

PhD dissertation

“Trials before the People's Tribunal and the Higher Regional Court as an example of lawlessness in the legal system of the Third Reich”

The aim of this dissertation is to present the issue of lawlessness in the legal system of the Third Reich on the example of trials before the People's Tribunal and the Higher Regional Court. The People's Tribunal (Volksgerichtshof) was a new institution in the justice system of the Third Reich. It was an extra-constitutional body whose establishment was not envisaged by the Weimar Constitution. This was due to the fact that the supreme judicial body, the Reich Court (Reichsgericht), already existed. The verdicts in the trial for setting fire to the Reich Parliament-Reichstag in February 1933-were not accepted by activists, senior NSDAP party officials, and the nascent Nazi dictatorship. Hence, they took steps, in the face of the still existing independence of the German judiciary, to subordinate the judiciary, the judges, to themselves. The reconstruction of the legal system began with the creation of an "alternative" court, the People's Tribunal. This body had the power to adjudicate in cases of crimes against the system of the state, its supreme organs, the external security of the state. Its cognizance was gradually expanded. The Higher National Court, on the other hand, was an institution in the structure of common courts. It was not a new institution. The Higher Regional Court had its own tradition; it had already existed earlier. By virtue of its powers and its territorial scope (the territory of the federal state, during the war the occupied district-Reichsgau or the province-Provinz), it was within the range of influence of National Socialist ideology and the totalitarian state.

Since the beginning of the Third Reich, and especially during the Second World War, the legal system underwent constant, permanent changes, transformations. Its overriding aim was to break with the guiding principle of criminal law: *nullum crimen, nulla poena sine lege*, and to move away from the ideas of the Enlightenment, where the aim was to create a criminal law that would protect citizens against arbitrary action by state organs.

The subject of the research, the results of which are used in this paper, is the activity of the People's Court and selected higher national courts. The

material from prosecutorial and, above all, judicial proceedings has been analyzed, exegesis and criticized. The author focused on the case law concerning high treason (Hochverrat) and treason against the country (Landesverrat). First of all, the author analyzed case law in which Poles were charged and convicted by the People's Tribunal or the Higher National Court in the given occupation district or province. Judgments against representatives of other nationalities were also analyzed on a comparative basis. The accusations, trial and sentences prepared by the prosecutor's office are an obvious example of the lawlessness in the legal system of the Third Reich.

The time span of the work is 1933-1945 with special emphasis on the period of World War II. The starting point of this work is 1933, the year in which the National Socialists and their leader Adolf Hitler began to rebuild and subordinate the judiciary to the interests of the German national community (Volksgemeinschaft). In the period before the war and during World War II, the activities and functioning of the prosecutor's office and the courts were carried out in accordance with the interests of the Third Reich. These are the years when the rule of law is liquidated. The final caesura is 1945, the end of the Second World War. The judiciary of the Third Reich operated until the end. The territorial scope of this work covers the territory of the Third Reich before the outbreak of World War II (the so-called Altreich) and, above all, the Polish territories incorporated into that country as a result of the war. These are the areas, the territory of Gdansk Pomerania, Greater Poland, Lower Silesia, and Upper Silesia, where the Higher State Courts operated.

The source basis of this doctoral dissertation are source materials, archival materials found in Polish and German archives. The national archives are groups of files created by the judiciary of the Third Reich and, above all, during World War II. In particular, it is the case law of the higher national courts. For the purposes of research, the case law of the People's Tribunal was used. The surviving file material on the activities of the higher national courts is not complete. As a result of the hostilities at the end of the war, the file documentation was taken to another destination. There it often did not arrive or was destroyed along the way as a result of the rapid offensive actions of the Soviets. The destruction was done by the Germans themselves when further transport of the files was not possible. Often the court records were not preserved at all or only a part of them survived.

The establishment of the People's Tribunal was an illegal act, carried out in violation of the provisions of the Basic Law, the Constitution then in force. The jurisprudence of the People's Tribunal is a clear example of a departure from the rule of law. Similarly, the Third Reich subordinated to itself the judiciary, the highest national courts, whose decisions concerning crimes against the state system and its security are evidence of a violation of the law. Trial proceedings, judgments of the higher national courts against Poles or people of other nationalities accused of crimes that endangered the security of the state, such as high treason or treason against their country, were unlawful.

During the period of functioning, activity of the People's Tribunal, 15,729 people were indicted. Of this number, more than 80 percent of the accused fall into the period from 1940. In turn, according to other studies, the People's Tribunal convicted 16,700 people. The scale of the phenomenon of death penalty sentences is frightening. Until the outbreak of World War II, the People's Tribunal issued nearly 50 death penalty verdicts each year. With the outbreak of war, the number of sentences began to rise, exceeding 1,000 in 1942. The climax of this punishment came in 1944, when the People's Tribunal sentenced 2,097 people to death. There are some discrepancies as to the final number of people sentenced to death by the People's Tribunal. We have different data, which, however, indicate a number of more than five thousand people. According to one account, the People's Tribunal sentenced 5243 people to death at more than 50 execution sites. Taking into account the nationality composition of the people accused and sentenced by the People's Tribunal, the largest number of people were Czechs, followed by Poles - nearly 1,000 people (969), French and representatives of various nationalities (406), Belgians, and Dutch. The People's Tribunal convicted people representing 30 nationalities. The lack of available trial files on the activities of the higher national courts makes it impossible to make a quantitative assessment or approximate the phenomenon of politically motivated trials. Such trials undoubtedly included those that concerned the preparation of high treason (*Vorbereitung zum Hochverrat*), treason against the state (*Landesverrat*), and the weakening, disintegration of the defense forces of the state (*Wehrkraftzersetzung*).

Alongside the institutional reconstruction of the judiciary in the Third Reich, changes were made to the Criminal Code and the Code of Criminal Procedure. Under the guise of protecting the state, the national community, the law became repressive and finally sanctioned lawlessness. Under the terms of

the law on treason, the crime of high treason, preparations for high treason, betrayal of the country, the decomposition and weakening of the defensive forces of the Third Reich, in order to protect the state, the party, the party uniform, there was unprecedented interference by the state in the administration of justice.

The fact that the judgments of the People's Tribunal testify to the existence of lawlessness in the legal system of the Third Reich and are evidence of a violation of the rule of law was confirmed by a law of the German Parliament (Bundestag). The German parliament passed it on August 25, 1998, and its full title is "Law on the Annulment (Revocation) of Criminal Sentences of Lawlessness of the National Socialist Regime". Unfortunately, as far as the verdicts of high treason and treason against the country before the higher national courts are concerned, they have not yet received a precise statutory regulation along the lines of that concerning the case law of the People's Tribunal in the form of a law. In the author's opinion, in the light of the research, the sentences of imprisonment and death sentences issued for the alleged crime of high treason or treason against the country should generally be considered null and void, repealed, and the convicted persons should be declared innocent of the crime.