national honour were revolutionary courts aimed against wealthier citizens and private property, and the objective of their activity was to create a state sector of the economy under the direct supervision of the authorities, particularly because assets were not returned even after eventual pardons.<sup>82</sup> Besides assets, convicted individuals lost their civil rights, including suffrage, which eliminated a certain number of political adversaries prior to the elections. Additionally, the exclusion of the wealthy and

<sup>76</sup> HR-DAZG – fond 1216 – Okružni narodni sud za grad Zagreb (1945. – 1949.), kut. 9, no. 6791/45., 10 September 1945.

<sup>77</sup> HR-DAZG – fond 1216 – Okružni narodni sud za grad Zagreb (1945. – 1949.), kut. 9, no. 7266/45., 17. September 1945.

<sup>78</sup> HR-DAZG – fond 1216 – Okružni narodni sud za grad Zagreb (1945. – 1949.), kut. 9, SU: 317/1945., 21 September 1945.

<sup>79</sup> Katz, "Komunizam i represija: Sud narodne časti u Bosni i Hercegovini", p. 160.

<sup>80</sup> Kobale, "Sodišće narodne časti", p. 89 (and the sources cited therein).

<sup>81</sup> Kobale, "Sodišće narodne časti", p. 90.

<sup>82</sup> Radelić, *Hrvatska u Jugoslaviji 1945.-1991.: Od zajedništva do razlaza*, p. 63.



entrepreneurial class from the economy and politics of the time was also secured. Compulsory labour sentences signified physical isolation of individuals from the communities in which they resided, because hard labour in particular was carried out in mines or at forest work sites. According to data from the Central Committee of the Communist Party of Slovenia, the tribunals for the protection of national honour were supposed to complete their tasks within a "specified period", during which 80 to 90% of industry had to be confiscated and nationalized.<sup>83</sup> This figure corresponds with the date for Serbia, in which 80% of state ownership in post-war industry was achieved by confiscation.<sup>84</sup>

Often it was noted that loss of national honour, particularly if it was not accompanied by compulsory labour or confiscation of assets, was a light sentence, because "the convicted never had honour, and their faces will not redden due to such a penalty". Furthermore, the tribunal did not concern itself with individual suspects, and thereby with their reputations, rather every case was considered from the standpoint of the entire people who "placed their honour and their national pride above property, above life, above everything". Therefore it was concluded that this people would know how to assess those who had fallen away from them. And this was precisely why each judgement was rendered in the name of the people.

It is noteworthy that the tribunals for the protection of national honour functioned within the framework of the legal system which was largely still in its formative stages. Jakov Blažević quite extensively described this when he stated that it was necessary to "become acquainted with the new laws" and ensure their "precise and rapid enforcement." According to him, the Decision on the Protection of the National Honour of the Croats and Serbs was supposed to punish those who: "[...] imposed damages on their people, and who by virtue of their position, the extent of the social harm they caused and the threat they pose, the character and level of their criminal minds, represent a constant peril and general impediment to the people. This legal sanction corresponds to the political sense and line of our platform. To blindly enforce these provisions against on persons who were misled, unaware, whose authority and influence was minor or non-existent, would be to twist the sense of the aforementioned Decision and run counter to the political policy of reconciliation and absolution, against the proper political broadness of the Unified People's Liberation Front".<sup>85</sup>

<sup>83</sup> Radelić, *Hrvatska u Jugoslaviji 1945.-1991.: Od zajedništva do razlaza*, p. 63; Vodušek Starič, *Prezvem oblasti 1944 - 1946*, 274., p. 279; Vodušek-Starič, *Ozadje sodnih procesov v Sloveniji v prvem povojnem letu*, p. 146.

<sup>84</sup> Cvetković, *Između srpa i čekića. Knjiga prva: Likvidacija "narodnih neprijatelja" 1944 - 1953.*, p. 361.

<sup>85</sup> "Upoznajmo naše nove zakone i borimo se za njihovu točnu i brzu primjenu", *Vjesnik* (Zagreb), 6 July 1945, p.1.



And finally, justice, by its very nature inevitable imperfect, in Western Europe after the Second World War in its essence was nonetheless not entirely “worthless” and not all judgements were inaccurate.<sup>86</sup> It was, however, restricted by the chronological force and framework to the period immediately after the close of wartime operations and as such it may be largely classified under the denominator of post-war retaliation: as a phase of society’s “recovery”. The responses to the work of the tribunals for the protection of national honour in Croatia (and Yugoslavia) were certainly multifarious. This is simply an attempt to classify punishment/retaliation within its proper context in post-war Croatia/Yugoslav history, not only as an integral component of the struggle for political predominance, but also as a genuine, but essentially faulty, attempt at a “confrontation” with the legacy of Nazi occupation.

## **Die Tätigkeit der Gerichte für den Schutz der nationalen Ehre der Kroaten und Serben in Kroatien im Jahre 1945**

### **Zusammenfassung**

Im Artikel wird eine kurze Periode im Jahre 1945 dargestellt, als die Ehre der Kroaten und Serben unter den Schlag der Rechtsvorschriften geriet. Ein der Hauptziele bei der Gründung neuer Macht war auch die Normierung der Rechtsrahmen. Die Gerichte für den Schutz der nationalen Ehre der Kroaten und Serben sprachen Recht für politische, propagandistische, kulturelle, künstlerische, wirtschaftliche und administrative Zusammenarbeit mit Okkupanten und „heimischen Verrätern“. Ihre Urteile hatten mehrfache Bedeutung und weitreichende Konsequenzen.

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<sup>86</sup> Martin Conway, “Justice in Postwar Belgium: Popular Passions and Political Realities”, *Cahiers d’Histoire du Temps présent* (1997), no. 2: 7.

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