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Post-War Retributive Jurisdiction in Slovakia

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Abstract. This paper provides an overview of the history of political bases and political party struggle for the realization of the post-war jurisdiction against war criminals and Nazi collaborators in Slovakia. While Slovak democrats tried to judge their war rivals strictly but equitably, communists wanted to judge all real or potential political opponents connected with the war regime. Because the moderate democrats had more influence, results of the Slovak retribution was not so harsh.

Keywords: post-war jurisdiction; war criminals; collaboration; political struggle; Slovakia.

Introduction

Czechoslovakia was disintegrated in March 1939 under the pressure of Germany and with the help of inner conflicts. Autonomous Slovak Republic, strongly bounded to Nazi Germany, was created at Slovak territory. Its policy was controlled by totalitarian Hlinka's Slovak People's Party – so called Ludaks. Ludak regime of Slovak Republic integrated the elements of traditional Slovak nationalism or Christianity, but also foreign fascist and Nazi models/elements. In the 1944 the Uprising against the regime started. It started unscheduled already at the end of August 1944, when Germany decided for military occupation of Slovakia just in case, that it will not join the Allies. The Uprising, which was politically led by the Democrats and the Communists, supported Czechoslovakia, but demanded federation after the War. However after two months the Uprising was defeated. Since autumn 1944 Slovak Republic was factually occupied by Germany, although German bodies officially allowed Ludak quislingite institutions to work. German army was gradually pressed by Red Army since the end of 1944. Czechoslovak statehood started to be restored beyond the front and Slovakia became its part again.

Shortly after the end of World War II the trials with war criminals of Nazis and their collaborators, citizens of particular states, started in several European countries, which were occupied, or under the influence of Germany. Considering the particularity of the crimes of World War II, the crimes, which were not defined by the law, were trailed on principle of retroaction. For this reason specific forms of courts were established in some countries. In post-war Czechoslovakia this process was called retribution and special post-war courts, which practised it, were called popular courts. The term "popular" should emphasize their particularity compare to the other courts, in which the lawyers decided. In popular courts the laics without legal education decided. The participation of the laics in retribution jurisdiction should express the fact, that they are judging not only direct war crimes, but also political acts of regime authorities of the first Slovak Republic, which helped war criminals or expansive policy of Nazi Germany [1].

This laicization of judging had to the purpose that the citizens will rid of criminals and their collaborators, so they will clean themselves morally [2]. Of course as in each trial of the victors against the defeated, or judging of political activity of political opponents, basic law principles, objectivity and neutrality of trial and presumption of innocence were violated many times.

Slovak resistance groups, which had representatives in insurgent Slovak National Council, which took power after the fall of pro German war regime in Slovakia, started to prepare proposition of retribution legal norm shortly after the liberation. It should punish all war crimes in Slovakia and all active representatives of war regime. Although the retribution norm was already

prepared during the War by exile Czechoslovak bodies in London, with the intention to issue it for the whole territory of Czechoslovakia, Slovak National Council decided to issue own Slovak norm. Except the fact, that the Council refused the idea of legal continuity of interwar Czechoslovak Republic (which was part of the proposal of London exile bodies) they were afraid of disobedience of different Slovak legal and social conditions by Czech politicians in the case of issuing of common norm [3]. Also political interest of the Communists influenced the adoption of special Slovak modification in large scale. They were aware of their political superiority in Slovakia and in Czech lands in the first half of the year 1945 and believed in enforcement of revolutionary and radical retribution norm at least in Slovakia [4].

The voices for the making of retribution were sporadically heard already immediately after the liberation of Eastern parts of Slovakia in February and March 1945 [5]. The specific preparations of Slovak retribution norm started only after the liberation of whole Slovakia and after solving of more urgent questions of primary function of the society. Then Slovak norm about the retribution was adopted in relative short time in May 1945, because the representatives of Slovak National Council were afraid of adoption of Presidential retribution decree before their norm. The decree should cover the whole territory of Czechoslovakia and it would make Slovak modification useless. Therefore the chairmanship of Slovak National Council negotiated about forthcoming scheme of the directive already on April 16, 1945. It should be adopted in several days in their plenum.

On April 21, 1945 the scheme of retribution directive was negotiation topic of Slovak National Council, but because of different opinions of the Communist Party of Slovakia and Democratic Party, it was not adopted. So the special commission was established [6] with the intention to prepare compromise proposal of the directive, which will be adopted in the Council by the representatives of the Communist Party of Slovakia and also by the representatives of the Democratic Party. Disunion of the opinions of political parties considering retribution norm was reflected to the work of this commission. Mainly the question of retroactivity of this norm caused problems. Also different opinions of the Communists and the Democrats about the optimal proportion of laics and lawyers in popular courts, using of defence advocates during the proving of guilt of the client caused problems too. For example, the Democrats wanted as many lawyers in popular courts as possible; the Communists wanted its maximal laicization.

The attitude of the Democratic Party was influenced by the apprehension of disunion of the punishments in the same guiltiness, or apprehension of bigger quantity of non objective verdicts and misdemeanours in judging, if the persons unknowing of law would judge. Slovak Democrats also did not agree that defence advocates should help by finding of guilt of the client, because it would mean something like a return to Middle Ages inquisition [7]. At the end both political parties agreed with compromise version of retribution directive. Considering the predominance of the Communists their opinions were taken more into the consideration. On May 15, 1945 the plenum of the Slovak National Council adopted the Directive number 33 "About punishment of fascist crimes, the occupants and traitors and about the establishment of popular jurisdiction" [8].

At first glance the Slovak retribution norms may seem a bit harsh especially in the area of tangible assets. The § 1, which is dealing with occupants, punishes obvious war crimes of foreign citizens with the absolute penalty. However the § 2 to § 4 are dealing with political offense, which cannot be objectively condemned. In addition, many characteristics of demerits are so broad, that they could include almost all state and local employees or representatives of the First Slovak republic, not to mention that according to all paragraphs these were punished by the death sentence. Only §6, which is dealing with the mitigation of sentences according to later resistance work or the saving of Slovak lives and property, lessened this harsh jurisdiction. However as was later shown the harshness of the retribution norm was only formal. People's courts usually forgave or severally lessened the sentences put forward by retribution courts, whether by citing §6 or using the excuse of "human factors". The judges of peoples courts were usually far less strict then the laws of the retribution norm.

Slovak retribution laws created three types of peoples courts according to competence. The highest position had the National court. It dealt with the leading representatives of the Lúdák regime from all over Slovakia – for example the former president J. Tiso, members of the government, assembly, leaders of the Hlinka's guards and so on. The middle levels of retribution judiciary were the District People's courts. They were dealing with people working on the local level

in the previous regime. Like the National court they could give the convicts the death sentence; however this was done only rarely because the main war criminals were judged by the National court. The District people's courts were represented by the chairman and 4 assessors, however the chairman and his deputy had to be lawyers. The lowest level of Slovak retribution was the Local people's courts, which were positioned in cities and towns. They were dealing with the lowest category of retribution convicts according to §5. order n. 33/1945, so the highest sentence they could give was a 2 year sentence in a work camp [9].

The presidential retribution decree, which was valid in Czech lands, was different from the retribution order on the SNR. The presidential decree mainly applied formal merits according to the penal code from 1852 and the law n. 50/1923, which were rather legalistic. In a true sense the order of the SNR contained true merits. There were rather new concepts and nonstandard claims regarding the characteristics of culprits showing them as fascist occupants, betrayers, collaborators, betrayers of the uprising and so on. The order of the SNR did not know the institution of criminal organizations like the presidential decree, where to punish a person it was sufficient that he/she was a member of the NSDAP, Sudetendeutsche Partei, Vlajka and others. According to the directive of the SNR a member of the Slovak council was a collaborator already when he was elected as a representative, however his responsibility was only a personal one. A big specific of the Slovak directive was that if a person was taking part in the Uprising, he/she could be freed from the accusation of collaboration or treason as they were trying to mend their mistakes later on [10].

The retribution directive was judicial norm, which was aimed at punishing those who were supporting German expansive politics. Even today nobody would really object to such laws. However it was also misused by political parties (KSS and DS) that were victorious after the war, to punish their political enemies. So it was also used to punish those people who were involved with the Ľudák regime also because they helped to bring down the Czechoslovak republic and to create the Slovak state, which was an ally with Nazi Germany. Both Slovak post war political parties also wanted revenge for their own persecuted members, especially regarding the Ľudák regime after the start of the Slovak national uprising. During the uprising both antagonistic factions –Ľudák and non-Ľudák- fought an armed conflict against each other for their own ideals and aims. Therefore it was natural for the victor to make the defeated responsible for the suffering.

These political motives were strengthened in countries where communists had the power and used it to get rid of their political opponents whether they were or were not fighting the Nazis during the war. Post war retribution trials were a good opportunity to destroy or otherwise get rid of all opponents, who were participating in pro-German regimes [11].

It was a natural outcome of the war and the post-war era, that retribution jurisdiction was not objective. Usually laymen were leading such trials and therefore there was a much smaller chance that they would truly be candid.

Apart from these "human" factors, political parties also influenced the outcomes of these processes. They were following their own aims, which changed over time as the situation in post-war Slovakia was gradually changing.

The DS (Democratic Party) was aiming to punish the main representatives of the 1st Slovak republic and the HSĽS [12] and did not want to deal with all people who were taking minor parts in the previous regime. In general we could say that the call for vengeance from the DS was far lesser in comparison with the communists as the members of the DS understood the complexity of collaboration better also because some of its members previously worked in the economy sector of the 1st SR. Last but not least they also knew how to cherish the help of some representatives of the Ľudák regime in preparing the Uprising.

Slovak communists had similar aims in the retribution processes; however they also wanted bloody revenge for the persecutions of their own members from the hands of the previous regime and also wanted to eliminate any potential enemies in their own struggle for power.

These different aims in the leadership of the KSS and DS later projected into the execution of the retribution processes. Shortly after the starts of the processes in June 1945 the first conflicts arose. The DS found out quickly that the KSS was trying to eliminate its opponents with the use of these processes and was criticizing the harshness of the sentences and the biased appraisal.

The democrats also attacked the KSS for trying to protect war criminals which were its members. They also questioned the KSS for trying to gather more members in the people's courts

at the expense of even distribution of representatives of the democrats and communists, which was aimed at influencing the outcomes of these proceedings [13].

The KSS, even though it was openly stating to be in alliance with the DS with regards to punishment of war criminals, was trying to influence the people's courts [14] also because its members wanted to discredit the representatives of the DS, who were part of the resistance [15].

Shortly after the creation of people's courts, the press of the KSS started to eulogize the harshness of sentences [16]. Later the communists started to criticize the clemency of sentences, the small numbers of convicted people and the slowness of people's courts [17]. The communists in the Czech lands were trying to create the impression that the Slovak democrats want to protect fascist criminals and collaborators [18]. On the other hand the criticisms of the communists against the democrats had some real basis. It is a fact that the strict position of the DS to punish the members of the Ludák regime or Catholicism was gradually lessened. This was mainly due to the disinterest of the broad population in strict measures and also because of the April treaty. The influence of the April treaty between the Evangelic and Catholics in the DS also had the effect that they better understood the position of Catholic priests during the war and wanted to give them lesser sentences.

The best example is the court proceedings with the former president of the Slovak state, Jozef Tiso. Another similar case of the forgiving positions of the democrats towards Catholic priests was the case of the German parson and former member of the Slovak concilium, Jozef Steinhübel. In March 1946 the press of the DS showed him as an apostle of Nazism influencing the assertiveness and activity of the German minority in Slovakia during the war [19]. However in May 1947, when the government was deciding about his reprieve from the death sentence it was J. Ursíny, an important member of the DS and its former leader, who wanted his freedom the most [20].

The post war retribution judiciary in Slovakia ended its activity on the 31st of December 1947. All cases which were not handled up until this point were then handed over to regular courts. Up until the end of 1947, 38 000 complaints were handed over to the courts from which $\frac{3}{4}$ were dealt with until the end of 1947. From the 20 550 accused people only 40 percent were convicted and the rest was freed. From the 8000 convicts, 65 people received the death sentence (only half was actually executed). Approximately 330 people were sentenced to serve 10 to 30 years in prison. 45 percent of the convicted served less than 2 years and 40 percent received admonition [21]. Based on these numbers we can state that Slovak retribution courts, during the era of the increase of the soviet influence in post-war Eastern Europe, were rather lenient. If we compare Slovak retribution with Czech retribution – relatively to amount of population – in Czech lands were eight times more people punished and about 700 executions against 25 in Slovakia [22]. In Hungary, which has more than two times greater population than Slovakia, about 27 000 persons were sentenced and 146 were executed [23].

Conclusion

At the end of 1947 the retribution courts did not definitively end. After the communists took power in Czechoslovakia in February 1948, the parliament agreed to the bid of the government under Gottwald to restart the retribution processes. These courts were supposed to deal with undone proceedings from 1945-1947, or were restarting new processes in cases where they thought the sentences were lenient. However this was only a pretext to punish any political enemies with disregard to the fact if they were collaborating with Nazism or were just the members of non-communist political parties.

References:

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2. Compare: Ludové sudy budú vykonávatel'mi práva // Čas. 1945. Nr. 31. P. 2.
3. For details see: Rašla A. Ludové sudy v Československu po II. svetovej vojne ako forma mimoriadneho súdnictva. Bratislava: Editorship of Slovak Academy of Sciences, 1969. P. 43-47.
4. Jech K. Dekrety prezidenta republiky 1940-1945. Documents Part I. / K. Jech, K. Kaplan. Brno: Doplněk, 1995. P. 249-254, 261-265.

5. For detail see: Vartíková M. Komunistická strana Slovenska. Dokumenty z konferencií a plén 1944-1948. Bratislava: Pravda, 1971. P. 108.

6. This special commission consisted of three experts - lawyers (Slavomír Takáč, Igor Daxner a I. Štefánik) and one representative of political parties (J. Púll for Communist Party of Slovakia, a I. Pietor for Democratic Party). Rašla A. Ľudové súdy v Československu po II. svetovej vojne ako forma mimoriadneho súdnictva. Bratislava: Editorship of Slovak Academy of Sciences, 1969. P. 57.

7. Compare: Feierabend K. L. Pod vládou národní fronty. Washington: own edition, 1968. P. 44.

8. Sbierka nariadení Slovenskej národnej rady 1945. Bratislava: Office of the Chairmanship of the Slovak National Council, 1945. P. 42-46. Directive of the Slovak National Council Nr. 33/1945 from May 15, 1945 "About punishment of fascist crimes, the occupants and traitors and about the establishment of popular jurisdiction" was published in the whole length in newspaper Pravda from May 18, 1945 with the title: „Viníci budú prísne potrestaní.“

9. Look at: Sbierka nariadení Slovenskej národnej rady 1945. Bratislava: Office of the Chairmanship of the Slovak National Council, 1945. P. 42-46.

10. Compare: Beňa J. Slovensko a Benešove dekréty. Bratislava: Belimex, 2002. P. 80; Dekrét prezidenta republiky č. 16/1945 Sb. „o potrestaní nacistických zločinců, zrádců a jejich pomáhačů a o mimořádných lidových soudech“ published // Sbírka zákonů a nařízení. Praha, 1945. P. 25-31.

11. This is proven by the criticism by K. Gottwald regarding the retribution laws brought forward by the exiled government in London. They were presented before Gustáv Husák in februari 1945 in Moscow. K. Gottwald was thinking that this law was too lenient and therefore wanted to broaden retribution laws so that it would deal with all the bourgeois. Rašla A. Ľudové súdy v Československu po II. svetovej vojne ako forma mimoriadneho súdnictva. Bratislava: Editorship of Slovak Academy of Sciences, 1969. P. 53.

The true aim of the communists was to eliminate all opponents from political and regular life, even those who were not active. The communists definitively wanted absolute power in Czechoslovakia, which is proven by later documents. For example the Union of Slovak partisans demanded, during the autumn crisis in Slovakia during 1947, the removal of hundreds of people from state and local functions. These claims were based on false accusations that these people were part of the previous regime. SNA Bratislava, fund PV – pers., carton 11.

12. With regard to the post war retribution the chairman of the Democratic Party J. Ursíny said during the main congregation of the party in Martin on 8th July 1945: "It would not be right if those, who shamed our life, would go unpunished. However the biggest criminals are those who betrayed our soldiers and resistance fighters after they retreated into the mountains... It is important that the peoples courts will be harsh but just, so that personal vengeance will not become prevalent. Peoples and National courts will not be judging functions but deeds of the people." Ursíny J. Cesta Demokratickej strany. Martin: Ústredný sekretariát Demokratickej strany, 1945. P. 18.

13. Belluš S. Ľudové súdy a naše stanovisko / S. Belluš // Demokratická strana a problémy dneška. Bratislava, 1945. P. 4-5.

14. The persistent tries of political parties, especially the KSS, to influence the retribution processes can be seen in the speech K. Bacílka during the plenary of the Central committee of the KSS on the 26th of October 1945: "We will be unrelenting against reactionism and fascism. It is important that our comrades do not criticise peoples courts but safeguard public opinion and testimonies." Vartíková M. Komunistická strana Slovenska. Dokumenty z konferencií a plén 1944-1948. Bratislava: Pravda, 1971. P. 290.

15. A typical example of this is the request of the District people's court in Prešov regarding the cancelation of the deputy immunity of P. Pláňovský (an important member of the resistance in eastern Slovakia) because of a constructed accusation of collaboration according to § 3. order n. 33/45 Sb. nar. SNR. SNA Bratislava, fund ÚP SNR, carton 998. Těsnopisecká správa o 28. schůzi Provizorního národního shromáždění republiky Československé z 12. 2. 1946.

16. Look at: Ľud môže hneď začať súdiť // Pravda. 1945. Nr. 81. P. 3; Vidiecky ľudový súd príkladom // Pravda. 1945. Nr. 120, P. 2.

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Послевоенное карательное правосудие в Словакии

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Аннотация. Данное исследование содержит обзор истории политической основы и политической партии, которая боролась за реализацию послевоенного правосудия против военных преступников и нацистских коллаборационистов в Словакии. В то время как словацкие демократы старались судить военных преступников строго, но справедливо, коммунисты хотели осудить всех реальных или потенциальных политических оппонентов, связанных с военным режимом. В связи с тем, что умеренные демократы имели более сильное влияние, результаты словацкого карательного правосудия не были слишком жестокими.

Ключевые слова: послевоенное правосудие; военные преступники; коллаборационизм; политическая борьба; Словакия.