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## **Kazalo / Contents**

### **Članki in razprave / Papers and Essays**

MARTIN BELE: Štajerske dvorne službe do leta 1311 .....	11
<i>Styrian Court Offices until 1311</i>	
TONE RAVNIKAR: Maribor v 13. stoletju. 2. del: cerkvene institucije v mestu in okoli njega .....	41
<i>Maribor in the 13<sup>th</sup> Century. Part 2: Ecclesiastical Institutions in the City and Its Surrounding Area</i>	
NATALIJA ULČNIK: Strokovna leksika v Kremplovih <i>Dogodivšinah</i> <i>štajerske zemle</i> .....	73
<i>Professional Vocabulary in Krempf's Dogodivšine štajerske zemle (The History of the Land of Styria)</i>	
ŽARKO LAZAREVIČ: Prvo jugoslovansko leto Slovencev – gospodarski ukrepi, razhajanja in negotovosti .....	101
<i>The First Yugoslav Year of Slovenes – Economic Measures, Divergences and Uncertainties</i>	
DUNJA DOBAJA: Organizacija mladinskega skrbstva v mestni občini Maribor v obdobju med obema vojnama .....	135
<i>The Construction of Youth Care in the Municipality of Maribor in the Period between the Two World Wars</i>	
MATEJA ČOH KLADNIK: Retribution against Collaborators of the Occupiers after the End of the Second World War: The Concept of "National Honour" .....	167
<i>Obračun s sodelavci okupatorjev po koncu druge svetovne vojne: koncept "narodne časti"</i>	
PETRA KLEINDIENST in MATEVŽ TOMŠIČ: Proces narodne sprave in vloga politične elite v njem: Slovenija kot izjema med državami srednje in vzhodne Evrope .....	197
<i>Process of National Reconciliation and the Role of the Political Elite in It: Slovenia as an Exception in Central and Eastern Europe</i>	

# **S** *tudia* **H** *istorica* **S** *lovenica*

JOCA ZURC: Uresničevanje otrokovih pravic v izven kurikularnih športnih aktivnosti.....	233
<i>Enforcing Children's Rights in the Extracurricular Sports Activities</i>	

<b>Avtorski izvlečki / Authors' Abstracts</b> .....	271
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<b>Uredniška navodila avtorjem /</b> <i>Editor's Instructions to Authors</i> .....	277
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**H** *istorica*  
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# ***Retribution against Collaborators of the Occupiers after the End of the Second World War: The Concept of "National Honour"***

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## ***Abstract:***

Courts of national honour were established in some European countries after the end of the Second World War. These were special courts which assisted in the process of "cleansing" or the process of post-war retribution against collaborators of the occupiers. The author presents the criminal procedures for acts against national honour in Czechoslovakia, Croatia, Slovenia and Serbia. The courts of national honour assumed the role of revolutionary courts and through their operation contributed to the final seizure and consolidation of the Communist Party's power. They participated in the process of changing the socio-economic structure of the state. Trials before the courts of national honour violated one of the fundamental legal principles – *nullum crimen sine lege*: acts (the collaboration with the occupier) tried by the courts of national honour were not considered crimes at the time that they were committed.

## ***Key words:***

Second World War, occupation, collaboration, retribution against collaborators of the occupier, courts of national honour, trials, forced labour, confiscation of property, Czechoslovakia, Slovenia, Croatia, Serbia, 1945

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## Introduction

British historian Tony Judt characterised the Second World War as a war of "occupation, of repression, of exploitation and extermination, in which soldiers, storm-troopers and policemen disposed of the daily lives and very existence of tens of millions of imprisoned peoples".<sup>1</sup> Additionally, the war was heavily marked by collaboration and resistance against the occupiers,<sup>2</sup> and in some places even by civil war and revolution (in Slovenia or Yugoslavia).<sup>3</sup> This is why the natives' arbitrary retribution against the members of foreign occupying armies as well as their collaborators and supporters at home was to be expected after the end of the war. Considering the occupiers' numerous violent and denationalising measures (expulsion, assimilation, concentration camps, shootings of hostages etc.), fear of such retribution was certainly justified. This problem was present everywhere where the occupier's violence left deep wounds and nightmarish memories of the difficult years of total war.

Towards the end of the war, people across all of Europe made increasingly loud appeals for the punishment of (alleged) "collaborationists", meaning those who (supposedly) collaborated with the occupiers in any way. During the German army's retreat and the re-establishment of legitimate governments, "popular frustrations and personal vendettas /.../ led to a brief but bloody cycle of score-settling". In the final months of the war, some 10,000 people were killed in France in "extrajudicial" proceedings, and around 15,000 people met the same fate in Italy. Such acts of vengeance were much less frequent in west-

<sup>1</sup> Tony Judt, *Povojna Evropa, 1945–2005* (Ljubljana, 2007) (hereinafter: Judt, *Povojna Evropa*), p. 28.

<sup>2</sup> Cf.: István Deák, *Evropa na zatožni klopi: kolaboracija, odpor in poučalni ukrepi med drugo svetovno vojno* (Mengeš, 2015) (hereinafter: Deák, *Evropa na zatožni klopi*), pp. 71–72. More on this also in the following: Ian Buruma, *A Year Zero: A History of 1945* (New York, 2013); Timothy Snyder, *Bloodlands: Europe Between Hitler and Stalin* (New York, 2010); Kevin McDermott, Matthew Stibbe, *Revolution and resistance in Eastern Europe: challenges to communist rule* (Oxford–New York, 2006); Norman M. Naimark, *Fires of Hatred: Ethnic Cleansing in Twentieth Century Europe* (Cambridge, 2001); István Deák, Jan T. Gross, Tony Judt, *The politics of retribution in Europe: World War II and its aftermath* (Princeton, NJ, 2000); *Resistance in Western Europe*, ed. Bob Moore (Oxford, 2000); *Resistance and Revolution in Mediterranean Europe 1939–1948*, ed. Tony Judt (London–New York, 1989); Gerhard Hirschfeld, *Nazi Rule and Dutch Collaboration: The Netherlands Under German Occupation, 1940–1945* (Oxford, 1988).

<sup>3</sup> Cf.: Janko Prunk, "Idejni in praktični vzori slovenske komunistične revolucije 1941–1945", *Studia Historica Slovenica* 17, No. 1 (2017), pp. 237–244; Vida Deželak Barič, "Priprave in izvedba revolucionarnega prevzema oblasti na Slovenskem leta 1945", *Studia Historica Slovenica* 16, No. 2 (2016), pp. 374–396; *Slovenia in 20th century, The legacy of totalitarian regimes*, ed. Mateja Čoh Kladnik (Ljubljana, 2016); *O vzponu komunizma na Slovenskem*, ed. Lovro Sturm (Ljubljana, 2015); Ljuba Dornik Šubelj, *Ozna in prevzem oblasti 1944–46* (Ljubljana, 2013); Vida Deželak Barič, *Komunistična partija Slovenije in revolucionarno gibanje 1941–1943* (Ljubljana, 2007); Tamara Griesser Pečar, *Razdvojeni narod, Slovenija 1941–1945: okupacija, kolaboracija, državljanska vojna, revolucija* (Ljubljana, 2005); Dieter Blumenwitz, *Okupacija in revolucija v Sloveniji, 1941–1946* (Klagenfurt–Ljubljana–Vienna, 2005); Jera Vodušek Starič, *Prevzem oblasti 1944–1946* (Ljubljana, 1992) (hereinafter: Vodušek Starič, *Prevzem oblasti*).

ern European countries; around 265 people in Belgium and fewer than 100 in the Netherlands were killed this way.<sup>4</sup> In Poland, underground courts operated throughout the war, and partisan courts in Yugoslavia and the Soviet Union tried already during the war as well. In Budapest, the first session of the people's court was held in January 1945, when armies were still clashing to end the war.<sup>5</sup>

In certain parts of Europe, Western Allies decided to implement a transitional military administration for fear of some resistance movements' vengefulness; this fear was particularly present where the Communist Party had a strong role in the resistance movement. They appealed to the people not to allow any kind of popular trial, but to leave such matters for competent courts to solve.<sup>6</sup>

The first trials and political purges in the sense of retribution against the occupiers' collaborators began across all of Europe soon after the end of the war. According to Hungarian historian István Deák, these proceedings were "one of the greatest social and demographic upheavals in history". Courts assumed a revolutionary role in many European countries; they not only tried collaborators of the occupiers, traitors, and war criminals but also became an instrument of the authorities for the "cleansing" of society.<sup>7</sup> Many countries had undertaken retribution this way before the Nuremberg International Military Tribunal even began operating.<sup>8</sup> This became particularly apparent in eastern and central European countries, where the process of political "purging" (not only due to wartime events anymore) continued into the early '50s. There the central role in the proceedings connected with retribution after the end of the war belonged to score-settling, political calculation, revenge and bloodshed.<sup>9</sup>

After the end of the war, the strictest sentences were being passed in Norway, Denmark and the Netherlands – countries in which a strong resistance movement had developed during the war. In Norway they tried around four per

<sup>4</sup> Judt, *Povojna Evropa*, pp. 59–60.

<sup>5</sup> Deák, *Evropa na zatožni klopi*, p. 326.

<sup>6</sup> Vodušek Starič, *Prevzem oblasti*, p. 187.

<sup>7</sup> Deák, *Evropa na zatožni klopi*, pp. 311, 326.

<sup>8</sup> The punishment of Nazi war criminals after the end of the war was being mentioned already during the war (at the 1943 conference in Moscow) and was more concretely discussed at Yalta in 1945. The Nuremberg International Military Tribunal was established at the beginning of August 1945 with a charter signed in London by the representatives of the United Kingdom, the United States of America, France, and the Soviet Union. Among other matters, the charter determined three categories of crimes (crimes against peace, war crimes and crimes against humanity). The main trials against the top-ranking representatives of the Nazi regime were held between November 1945 and October 1946. More on the court and the trials: "Charter of the International Military Tribunal ('London Agreement')", available at: [www.refworld.org/docid/3ae6b39614.html](http://www.refworld.org/docid/3ae6b39614.html), accessed: 3. 8. 2020; "Trial of the Major War Criminals before the International Military Tribunal", available at: [www.loc.gov/rr/frd/Military\\_Law/NT\\_major-war-criminals.html](http://www.loc.gov/rr/frd/Military_Law/NT_major-war-criminals.html), accessed: 3. 8. 2020; *United Nations Documents 1941–1945*, Royal Institute of International Affairs, London, New York 1946, available at: [archive.org/details/unitednationsdoc031889mbp/page/n111/mode/2up](http://archive.org/details/unitednationsdoc031889mbp/page/n111/mode/2up), accessed: 3. 8. 2020.

<sup>9</sup> Judt, *Povojna Evropa*, p. 67.

cent of the population for wartime collaboration with the occupier. In Western and Northern Europe, women who were accused of associating with German soldiers and having intimate relations with them were treated particularly harshly. They were punished by shaving their heads, and when the hair grew back, they were mostly "reaccepted into society". This was different in Eastern Europe, where the main targets of the prosecutors and courts were "the old nobility and former officers and officials, especially if their members belonged to an ethnic minority".<sup>10</sup>

In certain European countries, trials for acts against national honour were held after the end of the Second World War. Special courts for this purpose were established in certain places. They were known in the Netherlands, France, Bulgaria, Romania, Czechoslovakia and in all Yugoslav nations.<sup>11</sup> The notion of honour began being linked to nationality towards the end of the Second World War. However, the regulations that defined offences and crimes against national honour did not specify what exactly this was supposed to mean. Therefore, we can generally say that these courts tried persons who (allegedly) collaborated with occupiers during the war in any way and with their actions "impaired and tainted the honour of the nation".<sup>12</sup> According to some reports, courts of national honour are connected with Soviet ideas about similar courts that were organised within military units. They tried breaches of military honour, virtue and morale, and disagreements or conflicts among officers.<sup>13</sup>

After the end of the war, the French prosecuted collaboration with the occupier, and the courts imposed punishments for acts against national hon-

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<sup>10</sup> Deák, *Evropa na zatožni klopi*, pp. 330–333.

<sup>11</sup> Cf.: Vodušek Starič, *Prevzem oblasti*, p. 187; Marjan Mehle, "O vlogi vojaških in narodnih sodišč ter sodišča slovenske narodne časti", *Slovenski poročevalec*, 20. 7. 1945, No. 78, p. 3.

<sup>12</sup> Benjamin Frommer, *National Cleansing: Retribution against Nazi Collaborators in Postwar Czechoslovakia* (Cambridge, 2005) (hereinafter: Frommer, *National Cleansing*); Momčilo Mitrović, *Srpska nacionalna čast pred zakonom 1945. godine* (Belgrade, 2007) (hereinafter: Mitrović, *Srpska nacionalna čast pred zakonom*); Martina Grahek Ravančič, "U ime naroda: rad sudova za zaštitu nacionalne časti Hrvata i Srba u Hrvatskoj", in: *Človekove pravice in temeljne svoboščine: za vse čase!*, eds. Marta Milena Keršič and Damjan Hančič (Ljubljana, 2017) (hereinafter: Grahek Ravančič, "U ime Naroda"); Mateja Čoh Kladnik, "Kazensko sodstvo poleti 1945", in: *Brezpravje "v imenu ljudstva"*, ed. Mateja Čoh Kladnik (Ljubljana, 2016) (hereinafter: Čoh Kladnik, "Kazensko sodstvo poleti 1945"), pp. 81–90; Milko Mikola, *Rdeče nasilje, Represija v Sloveniji po letu 1945* (Celje, 2012) (hereinafter: Mikola, *Rdeče nasilje*), pp. 282–296; Mojca Kobale, *Sodišče narodne časti* (Maribor, 2010); Mateja Čoh, *"V imenu slovenskega naroda: krivi!"* (Maribor, 1998); Milko Mikola, *Sodni procesi na Celjskem 1944–1951* (Celje, 1995) (hereinafter: Mikola, *Sodni procesi na Celjskem*), pp. 92–94; Roman Brunšek, *Procesi pred sodišči narodne časti v ljubljanskem okrožju* (Ljubljana, 1993); Vodušek Starič, *Prevzem oblasti*, pp. 275–278.

<sup>13</sup> Mitrović, *Srpska nacionalna čast pred zakonom*, pp. 12–13.



The defendants before the Nuremberg International Military Tribunal (Wikimedia Commons)

our; amnesty for such crimes was declared in 1953.<sup>14</sup> Deák states that the judgments of French post-war courts were "relatively mild".<sup>15</sup> Judt adds that "collaboration" was punished much less severely since it was more widespread; after all, "the state itself was the chief collaborator". Nobody was punished for crimes against humanity; the responsibility for these acts (and other war crimes) was ascribed solely to the Germans.<sup>16</sup> In France, the common targets of the prosecutors were mainly actors and actresses, cabaret singers, journalists, authors, poets and philosophers.<sup>17</sup> The main punishment imposed by French courts was

<sup>14</sup> Decision of the Constitutional Court of the Republic of Slovenia No. U-I-248/96 (Act on the Punishment of Crimes against the Slovenian National Honor), available at: [/www.us-rs.si/documents/d8/19/u-i-248-962.pdf](http://www.us-rs.si/documents/d8/19/u-i-248-962.pdf) and the separate assenting opinion of Lovro Šturm, available at: [www.us-rs.si/documents/d8/19/u-i-248-96-lm-sturm2.pdf](http://www.us-rs.si/documents/d8/19/u-i-248-96-lm-sturm2.pdf), accessed: 6. 8. 2020. Described in more detail by Robert Aron, *Histoire de l'épuration* (Paris, 1969).

<sup>15</sup> Deák, *Evropa na zatožni klopi*, p. 333.

<sup>16</sup> Judt, *Povojna Evropa*, p. 64.

<sup>17</sup> Cf.: Jonathan Fenby, *France. A Modern History from the Revolution to the War With Terror* (New York, 2016), pp. 316–319.

"national degradation", which was introduced on 26 August 1944, right after the liberation of Paris. This punishment meant that the convicted could not be in certain public functions (e.g. a lawyer, judge or teacher, the leader of a publishing, radio or film company, the director of an insurance company or a bank) or wear military decorations. The courts imposed this punishment on 49,723 French people, and 11,000 state officials were deposed or punished in some other way. They could mostly become employed again after six years. The purge touched around 350,000 French people, but their lives and careers were not severely affected according to Judt.<sup>18</sup>

In the Netherlands, where there was a strong resistance movement on the one hand and a large number of Nazi sympathisers on the other, they knew offences against national honour as well; one of them was "sympathising with Nazism". Their resistance movement encouraged mass arrests, and 60,000 suspects were arrested by the end of June 1945. The suspects lived in very difficult conditions. Special courts that tried offences against national honour were appointed by the Dutch Minister of Justice; its members were laypersons – people without an education in the field of law. More severe cases were tried by extraordinary courts. If the matter at hand was high treason, it was tried by military courts. The possible punishments that a court could impose for offences against national honour were internment, confiscation, and loss of honorary rights.<sup>19</sup>

### **The case of Czechoslovakia: retribution and cleansing**

After the end of the Second World War, power in Czechoslovakia was seized by the National Front,<sup>20</sup> which ruled the country for nearly three years until the communist coup in February 1948. It immediately began the process of "national cleansing" (Cze. *národní očistá*). The goal of the process was to punish Nazi criminals and collaborators of the occupier as well as to prevent potential similar crimes in the future. For this purpose, they established an extensive system of extraordinary popular and other courts and other institutions whose goal was "to cleanse" society of all who betrayed the Czechoslovak state

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<sup>18</sup> Judt, *Povojna Evropa*, p. 64.

<sup>19</sup> Vodušek Starič, *Prevzem oblasti*, pp. 187–188.

<sup>20</sup> The agreement on the formation of the Czechoslovak post-war government was reached in Moscow in March 1945. The National Front government consisted of the representatives of the following six parties: the National Socialist Party, the People's Party, the Slovak Democratic Party, the Social Democratic Party, the Communist Party of Czechoslovakia and the Communist Party of Slovakia. Czech and Slovak resistance organisations were not represented (William M. Mahoney, *The history of the Czech Republic and Slovakia* (Santa Barbara–Denver–Oxford 2011) (hereinafter: Mahoney, *The history of the Czech Republic and Slovakia*), pp. 189–191, 197).

or oppressed its citizens with their actions. This period had two main processes that strongly shaped post-war retribution against (alleged) collaborators of the occupier. The first was the expulsion of Sudeten Germans and the settlement of Czechs from Moravia and Bohemia into the Sudetenland, and the second was the political struggle for power.<sup>21</sup>

The Czech post-war authorities' measures for the punishment of the occupier's collaborators had a legal basis in three decrees signed by the country's president, Edvard Beneš. The first one was the *Decree on the punishment of Nazi criminals, traitors and their accomplices, and on the Extraordinary People's Courts* of 19 June 1945. The main purpose of the decree was to punish "[w]hoever, during the period of heightened danger to the Republic /.../ committed the following crimes in the service or in the interest of Germany, its allies, a movement hostile to the Republic, or its (the movement's) organizations or members". Its preamble contained the following:

The shocking crimes committed by the Nazis and their treasonous accomplices in Czechoslovakia call for stern justice. The oppression of the homeland and the murder, enslavement, robbery, and humiliation to which the Czechoslovak people were subjected, and all of the extreme German barbarities in which, regrettably traitorous Czechoslovak citizens also took part (including some who abused their high office, mandate, or rank), must be punished without delay in order to eradicate completely the Nazi and fascist evil.<sup>22</sup>

The decree defined four groups of crimes, namely crimes against the state,<sup>23</sup> crimes against persons,<sup>24</sup> crimes against property and the crime of denuncia-

<sup>21</sup> Frommer, *National Cleansing*, pp. 2, 28–31; Mahoney, *The history of the Czech Republic and Slovakia*, pp. 190–195.

<sup>22</sup> Frommer, *National Cleansing*, pp. 3, 63–94, 348–363; [www.zakonypreludi.sk/zz/1945-16](http://www.zakonypreludi.sk/zz/1945-16), accessed: 1. 4. 2020; [en.wikipedia.org/wiki/Beneš\\_decrees#List\\_of\\_decrees](https://en.wikipedia.org/wiki/Beneš_decrees#List_of_decrees), accessed: 1. 4. 2020.

<sup>23</sup> Among the major crimes against the state were the following: involvement in the preparation of a conspiracy against the state, betrayal of state secrets, violence against constitutional authorities, membership in Nazi political, military, paramilitary and voluntary organisations (e.g. the SS, the NSDAP, the Sudeten German Party) and membership in any Czech or Slovak organisations that collaborated with the occupier during the war (e.g. the Czech fascist organisation Vlájka, the armed militia of the Slovak People's Party called the Hlinka Guard), promotion and support of fascist and Nazi ideas, illegal acts of occupying military command and administrative authorities, opposition against and obstruction of efforts for the liberation of the state and jeopardising the safety of its citizens. Assistance in and endorsement of crimes against the state were punishable equally as the crimes themselves (Frommer, *National Cleansing*, pp. 348, 349, 357; Mahoney, *The history of the Czech Republic and Slovakia*, pp. 182–184).

<sup>24</sup> Crimes against persons were public violence, ordering the performance of forced labour for the benefit of the occupiers and their allies, responsibility for the loss of liberty of an individual or of a greater number of persons, causing the death or deportation of an individual or several persons, and grievous bodily harm to an inhabitant (Frommer, *National Cleansing*, pp. 350–352).

tion. Actions sanctioned by the decree and the punishments provided for these actions were more concretely specified for each group. The lowest punishment for all crimes was imprisonment for five years (the highest being imprisonment for life); in cases with particularly aggravating circumstances, courts had to impose the penalty of death. The magnitude of the punishment depended on the consequences that the act had for the country, society and individuals. Some of the crimes and the enforcement of some punishments in the decree were not time-barred.<sup>25</sup>

For the purpose of trials for crimes on the basis of the decree on the punishment of Nazi criminals, Extraordinary People's Courts were established; the courts operated from 9 July 1945 until 1948 in the form of five-member senates.<sup>26</sup> Apart from prison sentences and the death penalty, the courts could impose the following sanctions: temporary or permanent loss of civic honour,<sup>27</sup> enforcement of an imposed prison sentence in special forced labour units, and partial or complete confiscation of property for the benefit of the state.<sup>28</sup>

The proceedings before the extraordinary court began on the proposal of the public prosecutor, who was appointed by the government or by the Minister of Justice acting under authority of the government. The proceedings were public, and the trial could not last longer than three days. The accused had the right to counsel; the court had the possibility to appoint counsel ex officio and was obligated to do so if the trial was held in the absence of the accused. There was no appeal against the judgement. The death penalty had to be carried out within two hours of the pronouncement of the judgement or within 24 hours in exceptional cases.<sup>29</sup>

In Czechoslovakia, the Extraordinary People's Courts pronounced 713 death sentences to "traitors, collaborators and fascist elements" and 741 life sentences and 19,888 shorter prison sentences. The Czech post-war judi-

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<sup>25</sup> Frommer, *National Cleansing*, pp. 348–356.

<sup>26</sup> The president of the senate had to be a professional judge, whereas the other members were so-called people's judges (laypersons). The presidents of the courts, their deputies, and the professional judges were appointed by the president of the republic on the proposal of the government; the list of appropriate candidates was prepared by District National Committees. The committees also prepared the lists of candidates for the so-called people's judges, who were appointed by the government (Frommer, *National Cleansing*, p. 358; [en.wikipedia.org/wiki/Beneš\\_decrees#List\\_of\\_decrees](https://en.wikipedia.org/wiki/Beneš_decrees#List_of_decrees), accessed: 1. 4. 2020).

<sup>27</sup> The loss of civic honour included the permanent forfeiture of decorations, orders, honorary distinctions, positions in public service, university degrees, and all remunerations from public funds; forfeiture of the right to vote, the right to be elected or appointed to public office and the right to vote on public matters; forfeiture of the legal capacity to hold important positions in associations, clubs and companies, forfeiture of the legal capacity to give public addresses and to work in educational or cultural institutions and enterprises (Frommer, *National Cleansing*, pp. 355–356).

<sup>28</sup> *Ibid.*, p. 355.

<sup>29</sup> *Ibid.*, pp. 359–362.

ary was rather preoccupied with the unclear category of "crimes against the nation", which was particularly noticeable in the punishment of Sudeten Germans.<sup>30</sup>

Let us mention the second important decree, namely the Decree on the National Court of 19 June 1945,<sup>31</sup> which was the basis for the establishment of the National Court in Prague.<sup>32</sup> Between 9 July 1945 and the end of 1946, this court tried the highest-ranking officials and leaders of the Protectorate of Bohemia and Moravia<sup>33</sup> for their collaboration with the occupier, namely on the basis of the decree on the punishment of Nazi criminals.

### **The case of Czechoslovakia: offences against national honour**

The third important decree in the process of "cleansing" in Czechoslovakia was the *Decree on the punishment of some offences against national honour*, which Beneš signed on 27 October 1945. The authorities were displeased with the work of the Extraordinary People's Courts, which, according to them, were incapable of punishing collaborators of the occupier who committed "smaller" crimes. The decree was thus that with which the authorities gave power to local authorities, who in turn would punish "the unbecoming behaviour insulting to the national sentiments of the Czech people",<sup>34</sup> i.e. offences against national honour.

<sup>30</sup> Judt, *Povojna Evropa*, pp. 68–69.

<sup>31</sup> Frommer, *National Cleansing* 5, pp. 267–314, 364–370; [www.zakonypreludi.sk/zz/1945-17](http://www.zakonypreludi.sk/zz/1945-17), accessed: 1. 4. 2020; [en.wikipedia.org/wiki/Beneš\\_decrees#List\\_of\\_decrees](https://en.wikipedia.org/wiki/Beneš_decrees#List_of_decrees), accessed: 1. 4. 2020.

<sup>32</sup> The National Court deliberated in seven-member senates. The president of the National Court and his two deputies, all of which had to be professional judges, were appointed by the president of the republic on the government's proposal. The list of appropriate candidates for the position of associate judges (senate members) was prepared by the Ministry of Justice. They had to be "patriots" who had distinguished themselves by participating in the resistance against the occupier either at home or abroad. The senate members could also be those who were victims of the occupiers' system. The decree provided the proceedings before the court, the delivery of the judgement and the enforcement of the punishment. The convicted had no option of appealing against the judgement (Frommer, *National Cleansing*, pp. 364–370).

<sup>33</sup> On the night of 29–30 September 1938, Hitler, Mussolini, Arthur Neville Chamberlain and Édouard Daladier signed the Munich Agreement, which enabled the annexation of the Sudetenland to the German Reich; in exchange, Hitler was supposed to respect the sovereignty of the remaining part of Czechoslovakia. In mid-March 1939, German units began advancing towards Czechoslovakia and occupied it, and Hitler declared the establishment of the Protectorate of Bohemia and Moravia in Prague. Parts of Czechoslovakia were annexed by Poland and Hungary, and Slovakia declared independence and became a German satellite. The Protectorate's administration was Czech but was under the control of Germans from the Reich and Sudeten Germans (Mahoney, *The history of the Czech Republic and Slovakia*, pp. 165–172; Deák, *Evropa na zatožni klopi*, pp. 79–84).

<sup>34</sup> Frommer, *National Cleansing*, pp. 3, 10, 186–227, 371–372; [www.zakonypreludi.sk/zz/1945-138](http://www.zakonypreludi.sk/zz/1945-138), accessed: 1. 4. 2020, [www.moderni-dejiny.cz/clanek/maly-retribucni-dekret/](http://www.moderni-dejiny.cz/clanek/maly-retribucni-dekret/), accessed: 6. 4. 2020; [en.wikipedia.org/wiki/Beneš\\_decrees#List\\_of\\_decrees](https://en.wikipedia.org/wiki/Beneš_decrees#List_of_decrees), 1 April 2020.

The decree was very short, with only four articles in total. It determined that

[w]hoever, during the period of heightened danger to the Republic /.../ undermined public morale by unbecoming behavior insulting to the national sentiments of the Czech or Slovak people, will be punished - if the act is not a criminal offense punishable by the courts - by District National Committees with up to one year in prison, a fine up to 1,000,000 Czechoslovak crowns, or public censure, or with two or three of these punishments.<sup>35</sup>

The implementation of the decree was under the jurisdiction of the Interior Ministry, which issued several directives. The most extensive one was the directive of 26 November 1945, which provided that each District National Committee had to establish an "independent" Penal Adjudication Commission (*Cze. trestní nalézací komise*). Although the directive clearly provided that at least one member of the commission had to be a jurist, this provision was not put into practice. The four-member commissions, which consisted of one representative from each of the Czech political parties, often operated without jurists. The accused did not have access to the evidence, could not call witnesses for questioning or present evidence to their benefit. According to the directive, the purpose of the commission was namely to gather evidence both to and against the benefit of the accused. This meant that the commission members were simultaneously investigators, prosecutors, counsels and judges. The accused had the right to counsel, but the commission did not have to consider the counsel's opinion. The trials were carried out behind closed doors, and the public was completely excluded.<sup>36</sup>

Unlike the proceedings before Extraordinary People's Courts based on the decree on the punishment of Nazi criminals, the directive allowed appeals against the judgements to the criminal board of appeal at the Provincial National Committees in Prague and Brno. Those who were convicted could also appeal to the supreme administrative court, but this appeal did not delay the enforcement of the punishment.<sup>37</sup>

The Interior Ministry's directive enabled the penal commissions to try even the persons who had already been tried by the Extraordinary People's Courts but had had charges against them dropped or had committed a crime for which they could not be sentenced to the lowest punishment, which was the prison sentence of five years. The penal commissions took such cases over and

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<sup>35</sup> Frommer, *National Cleansing*, pp. 371–372.

<sup>36</sup> *Ibid.*, pp. 192–194.

<sup>37</sup> *Ibid.*, p. 195.

## THE SMALL DECREE (NO. 138/1945)

Decree of the President of the Republic of 27 October 1945, no. 138 Coll.,  
on the punishment of some offenses against national honor

Upon the proposal of the government, I decree:

### § 1

- (1) Whoever, during the period of heightened danger to the Republic (§ 18 of the Decree of the President of the Republic of 19 June 1945, no. 16 Coll., on the punishment of Nazi criminals, traitors and their accomplices and on the Extraordinary People's Courts), undermined public morale by unbecoming behavior insulting to the national sentiments of the Czech or Slovak people, will be punished – if the act is not a criminal offense punishable by the courts – by District National Committees with up to one year in prison, a fine of up to 1,000,000 Czechoslovak crowns, or public censure, or with two or three of these punishments.
- (2) If a fine is imposed, an alternate sentence of imprisonment for up to one year, depending on the severity of the offense, should be imposed if the fine cannot be recovered. If a term of imprisonment was imposed along with the fine, the term of imprisonment and the alternate punishment of prison time together must not exceed a period of one year.
- (3) Directives issued in this matter by the Minister of the Interior are binding on the national committees.

### § 2

The period of time during which the perpetrator was held in custody shall be considered time served of the sentence of imprisonment (Constitutional Decree of the President of the Republic of 27 October 1945, no. 137 Coll., on the detention of persons considered politically unreliable during the revolutionary period).

### § 3

The acts punishable under § 1 are subject to a six-month statute of limitations. The period of limitation shall begin on the day on which the act was committed; in the case of acts committed prior to this decree coming into effect, the period of limitation shall begin on the day this decree takes effect.

### § 4

This decree comes into effect on the day of its pronouncement and is valid in the lands of Bohemia and Moravia-Silesia; it shall be executed by the Minister of the Interior.

Signed:

Dr. Beneš  
Nosek  
Fierlinger

The Czechoslovak Decree on the punishment of some offenses against national honour (Frommer, *National Cleansing*, pp. 371–372)

sentenced people to lower punishments. The directive thus created a lower threshold for the punishment of certain acts. American historian Benjamin

Frommer estimated that around 8000 people who had been previously pardoned by Extraordinary People's Courts were sentenced this way.<sup>38</sup>

The decree on the punishment of offences against national honour offered the national committees a very powerful tool in the political struggle against their opponents: deprivation of the right to vote. The political programme of the Czechoslovak government foresaw the exclusion of "traitors of the nation, fascists and other enemies of the people" from political life and the deprivation of the right to vote of all "traitors of the nation and helpers of the enemy". Additionally, persons convicted for acting against national honour could not acquire a "certificate of national reliability". Without such a certificate, they were "outcasts", which meant that they were unable to gain employment, assume a public function or practice a profession important for the functioning of society and the state.<sup>39</sup>

The penal commissions were soon overwhelmed by numerous cases. The communist authorities took advantage of this and prolonged the work of the penal commissions with numerous setbacks until they were dissolved on 4 May 1947. The Interior Ministry never published the final number of those who were convicted for offences against national honour. The penal commissions received 179,896 cases, a quarter of which they concluded by convicting the accused and nearly half of which they rejected. According to Frommer, the high level of acquittals points to the "civic, legal, and human honor of those who dealt with these cases and did not submit to pressure or to the hateful psychosis of revenge". He also points out that many charges were made-up, exaggerated or were often the consequence of "personal hatred or vengeance" of complainants against the accused. Unsettled cases were taken over by district courts after the dissolution of penal commissions, and Frommer estimates that the district courts rejected the majority of charges for acts against national honour.<sup>40</sup>

However, neither the decree nor the Interior Ministry's directive defined what "national honour" was even supposed to have meant. Penal commissions, which tried acts against national honour, punished Nazi sympathisers, corruptible opportunists and those who caused great suffering during the occupation with their violent actions.<sup>41</sup>

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<sup>38</sup> Ibid., pp. 195–199.

<sup>39</sup> Ibid., pp. 209, 213.

<sup>40</sup> Ibid., pp. 218–220.

<sup>41</sup> Ibid., pp. 226–227.

## **Serbia, Croatia and Slovenia: the establishment and organisation of courts of national honour**

Courts of national honour were established in former Yugoslav republics, the first being Serbia, where the war ended first. As stated by Serbian historian Momčilo Mitrović, the courts for offences and crimes against Serbian national honour were established as an institution of the revolutionary authorities with a precise task – the "retribution against the opponents of the national liberation struggle".<sup>42</sup>

The intention of establishing the Serbian court of national honour was confirmed at the meeting of the assembly of the Anti-fascist Council for the National Liberation of Serbia, which was held from 9 to 12 November 1944. There representatives determined basic guidelines and adopted certain regulations that were the basis for the operation of the court of national honour. Among the more significant ones were ordinances expressing the intention of convicting anyone in the territory of Serbia who had committed an offence or crime against Serbian national honour during occupation. This category included everything that could not be defined as high treason or as assistance to the occupiers in committing war crimes. The court of national honour in Serbia was formally established on 21 December 1944, when they adopted the *Ordinance on the establishment of the Court for the Trial of Crimes and Offences against Serbian National Honour*. The organisation of the courts was slow, and one of the main problems was the lack of suitable (legal) staff.<sup>43</sup>

The court of national honour in Croatia was also part of the revolutionary process of the communist seizure and consolidation of power after the war, a process in which the communist authorities settled scores with collaborators of the occupier, national traitors, (potential) opponents of the system as well as with those who did not participate in the national liberation struggle.<sup>44</sup> The court of national honour was established on the basis of the *Ordinance on the protection of the national honour of Croats and Serbs in Croatia*, which

<sup>42</sup> Mitrović, *Srpska nacionalna čast pred zakonom*, pp. 11, 14.

<sup>43</sup> Ibid., pp. 19–22.

<sup>44</sup> Zdenko Radelić, *Hrvatska u Jugoslaviji 1945. – 1991., Od zajedništva do razlaza* (Zagreb 2006), pp. 60–63; Zdravko Matić, "Djelovanje Suda za zaštitu nacionalne časti Hrvata i Srba u Hrvatskoj 1945. – osvrt na Srednjojadrmatinski okrug i presudu Mati Podrugu iz Dicma", in: *Radovi Zavoda za povijesne znanosti HAZU u Zadru*, No. 60/2018, p. 351, available at: [hrcak.srce.hr/file/309572](http://hrcak.srce.hr/file/309572), accessed: 3. 8. 2020; Vladimir Geiger, Mate Rupić, Zdravko Dizdar, Šimun Penava, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946., Dokumenti: Slavonija, Srijem i Baranja* (Slavonski Brod, 2006) (hereinafter: Geiger et al., *Partizanska i komunistička represija: Slavonija, Srijem i Baranja*), p. 37, available at: [hips.hr/wp-content/uploads/2013/01/partizanski\\_zlocini2-sadrzaj.pdf](http://hips.hr/wp-content/uploads/2013/01/partizanski_zlocini2-sadrzaj.pdf), accessed: 25. 3. 2020.

was adopted 24 April 1945 by the Presidium of the Anti-fascist Council for the National Liberation of Croatia.<sup>45</sup>

The aforementioned ordinance was the basis for the detailed instructions regarding its implementation, which were issued on 9 May 1945 by the Ministry of Justice of the federative Croatia. Member of the central committee of the Communist Party of Croatia and Minister of Justice Dušan Brkić felt at the time that the courts of national honour were not doing their work in a satisfactory way, noting that

*[c]ourts for the protection of national honour are not up to par with their tasks, since the district Party committees and the courts themselves did not understand that these are revolutionary courts, they did not understand that this is a way of swiftly and actively purging the enemies in our ranks.*

The authorities found that the courts did not comply with the instructions on how to convict the occupier's collaborators, which they thought of as the judges "not being politically profiled".<sup>46</sup> The operation of the court of national honour was connected with the secret political police Ozna. It is evident from the document of the Ozna for the Zagreb region of December 1944 that the courts should "accept the opinion of the Ozna" regarding how they should punish the accused. The Ozna is said to have been sending such instructions, which were later supposed to be burned, to the court "without our header and stamp".<sup>47</sup>

The establishment of the court of national honour in Slovenia<sup>48</sup> was being planned by the Communist Party already before the end of the war, since its central committee adopted a short directive on its establishment on 7 March

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<sup>45</sup> Zdravko Dizdar, Vladimir Geiger, Milan Pojić, Mate Rupić, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946., Dokumenti* (Slavonski Brod, 2005) (hereinafter: Dizdar et al., *Partizanska i komunistička represija: Dokumenti*), p. 94, available at: [issuu.com/hip-zagreb/docs/pzi\\_1/4](http://issuu.com/hip-zagreb/docs/pzi_1/4), accessed: 23. 3. 2020.

<sup>46</sup> Grahek Ravančić, "U ime naroda", p. 172; Dizdar et al., *Partizanska i komunistička represija: Dokumenti*, p. 235; Geiger et al., *Partizanska i komunistička represija: Slavonija, Srijem i Baranja*, pp. 37, 309, 343, 344; Vladimir Geiger, Mate Rupić, Mario Kevo, Egon Kraljević, Zvonimir Despot, *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946., Dokumenti: Zagreb i središnja Hrvatska* (Zagreb, 2008) (hereinafter: Geiger et al., *Partizanska i komunistička represija: Zagreb i središnja Hrvatska*) pp. 577–578, available at: [issuu.com/hip-zagreb/docs/pzi\\_3a](http://issuu.com/hip-zagreb/docs/pzi_3a), accessed: 27. 3. 2020; Mate Rupić, Vladimir Geiger et al., *Partizanska i komunistička represija i zločini u Hrvatskoj 1944. – 1946., Dokumenti: Dalmacija* (Slavonski Brod–Zagreb, 2011) (hereinafter: Rupić et al., *Partizanska i komunistička represija: Dalmacija*), p. 53, available at: [hipsb.hr/wp-content/uploads/2013/01/partizanski\\_zlocini4-sadrzaj.pdf](http://hipsb.hr/wp-content/uploads/2013/01/partizanski_zlocini4-sadrzaj.pdf), accessed: 26. 3. 2020.

<sup>47</sup> Zdenko Radelić, "Represija na Hrvaškem po drugi svetovni vojni", *Prispevki za novejšo zgodovino* 53, No. 1 (2013), p. 261.

<sup>48</sup> Mateja Čoh Kladnik, "Narod sodi": *Sodišče slovenske narodne časti* (Ljubljana, 2020).

1945, stating the following: "Courts of national honour must be organised."<sup>49</sup> Regarding the preparations for the establishment of the court of national honour, member of the politburo and president of the Slovenian government Boris Kidrič stressed the following: "Propaganda in advance, demand harsh punishments. Show what the masses have suffered – ignite proper rage."<sup>50</sup>

The Court of Slovenian National Honour was formally established with the *Act on the Punishment of Crimes and Offences against Slovenian National Honour*, which was adopted without discussion by the Presidium of the Slovenian National Liberation Council on 5 June 1945 and which was officially published four days later. As follows from the Act, this was a special court that would "try crimes and offences against Slovenian national honour committed in the time of enemy occupation or in relation with it".<sup>51</sup>

In Slovenia, the instructions regarding the court's operation were prepared by the judge Alojzij Žigon, the president of the Court of Slovenian National Honour, who did so during the entirety of the court's operation.<sup>52</sup> The presidents of the senates received the first instructions on the court's organisation and way of work on 28 June 1945. Žigon pointed out that the trials were important and sensitive and that the proceedings before the court had to be carried out as quickly as possible. He wrote the following:

The work that we must do should have the character of shock action. It must be completed in the shortest possible time. – This does not mean that we should be hasty, but to give our all to use the time we have been given. /.../ The matter itself is of such nature that it must be removed from the agenda as soon as possible, because we are being pressured to do so by other, no less important matters, such as the arrangement of regular courts.

He therefore appealed to the judges to schedule hearings "in as short intervals as possible" and to do as much work in one day as they can.<sup>53</sup>

<sup>49</sup> Jelka Melik, Mateja Jeraj, "Slovensko kazensko sodstvo v letu 1945", *Studia Historica Slovenica* 16, No. 2 (2016), pp. 450–460; Mateja Čoh Kladnik, "Sodišče narodne časti na Ptuj", *Studia Historica Slovenica* 19, No. 1 (2019), pp. 108–113 (hereinafter: Čoh Kladnik, "Sodišče narodne časti na Ptuj"); Mikola, *Rdeče nasilje*, p. 282.

<sup>50</sup> Darinka Drnovšek, *Zapisniki politbiroja CK KPS/ZKS 1945–1954* (Ljubljana, 2000), pp. 27, 33.

<sup>51</sup> *Uradni list Slovenskega narodnoosvobodilnega sveta in Narodne vlade Slovenije* (hereinafter: *Uradni list SNOS in NVS*), No. 7 (1945); Vodušek Starič, *Prevzem oblasti*, p. 274.

<sup>52</sup> Cf.: Pokrajinski arhiv Maribor (PAM), SI\_PAM/0719, Sodišče narodne časti Murska Sobota (hereinafter: PAM/0719), box 11 and SI\_PAM/0721, Sodišče narodne časti Maribor (hereinafter: PAM/0721), box 18; Zgodovinski arhiv na Ptuj (ZAP), SI\_ZAP/0606, Sodišče slovenske narodne časti, senat na Ptuj, 1945 (hereinafter: ZAP/0606), box 5.

<sup>53</sup> PAM, PAM/0721, box 18/1, instructions of 28 June 1945.

The courts of national honour deliberated in five-member senates. On the basis of the ordinances or the act, the presidiums of national assemblies of each republic appointed the presidents and the secretaries of the courts as well as the members of the court senates; the same authority could also relieve them from duty.<sup>54</sup> Mitrović finds that the senate members of the Serbian court of national honour were mostly people without an education in the field of law, members of the national liberation movement, uncompromising in their opinions and blindly devoted to the Serbian Party.<sup>55</sup>

It was slightly different in Croatia, where each senate had a secretary (a jurist) and where one senate member (not necessarily the president) had to be the member of a district court. The senate was presided over by a judge, whom the senate members chose within their own ranks. The judges' education and social structure was very diverse. What they had in common was the fact that they were members of the national liberation movement during the war and that they mostly followed and supported the Party's policies, just like in Serbia.<sup>56</sup>

The presidents and secretaries of the senates of the Court of Slovenian National Honour were jurists, and the other judges (laypersons) were mainly farmers, workers and craftsmen – people without education and knowledge in the field of law.<sup>57</sup> Just like in Serbia and Croatia, they most likely participated in the national liberation movement during the war and supported the Communist Party.

Several senates were appointed in individual courts of national honour; the senates' seats were at the seat of national liberation committees, and the senates mainly deliberated there. They appointed 18 senates in Serbia, two of which were in Belgrade and 16 in individual districts across the entire federative unit.<sup>58</sup> In Serbia the same principle was used to organise courts of national honour in the military as well as in all major cultural, scientific and sports institutions, such as the Belgrade university, national theatre, military museum and some other institutions.<sup>59</sup>

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<sup>54</sup> Mitrović, *Srpska nacionalna čast pred zakonom*, p. 22. Dizdar et al., *Partizanska i komunistička represija: Dokumenti*, pp. 250–264; *Uradni list SNOS in NVS*, No. 7 (1945), No. 9 (1945), No. 13 (1945), No. 17 (1945), No. 19 (1945); PAM, PAM/0721, box 18/1.

<sup>55</sup> Mitrović, *Srpska nacionalna čast pred zakonom*, pp. 24, 27–29.

<sup>56</sup> Grahek Ravančič, "U ime Naroda", pp. 163–166; Geiger et al., *Partizanska i komunistička represija: Slavonija, Srijem i Baranja*, p. 160; Dizdar et al., *Partizanska i komunistička represija: Dokumenti*, p. 95.

<sup>57</sup> Čoh Kladnik, "Sodišče narodne časti na Ptuj", p. 112; *Uradni list SNOS in NVS*, No. 7 (1945), No. 9 (1945), No. 13 (1945), No. 17 (1945), No. 19 (1945).

<sup>58</sup> Mitrović, *Srpska nacionalna čast pred zakonom*, p. 22.

<sup>59</sup> Mitrović, *Srpska nacionalna čast pred zakonom*, pp. 11–14, 22; Momčilo Mitrović, "Prilog izučavanju Suda časti na Beogradskom univerzitetu2, in: *Desničini susreti 2009*, eds. Drago Roksandić, Magdalena Najbar-Agičić and Ivana Cvijović Javorina (Zagreb, 2011), pp. 177–187, available at: [ckhis.ffzg.unizg.hr/files/file/pdf/Desnicini-susreti/DS-2009-pdf/DS-2009-12-Najbar-Agicic.pdf](http://ckhis.ffzg.unizg.hr/files/file/pdf/Desnicini-susreti/DS-2009-pdf/DS-2009-12-Najbar-Agicic.pdf), accessed: 3. 8. 2020.

The seat of the Croatian court of national honour was in Zagreb, and individual senates were appointed in sixteen towns.<sup>60</sup> Croatia also had courts of national honour in educational, cultural and other public institutions. They were established with special acts, as was the case with the court at the Zagreb university, which was established on the basis of the *Act on the university court of honour* of 8 September 1945.<sup>61</sup>

The seat of the Court of Slovenian National Honour was in Ljubljana. Five-member senates were appointed at the seats of national liberation committees in seven Slovenian towns; the senates also tried outside of these towns in, for example, smaller settlements and the concentration camps in Strnišče near Ptuj and Teharje.<sup>62</sup> In Slovenia, there were no special courts of national honour in educational, cultural and other public institutions; thus, it was the trial against the members of the National Theatre in Ljubljana that was one of the first to come before the senate of the court of national honour in Ljubljana.<sup>63</sup>

The longest operating senates were those of the Serbian court of national honour. They had mainly begun trials in January 1945 and completed the majority of the work by June. The court of national honour that started operating somewhat later was the one in Vojvodina, where the decision on its establishment was adopted on 27 April 1945, and it operated until the 13th of September. In Croatia, the first senates began their sessions at the beginning of June 1945 and held trials until 8 September 1945, when the court was abolished with a special act. In Slovenia, proceedings before the court of national honour unfolded for less than two months. The first senates began operating on the 4th of July and held trials until 24 August 1945, when the court was abolished with a special act.<sup>64</sup> Unsettled cases and powers of the abolished courts of national honour were taken over by district courts with the establishment of regular courts in autumn 1945.

<sup>60</sup> The senates tried in Bjelovar, Delnice, Dubrovnik, Gospić, Karlovac, Makarska, Nova Gradiška, Osijek, Petrinja, Slavonski Brod, Split, Sušak, Šibenik (which tried for Zadar as well), Varaždin, Virovitica and Zagreb (Dizdar et al., *Partizanska i komunistička represija: Dokumenti*, pp. 250–264).

<sup>61</sup> Cf.: Magdalena Najbar Agičić, "Sud časti Sveučilišta u Zagrebu kao element politike vlasti prema intelektualcima nakon 1945. Godine", in: *Desničini susreti 2009*, eds. Drago Roksandić, Magdalena Najbar Agičić and Ivana Cvijović Javorina (Zagreb, 2011), pp. 151–162, available at: [ckhis.ffzg.unizg.hr/files/file/Desnicini-susreti/DS-2009-pdf/DS-2009-12-Najbar-Agicic.pdf](http://ckhis.ffzg.unizg.hr/files/file/Desnicini-susreti/DS-2009-pdf/DS-2009-12-Najbar-Agicic.pdf), accessed: 3. 8. 2020.

<sup>62</sup> Since the senates tried outside of the seats of national liberation committees as well, several senates were appointed in individual towns. The seats of the senates were in Ljubljana (8), Kranj (2), Novo mesto, Celje (5), Maribor (3), Ptuj (2) and Murska Sobota (3) (*Uradni list SNOS in NVS*, No. 5 (1945) and No. 7 (1945); PAM, PAM/0721; Zgodovinski arhiv Celje (ZAC), SI\_ZAC/0727, Sodišče slovenske narodne časti, senat v Celju, 1945 (hereinafter: ZAC/0727); Čoh Kladnik, "Sodišče narodne časti na Ptuj", pp. 112–113.

<sup>63</sup> Zgodovinski arhiv Ljubljana (ZAL), SI\_ZAL LJU/712, Sodišče slovenske narodne časti, senat v Ljubljani (hereinafter: ZAL LJU/712), Snč 5/45.

<sup>64</sup> Mitrović, *Srpska nacionalna čast pred zakonom*, pp. 31, 132; Grahek Ravančič, "U ime Naroda", p. 162; *Uradni list SNOS in NVS*, No. 29 (1945).

Poslana plačana v gotovini.

Ministerstvo prosvete  
Ljubljana  
8. junij 1945  
Vladna palača

# URADNI LIST

SLOVENSKEGA NARODNO OSVOBODILNEGA SVETA IN NARODNE VLADE SLOVENIJE

Letnik I/II. V Ljubljani dne 9. junija 1945 Številka 7.

**VSEBINA:**

81. Zakon o kaznovanju zločinov in prestopkov zoper slovensko narodno čast.  
82. Odredba o razrešitvi sekvestra in članov poslovnega odbora pri Znanstvi banki a. d. v Ljubljani.  
83. Odredba o razpustitvi upravnega in nadzornega odbora zadruge Vajenski dom v Ljubljani.  
84. Odredba o postavitvi arabskega gumija pod zaporo.  
85. Odredba o postavitvi javnega tožilca za okrožno mesto Ljubljano.  
86. Odredba o postavitvi javnega tožilca za mariborsko okrožje.  
87. Razglas o policijski uri v Ljubljani.  
88. Razglas o policijski uri na teritoriju Ljubljane.

## Zakoni in drugi razglasi SNOS-a in Predsedstva SNOS-a

### 81.

#### Zakon

##### o kaznovanju zločinov in prestopkov zoper slovensko narodno čast

V najtežjih časih, ki jih je preživel slovenski narod, ko je bila vsa Slovenija pod fašistično okupacijo in so padali njeni najzavrednejši sinovi, in hčere v krvavem boju proti okupatorju, da ohranijo čast slovenskega naroda in ga rešijo suženjstva, so se našli med Slovenci ljudje, ki so zaradi svoje blapčevske miselnosti, sebičnosti, strahopetnosti ali sovraštva do naprednih slovenskih in jugoslovanskih sil sodelovali z okupatorjem, mu pomagali sejati mržnjo med jugoslovanskimi narodi, služili njegovemu državnemu ustroju ali mu sicer delali usluge. Omadeževali so svojo narodno čast.

Ko začenja slovenski narod po uničenju okupatorskih zločincev uživati sadove težkega in krvavega boja, ko začenja graditi srečnejšo domovino, ne more dovoliti, da bi se nekaznovani vključili v novo skupnost oni, ki so s svojimi dejanji škodovali in osramotili slovenski narod.

V skladu s temi ugotovitvami objavlja Predsedstvo Slovenskega narodno osvobodilnega sveta tale

**zakon:**

**Člen 1.**

Ustanavlja se posebno sodišče za zločine in prestopke zoper slovensko narodno čast (Sodišče slovenske narodne časti), ki bo po določitvi tega zakona po vsem slovenskem ozemlju sodilo zločine in prestopke zoper slovensko narodno čast, storjene v času sovražne okupacije oziroma v zvezi z njo.

**Člen 2.**

Za zločine in prestopke zoper slovensko narodno čast veljajo vsa namerno izvršena dejanja, ki jih sicer ni mogoče označiti za veleizdajo ali za pomoč okupatorju pri izvrševanju vojnih zločinov, ki pa so škodovala ali bi utegnila škodovati ugledu in časti slovenskega naroda in njegovi odpornosti, zlasti:

a) politično, propagandno, kulturno, umetniško, gospodarsko, pravno ali upravno sodelovanje z okupatorjem ali domačimi izdajalci, kot n. pr. udeležba v izdajalskih političnih in vojaških organizacijah ali njih podpiranje; predavanja ter pisanje oziroma podpisovanje, izdajanje, tiskanje, razširjanje knjig, brošur, člankov, razglasov ali letakov, s katerimi se opravičuje okupacija, oziroma obsoja ali sramoti narodno osvobodilni boj; posredna ali neposredna ovadba, ki je utegnila imeti nevarne posledice za ovađenca; stavljanje gospodarskega podjetja v službo ali v podporo okupatorju; važnejša opravila v gospodarskem stroju oziroma v podjetju, ki ga je izkoriščal okupator; izvrševanje dobav na račun okupatorja; zastopanje okupatorjevih koristi pred sodiščem; služba v policijskem ali uradniškem sestavu na mestu, ki je posebno važno za okupatorja; izkoriščanje stiske ali sramotiltev pripadnikov narodno osvobodilnega gibanja zaradi njihovega prepričanja ali delovanja; pritisk nanje z namenom, da spremene prepričanje ali prenehajo z delovanjem; delovanje proti enotnosti in bratstvu jugoslovanskih narodov in vzbujanje mržnje med njimi;

b) prijateljski stiki s pripadniki okupatorske vojske in oblasti;

c) delovanje na odgovornih mestih v letu 1941., ki je prispevalo k sramotnemu porazu in kapitulaciji Jugoslavije.

**Člen 3.**

Sodišče slovenske narodne časti izreka téle kazni:

a) izgubo narodne časti;

b) lahko ali težko prisilno delo;

c) popolno ali delno zaplembo imetka v korist države.

**Člen 4.**

Redna kazen je kazen izgube narodne časti, ki se ji po potrebi dodajata ena ali druga ali obe ostali kazni.

Izguba narodne časti obsega izključitev od javnega udejstvovanja, izgubo pravice do javnih služb, poklicev in dostojanstev, izgubo vseh državljanskih in političnih pravic. Kazen je časna ali trajna.

Kazen prisilnega dela se izreka največ za dobo 10 let.

Kazen težkega prisilnega dela in popolne zaplembe imetka se izreka, kadar se dejanje ocenjuje kot zločin.

The Act on the Punishment of Crimes and Offences against Slovenian National Honour (Uradni list SNOS in NVS, No. 7 (1945))

## **Serbia, Croatia and Slovenia: the operation of courts of national honour**

The act and both ordinances specified crimes, provided punishments and determined the organisation of the courts and the course of the proceedings. The act and the two ordinances did not differ in terms of the definition of offences and crimes against national honour. The courts of national honour tried anyone who (supposedly) committed an offence or a crime against national honour by (supposedly) collaborating with occupiers and "domestic traitors" in any way, i.e. through politics, propaganda, culture, art, economy or administration. Acts against national honour were not time-barred, and all three regulations also provided that assisting in or inciting a crime was punishable equally as the crime itself.<sup>65</sup> The courts of national honour did not have jurisdiction for trying war criminals and national traitors. They were tried by military courts on the basis of the regulation on military courts of May 1944.<sup>66</sup>

The main punishment that the courts of national honour had to impose on all convicted persons was the permanent or temporary loss of national honour, which meant that convicted persons were excluded from public life, could not be in public functions, and lost all civil rights (the right to vote!) and powers.<sup>67</sup> The courts could also impose the punishment of forced labour for a maximum of ten years in Slovenia and Serbia or even for life in Croatia, and the punishment of confiscation of property for the benefit of the state.<sup>68</sup> The court in Croatia could also impose a financial penalty and the punishment of expul-

<sup>65</sup> Collaboration with the occupiers and "domestic traitors" meant being a member or participant in traitorous, political and military organisations or assisting in their operation; supporting and apologising occupation and shaming or condemning the national liberation struggle (e.g. writing, publishing, printing or distributing books, brochures, articles, proclamations or leaflets); maintaining genuine and friendly relations with members of occupying armies and authorities; serving in police units and in the apparatus of officials, which was important for the occupiers' operation, and serving in public or private jobs in favour of the occupiers; offering industrial buildings or their production for the occupiers' needs, working in the occupier's enterprises; indirectly or directly instigating a complaint which might have had dangerous consequences for the person who was reported; defending the occupiers' interests before a court and any general actions that were of any assistance to the occupiers and their accomplices and were directed against the unity and brotherhood of Yugoslav nations and incited animosity between them (Mitrović, *Srpska nacionalna čast pred zakonom*, pp. 21–22; Grahek Ravančič, "U ime naroda", pp. 162–163; Dizdar et al., *Partizanska i komunistička represija: Dokumenti*, pp. 94–95; *Uradni list SNOS in NVS*, No. 7 (1945)).

<sup>66</sup> Josip Broz Tito, *Zbrana dela*, book 20 (Ljubljana, 1986), pp. 125–134.

<sup>67</sup> Cf.: Čoh Kladnik, "Kazensko sodstvo poleti 1945", pp. 75–81; Nataša Miličević, "Obračun s klasnim neprijateljem: slučaj srpskog građanstva (1944–50)", in: *Slovenija v Jugoslaviji*, ed. Zdenko Čepič (Ljubljana, 2015), pp. 326–327; Mitrović, *Srpska nacionalna čast pred zakonom*, pp. 15–16).

<sup>68</sup> Mitrović, *Srpska nacionalna čast pred zakonom*, p. 22; Dizdar et al., *Partizanska i komunistička represija: Dokumenti*, p. 95; Grahek Ravančič, "U ime Naroda", pp. 162–163; *Uradni list SNOS in NVS*, No. 7 (1945).

sion.<sup>69</sup> The accused could be sentenced to several punishments. The magnitude of the punishment for the same crime could vary in the individual republics depending on the circumstances during occupation and on how revolutionary the courts were.

There were also no significant differences in terms of the proceedings before the courts of national honour. The Serbian court could begin the proceedings by ordering an investigation of the suspects on the proposal of the commission for the establishment of the crimes of the occupier and its accomplices, on the proposal of the Oznas or military courts or through a complaint instigated by individuals.<sup>70</sup> In Croatia, the public prosecution had jurisdiction to institute proceedings before the court of national honour, but complaints could also be instigated by the Oznas, the national liberation committees, the committees of the Liberation Front, and individuals.<sup>71</sup> This was the same in Slovenia as well.<sup>72</sup>

The accused had the right to choose a counsel; the counsel could be anyone who was not "excluded due to his moral characteristics". The court could also try the accused in his absence, in which case it had to appoint counsel *ex officio*. There was no appeal against the judgement, which was immediately enforceable.<sup>73</sup> Trials before the courts of national honour were rapid; it was frequent for several people to be convicted in one trial (with the same judgement).

The first ones were usually major trials, in which the courts imposed long prison sentences and the confiscation of property. Unlike the proceedings before penal commissions in Czechoslovakia, proceedings before the courts of national honour in Slovenia, Serbia and Croatia were public. There were usually many people watching them in larger halls that were prepared for this purpose; they even set up some speakers in front of the theatre at Slomšek Square in Maribor where the hearings took place.<sup>74</sup> Newspapers kept track of the trials and reported on the developments in the court rooms and on the pronounced judgements. This ensured that the operation of the courts of national honour also had strong support of the propaganda.<sup>75</sup>

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<sup>69</sup> Dizdar et al., *Partizanska i komunistička represija: Dokumenti*, p. 95; Grahek Ravančič, "U ime Naroda", pp. 162–163.

<sup>70</sup> Mitrović, *Srpska nacionalna čast pred zakonom*, pp. 22–23.

<sup>71</sup> Grahek Ravančič, "U ime naroda", pp. 163–165; Geiger et al., *Partizanska i komunistička represija: Slavonija, Srijem i Baranja*, p. 160.

<sup>72</sup> *Uradni list SNOS in NVS*, No. 7 (1945).

<sup>73</sup> Mitrović, *Srpska nacionalna čast pred zakonom*, pp. 22–23; Dizdar et al., *Partizanska i komunistička represija: Dokumenti*, p. 95; *Uradni list SNOS in NVS*, No. 7 (1945).

<sup>74</sup> "Razprave sodišča narodne časti", *Vestnik mariborskega okrožja*, 5. 7. 1945, No. 19, p. 1.

<sup>75</sup> Grahek Ravančič, "U ime Naroda", pp. 167–169; Mateja Čoh Kladnik, "Sodišče slovenske narodne časti: propaganda", *Dileme* 1, No. 1–2 (2017), pp. 139–158.

Convicted persons mainly served the sentence of forced labour in labour and concentration camps as well as in prisons. The courts of national honour had to notify local authorities (national liberation committees) regarding the imposed punishments since they were responsible for their enforcement.<sup>76</sup> In Croatia, the senates also had to send a transcript of the judgement to the national liberation committee in the district that the crime was committed since the committee had to make the judgement public; they could also do this in the newspapers.<sup>77</sup>

### **Serbia, Croatia and Slovenia: The consequences**

Mitrović finds that the lack of documentary archival material on the trials and judgements before the courts of national honour in Serbia makes it impossible to precisely establish how many individuals were actually accused and convicted. This is why there are two completely opposing estimates of this number; the first one says that several thousands of people were convicted before the Serbian court of national honour, whereas the second one says that there were no more than one thousand convicted persons, mainly because many proceedings against individuals that had already been started were later halted out of various reasons.<sup>78</sup>

In Serbia, the most people were convicted due to economic collaboration with the occupier. There were also many cases of judgements due to collaboration with the occupier in science and culture, association with the members of various of the occupier's organisations, and collaboration in the occupier's state apparatus. The most of the convicted were officials in the state apparatus, followed by industrialists, traders and craftsmen. Among the convicted were also high-ranking officials of the Nedić government. One of the major trials was the trial against the members of the Royal Yugoslav Army, in which over 400 officers who had returned from internment in 1942 were convicted.<sup>79</sup>

The Croatian court of national honour also pronounced the most sentences for economic collaboration with the occupiers. The most of those who were convicted were industrialists, craftsmen, traders and state officials. According to the data of the Ministry of Justice, the courts pronounced 1083 judgements, the

<sup>76</sup> PAM, PAM/0721, box 18, instructions on serving the punishment of forced labour; Geiger et al., *Partizanska i komunistička represija: Slavonija, Srijem i Baranja*, p. 160; Mitrović, *Srpska nacionalna čast pred zakonom*.

<sup>77</sup> Geiger et al., *Partizanska i komunistička represija: Slavonija, Srijem i Baranja*, p. 160.

<sup>78</sup> Mitrović, *Srpska nacionalna čast pred zakonom*, pp. 73–74.

<sup>79</sup> Ibid., p. 31.

most of which were in Osijek. Croatian historian Martina Grahek Ravančič estimates that many more judgements were actually pronounced – around 3000, wherein it was possible to convict multiple people with the same judgement.<sup>80</sup>

Unlike in Serbia and Croatia, the court of national honour in Slovenia held the most trials for political collaboration with the occupiers<sup>81</sup> and not as many for economic, cultural and propaganda collaboration. The court sentenced around 3000 people; the most were sentenced before the senates in Maribor. The highest share of the convicted was comprised of farmers, craftsmen, owners of restaurants and inns, traders, and a few industry workers.<sup>82</sup> Unlike trials against industrialists and businessmen that took place before the courts of national honour in Croatia and Serbia, the trials in Slovenia (apart from some exceptions<sup>83</sup>) took place before military courts.<sup>84</sup>

The abolishment of the courts of national honour was accompanied by the amnesty of crimes against national honour. In Slovenia, the convicted were entirely remitted of the punishments of light or heavy forced labour.<sup>85</sup> This was different in Croatia, where only those who had been convicted by a final judgement and had reached the age of 55 until the day the amnesty came into force and those who had been convicted to forced labour for up to two years were remitted of the punishment of forced labour. Others had their punishments of forced labour lowered.<sup>86</sup> All other punishments remained in force in Croatia, Slovenia and Serbia, wherein the legal consequences of the loss of national honour were limited to the loss of political and civil rights (including the right to vote). This was a way for the authorities to eliminate a portion of potential political opponents before the elections.

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<sup>80</sup> Grahek Ravančič, "U ime Naroda", pp. 170–171; Geiger et al., *Partizanska i komunistička represija, Zagreb i središnja Hrvatska*, pp. 711–718; Dizdar et al., *Partizanska i komunistička represija, Dokumenti*, pp. 250–264.

<sup>81</sup> The senates convicted the most people for (allegedly) being members or officials of various political, military or paramilitary organisations (the Kulturbund, the Styrian Patriotic Alliance, the Carinthian People's Alliance, the Nazi party, the Italian fascist party or the Hungarian Arrow Cross Party, the police, the Gestapo, the German or Italian armies, the Wehrmannschaft or the Volkssturm) during the war.

<sup>82</sup> PAM, PAM/0721, PAM/0719; ZAL, ZAL LJU/712; ZAP, ZAP/0606; ZAC, ZAC/0727.

<sup>83</sup> The senate of the court of national honour in Ljubljana held a trial against the owners and co-owners of printing and bookselling companies from Ljubljana on 3 August 1945 and a trial against the representatives of large financial institutions on 21 August 1945 (ZAL, ZAL LJU/712, Snč 503/45 and Snč 763/45).

<sup>84</sup> Cf.: Mikola, *Rdeče nasilje*, pp. 251–282; Čoh Kladnik, "Kazensko sodstvo poleti 1945", pp. 75–81; Tamara Griesser Pečar, "Značilnosti revolucionarnega sodstva", *Dileme* 1, No. 1–2 (2017), pp. 119–138; Mikola, *Sodni procesi na Celjskem*, pp. 4–87.

<sup>85</sup> *Uradni list SNOS in NVS*, No. 29 (1945).

<sup>86</sup> Grahek Ravančič, "U ime Naroda", p. 173.

## Epilogue

Courts of national honour were special courts operating within the process of "cleansing" in some European countries for a short period after the end of the Second World War. Nevertheless, the judgements, which were mostly baseless, caused long-term consequences. These were courts that tried "collaborators" – (alleged) accomplices of the occupiers. They were tasked with discrediting the bourgeois class, "which had given itself into the service of fascist ideology in honour of their nation", before the allies and the public at home.<sup>87</sup>

While some western European countries (France) quickly mitigated the punishments by granting amnesty to the convicted, the sentences imposed by the courts of national honour in former Yugoslav republics and in Czechoslovakia left long-term consequences. In these countries, the courts of national honour assumed the role of revolutionary courts, which contributed to the final seizure and consolidation of the Communist Party' power. Their operation was important for the authorities due to the punishments that they imposed. Punishing the convicted with the loss of national honour meant excluding them from political life and eliminating (potential) opponents of the authorities from political decision-making. By being sentenced to loss of national honour, they lost all civil rights.

The punishment of confiscation of property was a permanent measure with which the courts contributed to establishing the state sector of the economy (which later eased the process of the nationalisation of property in countries such as Yugoslavia). The courts of national honour thus participated in the process of changing the socio-economic structure of the country, a process that was very intense after the end of the Second World War.

Trials before the courts of national honour were rapid and brief. Complaints or reports were often the consequences of revenge or of the personal interests of the complainants. Considering the competences of those involved in the preparation of the trials and considering the course of the trials, the credibility of the evidence is also questionable. Although the accused had the formal right to counsel, the counsels had no actual impact on the outcome of the trial. Trials before the courts of national honour violated one of the fundamental legal principles – *nullum crimen sine lege*. This means that acts (the collaboration with the occupier) tried by the courts of national honour were mostly not considered crimes during the war when they were committed; there were therefore no regulations that would incriminate such acts,

<sup>87</sup> Martina Grahek Ravančič, review of book by Momčilo Mitrović, *Srpska nacionalna čast pred zakonom*, *Časopis za suvremenu povijest* 42, No. 1 (2010), p. 258.

meaning that they would define them as crimes and provide punishments for them.<sup>88</sup>

**Mateja Čoh Kladnik**

## **OBRAČUN S SODELAVCI OKUPATORJEV PO KONCU DRUGE SVETOVNE VOJNE: KONCEPT "NARODNE ČASTI"**

### **POVZETEK**

Proti koncu druge svetovne vojne so bili po vsej Evropi vse glasnejši pozivi h kaznovanju (domnevnih) "kolaboracionistov", torej tistih, ki so (naj bi) na kakršenkoli način sodelovali z okupatorji. Zato je bilo mogoče po koncu vojne pričakovati samovoljno obračunavanje domačinov tako s pripadniki tujih okupatorskih vojsk kot tudi z njihovimi sodelavci in podporniki doma. Glede na številne nasilne in raznarodovalne ukrepe okupatorjev (izseljevanje, asimilacijo, koncentracijska taborišča, streljanje talcev itd.) je bil strah pred takim obračunavanjem gotovo upravičen. Z omenjenim problemom so se srečevali povsod, kjer je okupatorjevo nasilje pustilo globoke rane in moreče spomine na težka leta totalne vojne.

V nekaterih evropskih državah so po koncu druge svetovne vojne potekala sojenja zaradi ravnanja proti narodni časti. V ta namen so ponekod ustanovili posebna sodišča, ki so sodelovala v procesu "čiščenja" kratek čas po koncu vojne in so sodila (domnevnim) sodelavcem okupatorjev, "kolaborantom". Takšna sodišča so poznali na Nizozemskem, v Franciji, Bolgariji, Romuniji, na Češkoslovaškem in vsi jugoslovanski narodi.

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<sup>88</sup> Cf.: Deák, *Evropa na zatožni klopi*, p. 328; Frommer, *National Cleansing*, p. 227; Judt, *Povojna Evropa*, p. 62; Decision of the Constitutional Court No. U-I-248/96 ([www.us-rs.si/documents/d8/19/u-i-248-962.pdf](http://www.us-rs.si/documents/d8/19/u-i-248-962.pdf)) and the separate assenting opinion of Lovro Šturm ([www.us-rs.si/documents/d8/19/u-i-248-96-lm-sturm2.pdf](http://www.us-rs.si/documents/d8/19/u-i-248-96-lm-sturm2.pdf)); Rupiĉ et al., *Partizanska i komunistička represija: Dalmacija*, p. 51. Mitroviĉ, *Srpska nacionalna čast pred zakonom*, pp. 15–16.

V članku so predstavljeni kazenski postopki zaradi ravnanja proti narodni časti na Češkoslovaškem, Hrvaškem, v Sloveniji in Srbiji. Medtem ko so v nekaterih zahodnoevropskih državah (v Franciji) izrečene kazni hitro omilili z amnestijo obsojenih, so bile posledice kazni, ki so jih izrekla sodišča narodne časti v nekdanjih jugoslovanskih republikah in na Češkoslovaškem, dolgoročne. Tam so sodišča narodne časti prevzela vlogo revolucionarnih sodišč, ki so prispevala k dokončnemu prevzemu in utrditvi oblasti komunistične partije. Za oblast je bilo njihovo delovanje pomembno zaradi kazni, ki so jih izrekala. Kazen izgube narodne časti je pomenila izključitev obsojenih iz političnega življenja in izločitev (potencialnih) nasprotnikov oblasti iz političnega odločanja. S tem, ko so bili obsojeni na izgubo narodne časti, so izgubili vse državljanske pravice.

Izrekanje kazni zaplembe premoženja je bil trajen ukrep, s katerim so sodišča prispevala k vzpostavljanju državnega sektorja gospodarstva (kar je npr. v Jugoslaviji olajšalo delo pri poznejši nacionalizaciji premoženja). Na ta način so sodišča narodne časti sodelovala v procesu spreminjanja družbenoekonomske strukture države, ki je bil po koncu druge svetovne vojne zelo intenziven.

Postopki pred sodišči narodne časti so bili hitri in kratki. Ovadbe oziroma prijave so bile pogosto posledica maščevanja ali osebnih interesov prijaviteljev. Sodniki so bili večinoma laiki, osebe brez pravne izobrazbe, ki so med vojno sodelovali v boju proti okupatorju in sledili politiki komunistične partije. Glede na pristojnosti tistih, ki so sodelovali v pripravi procesov, in glede na njihov potek je vprašljiva tudi verodostojnost dokazov. Čeprav so imeli obtoženi formalno pravico do zagovornika, pa ti večjega vpliva na izid procesa dejansko niso imeli. V postopkih pred sodišči narodne časti je bilo kršeno eno temeljnih pravnih načel – *nullum crimen sine lege*. To pomeni, da dejanja (sodelovanje z okupatorjem), o katerih so presojala sodišča narodne časti, v času njihove izvršitve med vojno večinoma niso bila na seznamu kaznivih dejanj; ni bilo predpisov, ki bi taka dejanja inkriminirali, torej jih določili kot kazniva in zanje predpisali kazni.

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*Naslov:* OBRAČUN S SODELAVCI OKUPATORJEV PO KONCU DRUGE SVETOVNE VOJNE:  
KONCEPT "NARODNE ČASTI"

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*Jezik:* angleški (izvleček angleški in slovenski, povzetek slovenski)

*Glavne besede:* druga svetovna vojna, okupacija, kolaboracija, obračun s sodelavci okupatorja po koncu vojne, sodišča narodne časti, sodni procesi, izguba narodne časti, prisilno delo, zaplemba premoženja, Češkoslovaška, Slovenija, Hrvaška, Srbija, 1945

*Izvleček:* V nekaterih evropskih državah so bila po koncu druge svetovne vojne ustanovljena sodišča narodne časti. To so bila posebna sodišča, ki so sodelovala v procesu "čiščenja" oziroma povojnega obračuna s sodelavci okupatorjev. Taka sodišča so poznali na Nizozemskem, v Franciji, Bolgariji, Romuniji, na Češkoslovaškem in vsi jugoslovanski narodi. Avtorica predstavi kazenske postopke zaradi ravnanja proti narodni časti na Češkoslovaškem, Hrvaškem, v Sloveniji in Srbiji, kjer so izrečene kazni povzročile dolgoročne posledice. Sodišča narodne časti so prevzela vlogo revolucionarnih sodišč in so s svojim delovanjem prispevala k dokončnemu prevzemu in utrditvi oblasti komunistične partije. Sodelovala so v procesu spreminjanja družbenoekonomske strukture države. Postopki pred sodišči so bili hitri in kratki. Osvadbe so bile pogosto posledica maščevanja ali osebnih interesov prijaviteljev. V postopkih pred sodišči narodne časti je bilo kršeno eno temeljnih pravnih načel – *nullum crimen sine lege*: dejanja (sodelovanje z okupatorjem), o katerih so presojala sodišča narodne časti, v času njihove izvršitve niso bila inkriminirana kot kazniva.