Investigation and Political Processes with Soldiers in Czechoslovakia (1948–1989)

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The basic approach of the author was to place issues into the context of the political development of Czechoslovakia after the events of February, 1948. The applied research confirmed the theory that political delinquency of member of military personnel formed a unique class. The worst crimes of the founding period were the core of the author's focus. This period can be characterized by political trials made as thought-out systems of illegalities organized by the bodies of military justice. Afterwards, the persecutions continued but only in an individual and more selective way. The author used original historical sources which are common for contemporary history.

Key words: *legal history;anti-state activity; military justice; military persons; investigation*

A number of arguments have been proposed claiming that the 1948 to 1989 political point of view had been applied throughout those years when there was an assessment of the delinquency of soldiers in various forms. However, the system of political processes with soldiers did not always apply in the same way throughout the period analyzed. In this respect, it is important to indicate the time period of this system at the intersection of different points of view.

The auto-stereotypical view is an assessment of the early 1980s, when military counter-intelligence alone evaluated the thirty-five years of its post-war existence. In no case have analysts refused a targeted system of prosecution of politically uncomfortable soldiers in general. However, they admitted that, by 1951, certain specific members of the 5th Division of the General Staff and of the Main Information Administration committed illegal activities, particularly in the investigations for which prosecution and convictions were initiated.

In the following years, this negative trend was not promoted by the military counter-intelligence authorities.[1] Contemporary specialized works recall that in

[1] Security Services Archive, Prague, fund VKR, Overview of military counter-intelligence development, reference number 0310/17-1978, Prague 1980, p. 126.

the years 1948 to 1950 the defense intelligence authorities carried out a large system of provocations, as well as the subsequent artificial construction of anti-state crimes against the military, civilians, individuals and groups. Agents and provocateurs were deployed against the accused during investigations and imprisonment.[2]

The most severe manifestations of systematic persecution in the army in the form of criminal repression ended with the arrival of Alexander Čepička as the Minister of National Defense (in April 1950). Even after the establishment of the military counter-intelligence under the subordination of the Ministry of National Security, selective use of brutal physical violence took place during investigations, with the participation of Soviet advisors. The system of unlawful interception continued, including telephone calls, violating secrets, production of artificial evidence and even house arrest. Czech author František Hanzlík considers the case of the so-called "Group of Czechoslovak officers" the last trial created with soldiers. This group included officers and high-ranking generals from army structures, educational and party apparatus. Without doubt, it is at least appropriate to mention the hero of the so called *second resistance*, general Karel Klapálek. The final sentences were delivered in November, 1954.[3]

Opinions among historians on the course of these political processes in the army vary. It is evident during this period to see a shift from pure allegations of anti-state action to an approach where military security and judicial authorities attempted to use "regular" criminal behavior in general for political persecutions. There is a typical example of the criminal prosecution of the USSR Hero, (later) general Richard Tesařík (1915–1967).[4] He was detained and prosecuted from December 1953 to August 1954 on the basis of the decisive role of military counter-intelligence and military prosecutors. Tesařík caused a traffic accident due to negligence, injured a pedestrian and lost the classified documentation. However, the accusations of injuries due to negligence, failure to provide assistance, and threatening state secrets were largely political. Either a presidential amnesty was subject to these crimes, or he was not convicted in the final verdict.

This unsuccessful effort by military counterintelligence to prove to the Hero of the USSR an anti-state actor was based on gaps in his personal life as well as a somewhat eccentric lifestyle. The actual cause of Tesařík's investigation was

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2 Especially the former Czechoslovakian members of Royal Air Force became a specific group of victims of political persecution. In more detail Vyhlídal, M. (2018). Generál Jan Reindl (1902–1981). Letec, zpravodajec, účastník protinacistického odboje a velitel leteckých instruktorů v Egyptě. *Svět křídel*, Cheb, pp. 59–78.

3 Hanzlík, F. (2015). *Diskriminace a perzekuce vojáků v Československu v letech 1945–1955*, Powerprint, Praha, p. 97.

4 In more detail Hanzlík, F. (2017). Utajená vazba Hrdiny SSSR. Životní osudy Richarda Tesaříka v období poúnorových perzekucí v armádě 1948–1954. In *Securitas Imperii* I.

apparently his criticism of the Minister of National Defense, Alexander Čepička, which constituted a conflict with the communist power. The author of this paper also dealt with the case of soldiers Vladimír Cagášek and Alois Porteš,[5] who escaped from active service in the military and were executed in Prague on August 9, 1966. However, they are considered the last military individuals to be executed in post-war Czechoslovakia in a process with political undertones.[6] However, even in their case, the boundary between general and political delinquency cannot precisely be defined, as the first can serve as an argument for realizing the second.

Prosecution for politically motivated crimes, of course, did not convict soldiers even during the following period of normalization. A lieutenant colonel, PhDr. Jiří Sedlák, CSc., comes easily to mind as an instructive example. He was a teacher at the Antonín Zápotocký Military Academy in Brno. In April 1969, he lectured at the Regional Prosecution Office in Brno and also took part in a meeting of the communist party street organization in Ivanovice na Hané. From his impression of the August occupation of 1968, he expressed public doubts about the alliance with the USSR, the hegemony of the working class in the state and questioned the historical significance of February, 1948. Furthermore, he criticized Chairman Klement Gottwald, the Czechoslovak communist nomenclature and to the same degree evaluated J. V. Stalin, L. Březněv and, in general, rejected the invasion of Warsaw Pact troops into Czechoslovakia.

His personal bravery did not remain unanswered and, on December 10, 1971, a public trial by the Senate of the Higher Military Court in Tábor was held in Brno. Sedlák was unconditionally convicted to 10 months imprisonment and placed in custody at the first remedial-educational group.[7] He satisfied the facts of the crimes of defamation of the republic and its representative (§ 102–103 of the Criminal Code), as well as defamation of the state of the world socialist system and its representative (§ 104 of the Criminal Code).

From the above it is reported that the processes with the soldiers for their alleged or actual anti-state activities had the mass character of an illegal system during the period 1948–1953. During this time their investigations were carried out by the intelligence bodies under the auspices of the Minister of Defense or the Ministry of Interior and especially the military components of the State Prosecutor's Office at the State Court. In the mid-1950s this system was eliminated. Politicizing the delinquency of military personnel was often

5 Security Services Archive, Prague, fund Investigating Files, V-7998 MV, reference number Skr-77-142-65, Cagášek Vladimír and company. Resolution ČVS: Skr-77-142/1965.

6 Pejčoch, I. (2011). Vojáci na popravišti. Vojenské osoby, popravené v Československu z politických důvodů v letech 1949–1966 a z kriminálních příčin v letech 1951–1984. *Svět křídel*, p. 29.

7 Procházka, S. – Novotník, J. (2009). Vzpomínka po 40 letech. *Tribun EU*, p. 57.

ubiquitous. However, it has always been concerned with each of its individual investigated cases. During the years of 1948–1951 this process took the shape of an illegal system that was influenced by the general line of criminal policy. This means that the cases of unlawfulness were focused upon searching out the "enemy" at all costs.

The pre-trial stadium usually began by arresting the suspected soldier by members of the Defense Intelligence Agency (5th HIS Department, HIS). These arrests were then testified and, on the basis of interrogation information and the gathering of material evidence from house searches, the investigative bodies drew up a criminal indictment. This became the basis for a subsequent trial. In the absence of sufficiently proven evidence at the court hearing, in the case of the defendants, lawyers entered the process and began to act as defense experts in the field of defense intelligence. In the event of contradictions or evidence of an emergency, their expert opinion was decisive.

With the institution of the State Court and the State Prosecutor's Office, senior military prosecutors and senior military courts were involved in the jurisdiction to hear the less difficult cases of anti-state delinquency. At the service of the state court and the state prosecutor's office, military judges and officers of the judicial service were temporarily assigned under Section 4 and 13 of the State Court Act. Somewhat atypically for the proceedings before the state court, the provisions of the Code of Criminal Procedure of 1873 (and not the 1912 Military Code of Criminal Procedure) were used. In particular, this was a provision on the process at the regional court level.

The investigative judge in the military section of the State Prosecution did not actually intervene in the investigation process and his role in general became mostly formal. However, the State Prosecutor's Office sent cases to practice, so these were often delegated to investigating magistrates. The investigating magistrate often simply mechanically repeated the interrogations already made by military intelligence. Thus, the criminal notification and accompanying documentary materials, which originated with the defense intelligence authorities, were decisive. The military section of the state prosecutor's office then filed an indictment directly with the State Court. Criminal records commonly concerned firearms, explosives, ammunition, or documents containing classified information. Due to the *specificity* of the military issue, conflicts often arose between the military and civilian components of the State Prosecutor's Office and the state court.

The State Prosecutor and court authorities mainly handled the most difficult cases of treason and spying. However, according to the Act on the Protection of the People's Democratic Republic, a soldiers' criminality was also discussed on the level of the Supreme Military Tribunal. These included the less serious accusations of sedition, association against the republic, the spread of false and alarms, the

disclosure of state secrets to unauthorized persons, negligent preservation of state secrets and insulting constitutional authorities. Prosecutors in the Senior Military Prosecutor's Office often directly contacted the military intelligence officer with requests for additional information they needed to file an indictment. In particular, this included information on the moral or political orientation of the prosecuted soldier and was transmitted via personal contact.

In the process of investigating and discussing the anti-state criminal activities of soldiers, the Justice Department of the Ministry of the National Defence held the supreme position in governing and as an administrative body of military justice. The Department would also act as a control body over military prosecution and military courts. This was primarily the Criminal Law Division of the justice department, which included the so-called *Criminal Group*. The group monitored and registered the activities of military judicial authorities or issued administrative, technical and organizational instructions. It only rarely debated pardon requests. In relation to the reform of substantive and procedural criminal law in 1950, the reorganization of the justice department and its transformation into the main judicial administration of the Ministry of the National Defence took place.

The Criminal Law Division and the Criminal Group disappeared and the prosecutor's and judicial offices were established instead.[8]

Although the preparatory proceedings in the modern criminal process contain many guarantees of conforming to law, the authorities that carry them out are still provided with a number of opportunities for their violation. The reason for this is clear. The principle of public prosecution is widely circumvented here. During the period of greatest unlawfulness, the issue of distinguishing the so-called administrative protocols and protocols as a result of the court hearing is a crucial issue in this respect. The administrative inquiries of armed troops were primarily carried out by the investigative bodies of the military defense intelligence units. At the time of the top political processes in the army, members of the 5th Department of the General Staff provided this function.

The legal conditions for this act were not entirely clear and an assessment of the nature of the act must be taken into account in the act itself. It can generally be noted that the administrative inquiry served as a basis and support for the facts set out in the criminal indictment.

Instructive in this respect is the case of Claudius Šatana, a major of the Czechoslovak Army. He was a member of the second anti-fascist resistance and was executed on charges of espionage on October 7, 1950. On the 26th January of the same year, the chief of the 5th Department of the General Staff sent an action at law to the military department of the State Prosecutor's Office in Prague. Criminal notification on the qualification page contained no further details, which

8 Hanzlík, F. – Pospíšil, J. – Pospíšil, J. (1999). Sluha dvou pánů. Vizovice, p. 156.

were able to actually specify the article of the Act on the Protection of the People's Democratic Republic. It may have been defined as imprisonment without legal reason.

This document contained four sections; personal data, criminal offenses, grounds for suspicion and aggravated circumstances. Attached to this was an order to arrest from October 7, 1949. The reasons for the criminal indictment consisted of the circumstances in which Mr. Šatana, during the years 1946 to 1949, communicated with the indefinitely assigned Western Military Deputy various data which the Czechoslovak Army defined as subject of a state secret. Only from the context can we conclude that these were US representatives. He kept a gun in his apartment, but without official permission for a firearm.

Especially concerning was the fact, that he was a senior officer with specific status, who must have known the severity of revealing data concerning secret military capability. An aggravating fact was his statement in September of 1949, according to which he was determined to live abroad. Only his family relationships in Czechoslovakia discouraged him from this plan. From the point of view of the alleged spying activity, the prosecution was precisely supported by the aforementioned administrative interrogation protocol drawn up by the investigative bodies of the 5th Department of the General Staff. It is quite probable that the Shatana's testimony was forced by torture. The key document was, even though it was forced at the pre-trial stage without a legal basis, undoubtedly unlawful.[9]

In another instance, the general lack of merit of his pre-trial hearings was fatal to General Heliodor Píka, because he underestimated their substance during this period of unlawfulness. Due to the psychological pressure and tendency of protocols of the investigating magistrate, dr. Karel Vaš, General Píka signed the wording in the protocols. He vainly believed in an independent court hearing. However, the Criminal Court of the Prague State Court did not give him the opportunity to conduct his defense. The so-called administrative interviews of witnesses of the 5th Department's bodies were of great importance for the further conduct of the proceedings.

When Píka's file was handed over to the State Prosecutor's Office in Prague on December 8, 1948, it was clear that the investigating judge, Karel Vaš, had basically merely copied the administrative protocols of witness testimonies made by the 5th Department of the General Staff before preparing a criminal complaint. Both true and untruthful facts were found by counter-military intelligence, therefore military justice had, without much doubt, assumed and recognized the evidence as relevant for further proceedings.

9 Security Services Archive, Prague, fund Investigating Files, investigating material V 5977, MNO HŠ – 5th Department. Case: major Claudius Šatana – criminal notification.

Karel Vaš published a comprehensive monograph in 2001, attempting to defend his role in the Píka case. Formally and legally, this was a comprehensive text. However, he completely overlooked the non-legal aspects of the entire case, which decisively contributed to the general conviction. The argument by Dr. Vaš is made that, in the administrative questioning, Heliodor Píka denied the blame, but he did so in a protocol written by the investigating magistrate and was convicted in a "lawful" way.[10]

There was not much change in this practice even after the creation of the Main Administration of the Counter-Intelligence Service. This paints an accurate picture of the criminal indictment that military counter-intelligence addressed to the General Prosecutor's Office in Prague in the case of Josef Musil et al.

General Musil's career, as Reicin's successor at the head of the 5th Division of the General Staff, faithfully reflected the course of repression and the overall atmosphere of the time. The *initiator* of political processes in the army had become a *victim* as part of a hunt for the whole branched "ban" of the conspiratorial center of Rudolf Slansky. The document of July 14, 1953 failed to deal with the legal specification of the reported anti-state crime. A group of six former military intelligence officers were charged with committing various forms of treason, spying, sabotage, and military betrayal. Their moral profile in connection with the prosecution of soldiers after the 1948 events in 1948 was beyond any debate.

However, criminal notification of military intelligence was conceived as a rhetorical exercise on class contradictions in the post-war world. The prosecuted officers were introduced as agents of Gestapo and world imperialism, J. B. Tito's associates and a mix of former Austro-Hungarian or bourgeois soldiers actively working on all fronts against the USSR. However, from the point of view of the interpreted indictment, it is obvious that the prosecution predominantly relied on the interrogations of more than fifty witnesses.[11] In addition to this, the problem of the lack of independence in the expert examination was clearly found.

The judicial and expert activity of members of the 5th Department of the General Staff became an important part of the political processes with soldiers after 1948. Even though the expert was a member of military intelligence, he was significantly influenced by knowledge gathered during the course of court hearings in the context of various disputed technical points. Disturbingly, defendants were able to disrupt the concept of the puppet process. Most of these experts were equipped with legal education and were focused on the process of gathering evidence and completing criminal records.

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10 Vaš, K. (2001). *Moje perzekuce v právním státě aneb epochální výlet české justice do 50. let XX. století*. Praha, p. 56.

11 Security Services Archive, Prague, fund Investigating Files, investigating material V 2457. Musil Josef and company. List of witnesses, p. 32–35.

Their competency was, for example, the assessment of military documents found during house searches for armed military purposes, particularly in terms of their secrecy. The institution of experts had approximately the same content as the present structure of criminal proceedings. They acceded to a maximum of two, if the facts of the case required their specific expertise. Experts were not to be interrogated as witnesses, nor should they be members of the court, and their professional opinions were formally a standard means of proof. The choice of experts was primarily dependent upon the investigating judge. In criminal proceedings with the military men, it was preferable to invite experts from the cadre of soldiers. The superiors of such experts could deny their inclusion in the case if it threatened the interest of their service. In the hands of the investigating magistrate, experts then were sworn in and allowed to work with the case file.

Experts of the 5th Department of the General Staff were defined in this way. The 5th Department of the General Staff tried to modify the general provisions of legislation in order to be more effective (or abusive) for the prosecution of anti-state activities.[12] To this end, it issued its own undated interim directive on military expert opinions, the origin of which can be indirectly determined until 1946.[13]

Of course, this was a secret document that, in its essence, formulated special requests for "intelligence" in cases of spying, marauding, sabotage or other cases that might disrupt the state's defenses. In these cases, defense officers acted as the most experienced specialists under the directive. Their expert opinions could be oral or written and were devoted to various procedural subjects – the public prosecutor, the investigating magistrates or the court. Expert reports in the field of military intelligence concealed any possibility of abuse by being kept confidential or secret in the file.

Upon completion of the search, a military person could be prosecuted and, therefore, it was not recommended to include in the report any sensitive information that could be divulged to the detriment of the state's defenses. This meant that military intelligence officers were able to write the desired conclusions without full justification in the text of the opinion. The written expert report in the field of military intelligence was divided into five parts – introduction, general part, specific part, analysis of documents and determination of damage. For more complex cases, two experts were recommended to be appointed. One military

[12] Security Services Archive, Prague, temporary fund 302, inventory number 302-539-10. Prosecution of military personnel and cooperation of military counter-intelligence, MNO – 5th Department, reference number 23 294, restricted, 1949. p. 41–42.

[13] Security Services Archive, Prague, temporary fund 302, inventory number 302-541-2. Temporary directive for military expert opinions, MNO – 5th Department, registration number 49, secret, 140 pages, undated.

intelligence officer and a second military specialist (for example, in the field of arms service, military inventions, etc.). The most important part of the assessment was considered the final part in terms of determining or assessing the amount of the damage.[14]

Thereby this method a very basic dilemma was solved, which was understood to be damage in the field of anti-state military delinquency. The discussion of the importance of the amount of damage for the legal qualification of the case was directly related to the question of the application of specific facts. The provisions on military betrayal, pursuant to Section 6 of the 1923 Protection Act of the Republic and the provisions of Section 272 of the Military Criminal Code of 1855 (concerning non-treatment of service regulations) were considered of key importance in this regard. Those facts have already been the subject of the foregoing interpretation.

In the case of military betrayal, the lawyers of the 5th Department of the General Staff argued that the amount of the damage did not affect the legal qualification and the determination of the level of the penalty rate. It was reflected in the overall legal assessment only as a general aggravating circumstance. This was not the case of the loss of military files pursuant to Section 272 of the Military Criminal Code. This difference, according to the current criminal terminology, was in its essence the difference between a threatening delinquency, for the completion of which it is sufficient to induce a real danger or a threat to the legitimate interest and a delinquency whose legal character has become the cause of real harm or damage.

The estimate of the damage caused was perhaps the biggest problem for experts, especially in the case of spying committed by soldiers. Criminal files often did not contain specific indications that the classified information was revealed. At other times, the situation in the established search was aimed at demonstrating that classified information was revealed to strangers, but it was not possible to find out what classified information it was. Sometimes, only the disclosure of information from public sources was demonstrated, and elsewhere they are revealed not to a foreign state, but only to a certain interest or political organization.

Also very important was the qualification of leaked information to military, either political or economic. Military experts or military justices did not agree on the basis of whether harm can be understood – if only in the sense of material damage or damage threatened abstractly understood interests of the defense of the republic as a legal estate. Within the military court, they held the view that the damage represented the costs that must be paid by the military administration to replace lost or stolen items. This was, in essence, a completely absurd conclusion

[14] Ibidem, pp. 108–121.

and was also very quickly rejected by the Supreme Military Tribunal in the judgment, P 276/26/11 of May 14, 1927.

The damage under this decision was not only that to property as expressed in money, but also damage to other legal assets, such as the military security of the state or the interests of military service. Otherwise, criminal responsibility would be difficult to grasp, as for example in the case of disclosure of information concerning mobilization preparations against a hostile state or organization.

The opinion of military-intelligence officers in 1946 was therefore based on the fact that the military expert first assesses the military damage, namely in terms of the defense interests of the country and only then the damage to the state-owned property, to the army or to the military administration. A former lawyer explained in his testimony from May of 1950 how military expert opinions emerged under the direction of the 5th Department. The practice of military expert Major Štěpán Pecka was revealed, who worked as an expert at the military and civil courts in the context of the State Court. He did not disclose the sensitivity of the case and sent a brief summary to the Chief of the 5th Department for each report.

Military expert opinions were mostly drawn up during the trial of a particular anti-state matter. They were always based on a specific template where the introduction to the international political situation and methods of hostile intelligence services was repeated again and again and the specific data merely added to the file. Major Pecka copied the practice of the state court when, for example, the information numbering the inhabitants of a particular city was also considered secret. If this number was compared with older demographic data in a hostile alien population as related to the growth of the population, the rate of growth of industrial production could be estimated.

This cannot be described otherwise than as an extensive and criminalizing approach. There was a practice in the state court whereby an expert was invited to the jury's deliberation before judgment was delivered, in order to underline the contradictory and dangerous nature of the accused conduct. There was also the direct invitation of a legal expert to these meetings, when he emphasized the interest of the 5th Department to the protection of the state secrets of the USSR.[15] Later Lt. Colonel Pecka warned the Chief of the 5th Department that he had to attach to the criminal notification the documents that were actually classified by the interrogation authorities, because especially in the case of an already invalid document, he had great difficulty in the court proceedings to certify that these documents were indeed secret.[16]

[15] Military Historical Archive, Prague, fund MNO, inventory number 1670, signature 11/4, carton 453, reference number 00317-DS/53. Finding of former lawyer of 5th Department – statement, p. 3–4.

[16] Hanzlík, F. (2003). *Vojenské obranné zpravodajství v zápasu o politickou moc. 1945–1950.* Praha, p. 222.

The case against General Píka demonstrates the role of military expert opinions in political processes. In his case, the so-called "Zadina Expert Opinion" was created, with the aim of punishing Píka to an absolute sentence. For the purpose of this evidence, there was the fact that Colonel Karel Zadina shot himself in 1968. That was during the period of the review of lawlessness and the beginning of judicial rehabilitation. His expert opinion played a key role in the original criminal proceedings, which was also reflected in the conviction that claimed the expert opinion was broadly and logically justified. The opinion took a close look at the details that emerged during the main trial. The court recognized the expert opinion as *perfect* and took it into account as the basis for the construction of a death penalty.[17] However, injustice was not uncovered in a situation when it formally looked like "legal" justice.

Evidence from such an opinion *could* not be objectively correct. All of these facts, in summary, already paved the way for open violations of legality.

On August 29, 1951, the chief of the Main Justice Administration (Ministry of National Defence), Jaroslav Kokeš, signed a special report for the Minister of National Defense. This document summarizes the investigation against certain former military-intelligence officers. Regarding the illegality of the Reicinś "gang," many official papers were created during the campaign against Rudolf Slánský. But this unique report expresses the convincingly brutal nature of the entire system. Former members of the 5th Department of the General Staff, were prepared for the purpose of removing inconvenient persons these judicial murders.

On the basis of their investigative methods, several investigated persons committed suicide and military-intelligence officers committed other crimes, while military lawyers (civil lawyers in uniforms) covered their activities. Their names, Vieska, Tichý and Vaněk, are expressly mentioned. The investigation of the Lower Military Prosecutor's Office in Prague revealed a massive violation of the entrusted service's power, especially sadistic investigative methods. Behind the main initiators of evil was mentioned the name of Captain František Pergl, who managed a "well-known" prison and sadistically "prepared" arrested soldiers for interrogation. Lieutenant Colonel Karel Bohata, as Deputy Chief of the Interrogation Department, used systematically brutal physical and psychological violence for interrogations.

Finally, Colonel Richard Mysík headed the special investigation unit and entered the history of military justice as the main proponent of a monstrous system of provocations. This man, without any hindrance, prepared illegal provocations against the soldiers on the basis of which they were arrested, investigated and imprisoned. Then the agent-provocateur disappeared from the case in the decisive

[17] Vaš, K. (2001). *Moje perzekuce v právním státě aneb epochální výlet české justice do 50. let XX. století*. Praha, p. 49.

moment or was otherwise "expelled." Criminal files then spelled out the criminal act without a shadow of the provocation and as a wholly self-inflicted crime.[18] The names, persons and main areas of their illegal activities will serve as a guide for the following interpretation. Only the order will lead from provocation, through illegal detention to brutally conducted interrogations, to follow the time-sequence of the pre-trial proceedings before the filing of the complaint.

Most of the provocations against military or civilian persons was made by generals Reicin and Musil, roughly between 1948 and 1950, when their crimes grew to dozens of events. The first step of provocation was to deliver falsified postal items to selected soldiers from their colleagues, who had left the republic and the army for the West, to hostile capitalist countries. The addressee of the delivery of the consignment from the authorities of the 5th Department either notified the same authorities or failed to do so. If not, there was a pro-active reason for arrest and investigation, or compromise and acquisition of cooperation.

Another "proven" procedure was the direct arrest of the soldier or group, while the military intelligence officers placed the artificially produced counter-prints, leaflets or official writings of classified character in a private dwelling. The most advanced level of provocation was the organization of counter-resistance groups, where the provocateur created an artificial illegal group of military or civilian persons for anti-regime actions that either *did not take place* or were only partially successful and managed.

The most "famous" such action was Musil's construction under the cover label "God's Mills." Lieutenant colonel Josef Hruška was working under the leadership of the Chief of the Search Group, Colonel Richard Mysík, who penetrated into the already existing "Truth Wins" group and incorporated into it the maximum of military personnel. Since 1947, Hruška had worked under Mysík's command in the National Socialist Party and reported from party meetings, for which he received regular material and financial rewards. In the summer of 1948 Hruška, under Mysík's Command, entered the "Truth Wins" organization, reported on, organized and directed its activities.

In December of 1948, Mysík had Hruška arrested and, in the subsequent trial, Hruška was convicted of treason and spying and sentenced to death. Within the arrests and activities of the "Truth Wins" Group, Hruška also contacted general Karel Kutlvašr, military commander and hero of the Prague Uprising. Kutlvašr received a life sentence from the state court for a provoked resistance activity.

The destiny of Lieutenant Colonel Hruška is an example of how the system of provocations could destroy a provocateur who knew too much about the

[18] Military Historical Archive, Prague, fund Alexej Čepička, carton 32, archival unit 216 – MNO, HIS, OBZ. Information about investigating against former members of military counter-intelligence, reference number 002034 HSS, p. 1–2.

lawlessness. His case only demonstrates the mechanism with which Colonel Mysik as a "provocative champion" cooperated with his search team in inciting provocations, basically with all defense intelligence agencies, as well as the 2nd (intelligence) Department of General Staff. The suggested style of work was given the special slang name "mysíkovština."[19]

Occasionally though, provocations showed elements of unprofessionalism and "championship" could not be discussed. For example, at the beginning of 1949, there occurred the arrest of a civilian employee, Mrs. Veselé. In her handbag, the military-intelligence officers stashed two secret writings, copying paper and a false passport, which Mysík's officer created for the purpose of compromise and provocation. The investigating bodies of the 5th Department knew about the provocation and Mrs. Veselá was coerced to confess. She was detained by State Security in the Prague Prison in Pankrác. Members of the State Security soon reported to the military-intelligence officers that the secured passport was no longer valid after the deadline, unconfirmed, and Mrs. Veselá was unable to successfully leave the capital. Even so, nothing changed in her drawn-out final conviction.

The second fundamental stage of lawlessness was the restriction of the personal freedom of the investigated military personnel. The prison was situated on Kapucínská Street 2 in Prague 4 in Hradčany, near the legendary Loreta, the famous "Domeček." The most senior position was held by Captain František Pergl. Here the imprisoned persons had to undergo all imaginable physical and consequently mental suffering, often for long periods. After 1949, the use of physical violence against investigated persons became quite regular, resulting in many injuries such as broken teeth, ribs or eardrums. Captain Pergl defended the provision of medical care and prisoners were provided a cure of tenoftaline, the application of which resulted in bodily weakness and severe diarrhea. Medical treatment was provided only in case of imminent death.

The machinery of violence, however was not so evenly distributed and exceptions were the such as in the case of Major Jaromír Nechanský and his illegal intelligence. Military prosecutor Lieutenant Colonel dr. Vieska intended to make a large and public trial from his case and encouraged the military-intelligence officers to avoid physical violence upon him. There was a danger that Nechanský[20] would not have remained silent in a public hearing at the court. But he did not escape entirely, because he had to sleep in a bright light with his hands on the

[19] Hanzlík, F. – Konečný, K. (2009). *Čs. vojenský exil pro obnovu demokracie v Československu po únoru 1948*. Brno, p. 47.

[20] Military Historical Archive, Prague, fund Alexej Čepička, carton 32, archival unit 216 – MNO, HIS, OBZ. Questioning of Dagmar Marešová, female typist of 5th Department, p. 9–10.

blanket, and was regularly both hungry and cold.[21] It is remarkable, that the abuse of armed soldiers was not an excess only for individuals, but a purposefully built system of illegality.

Sometime during January of 1949, the chief of the 5th Department invited captain Pergl for a personal interview, because he knew him very well from his past military career. Pergl warned Musil about his character defects because he knew his personal sadistic tendencies. Pergl told him about his inclinations and the danger that he would then be condemned and imprisoned as a result of crossing his authority. General Musil did not comment on these facts, because he needed such a cruel guard for the abuse of prisoners. "Domeček" paid for a particularly brutal place, where the system of abuse of prisoners after 1948 arose as the first, even before the "civil" prison for political prisoners in Prague-Ruzyně.

The jungle of illegality, however, stopped in May of 1951, when an action against this device was ordered by the Chief of Justice Department of the Ministry of Defense, the general of military justice, Jaroslav Kokeš. Representatives of the General Military Prosecutor's Office participated in these activities. Military-intelligence officers made sovereign rights to their investigative prison, so inspection could only take place in the form of a night visit.[22] Before this powerful intervention, the system was maintained by a system of covering its own illegality. In court proceedings before a court of law, one of a number of accused, Captain Václav Padevět, mentioned that he and his co-defendants were hit brutally and daily. František Pergl was in danger of arrest and investigation. But his superiors described him as an exemplary prison officer. So, the practice of torture in custody and investigations continued undisturbed until the spring of 1951.

Finally, the interpretation arrives at the third stage of the "work" of military-intelligence officers, where the product was illegal evidence, denying the principle of finding material truth in criminal proceedings. It was essentially a repetition of physical and psychological coercion during a custody in "Domeček." The aim of logging such testimony was in line with the intent of the investigators or the designers of that political process. Interrogation Group ("R" – department or "E" – group) of the 5th Department of the General Staff had the worst reputation in this respect. In this group there were two lieutenant colonels – the chief, Ludvík Souček and his deputy, Karel Bohata.[23]

In some cases, the investigation lasted more than one year and the case came to the court after the manipulation with proofs and the damages for justice were

[21] Šolc, J. (2008). *Znamení trojského koně. Životní příběh majora Jaromíra Nechanského*. Praha, p. 178.

[22] Kratochvil, J. (1990). *Žaluji I. Svědectví a myšlenky o deformacích stalinské justice v Československu.* Praha, p. 83.

[23] Bártová, M. (2016). Ludvík Souček, přednosta výslechové skupiny 5. oddělení Hlavního štábu MNO v letech 1949–1951. In *Sborník Archivu bezpečnostních složek*, p. 115.

irreversible. For example, for Karel Bohata, the richness of sadistic interrogation methods was firmly coupled with the incompetence of the interrogator, because he had a very bad memory. Every piece of information had to be repeated at least three times and sometimes it was not enough to memorize. That's why it was not hard for him to construct false testimony or confession according to his own ideas, because he could remember the real information very well.

The results of investigations or provocations were then often tampered with by Bedřich Reicin himself. He, for example, decided whether failure of soldier was notified as an anti-state crime or it was classified with discipline, as another general criminal notification, or to get a compromised military person to intelligence or information activity for defense intelligence. Illegality during the investigation often received another surprising dimension. Military-intelligence officers often appropriated the property of those investigated and carried out various machinations with cars, flats, etc.[24] In such situations, the realities of investigated crimes can be rightly and successfully disputed. However, even in the process of subsequent rehabilitation, there was no complete correction of any violation of the law.

The political trials as a show of violence and injustice are forever connected with the regime of the Communist Party. They broke all possible rules of the Czechoslovak legal order, which held power during their duration. They did not solve the question of who was guilty or not. They served as a tool for the political fight against the non-communist elements of Czechoslovak society. A very important part of it included the Czechoslovak armed forces, consisting of military personnel of all ranks. The Communist Party wanted to have all soldiers under pressure and total domination. Various opinions were not respected at all. Victims of violence from military the area wanted to obtain full satisfaction, especially after 1956. This year was the starting point for attempts that were focused on a brave reformation of the Soviet system in the USSR and all countries under its power.

There were five commissions established by the Communist Party. Only a very small number of victims were rehabilitated and very few individuals were granted partial rehabilitation. Illegally punished military staff had not been assigned to a position corresponding to their qualifications. Moreover, in the process of revision, new accusations were made in the next wave of political processes. For example, the Kolder Commission (active from September 1962 to April 1963) received more than 7000 applications for basic review of various cruel judgments. Only 263 of those cases were examined by the commission in real terms. On the

[24] Military Historical Archive, Prague, fund Alexej Čepička, carton 32, archival unit 216 – MNO, HIS, OBZ. Information about investigating against former members of military counter-intelligence, reference number 002034 HSS, p. 3 of enclosed report.

other hand, according to one special estimate, during the years 1948–1952 "only" 1169 persons were convicted by the State Court, while many cases of military persons (with political subtext) were judged by purposefully built military courts.

There was a radical change in attitudes and access to all victims of political persecutions of the 1950's during the reform process of 1968/1969. Its main success in the elimination of lawlessness was Act No. 82/1968 Coll., on judicial rehabilitation, which took effect from August 1, 1968. Rehabilitation under this Act referred to so-called anti-state crimes, which in particular meant crimes against the republic under the First Chapter of the Criminal Codes of 1950 and 1961 and criminal offenses related to them. Judicial rehabilitation was based on an individual review.[25] The year 1968 meant only partial rehabilitation of soldiers punished in the founding period of communist power and it was fully stopped and restricted by the *normalizatores* after 1970.

A definitive and decisive step toward re-compensation of repressions was made by the new political regime after the November events in 1989. There was the new Rehabilitation Act No. 119/1990 Coll. and the military tribunals and prosecutors re-invigorated their effort. On January 10, 1990 an order was issued by the Minister of National Defense No. 7, which was related to political, occupational and moral rehabilitation of professional soldiers and civil servants of military administrative and workers of state-owned enterprises in the Federal Ministry of National Defence, who had been prosecuted for their political and civic attitudes during the period 1948–1989.

The degree of illegality is proven by the result of rehabilitations until 1992 by the example of the Higher Refilling Command in Brno (local rehabilitative agency). Out of total of 682 officers, 546 met the conditions of rehabilitation.[26] That means 80 per cent. Political persecutions were not individual faults, but the use of a planned discriminatory system.

[25] Military Historical Archive, Prague, fund MNO, year 1970, carton 388, inventory number 1534. Implementation of the Act No. 82/1968 Coll. in practice of military prosecution office, reference number 092/70 taken from 10th March 1970.

[26] Procházka, S. – Novotník, J. (2009). Vzpomínka po 40 letech. *Tribun EU*, p. 98.