

**JUDICIAL MECHANISMS OF POLITICAL REPRESSION IN ROMANIA (1948-1956). CASE
STUDY: THE MILITARY TRIBUNAL IN CLUJ**

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II. **Key words:** communism, political repression, judicial repression, military tribunals, military justice, political trial, judicial instruments, communist Romania, inquest, politically-motivated sentences, repressive legislation.

III. Summary:

The topic of the present doctoral dissertation is the phenomenon of the legal integration of the communist political repression via military courts. The basis for the research is the case study of the activity of the Military Tribunal in Cluj in the period 1948-1956. The aim of the dissertation is the reconstruction and analysis of the position and behavior of the institutional actors (the *Securitate*, Prosecutor's Office, lawyer colleges, and courts) as well as individuals (the accused, witnesses, informants, and detainees) involved, in the context of the dynamic process of preparing a political case for trial. In the first part, I attempt to outline the institutional and legal framework of repression. As a period of transition from one type of social organization to another, this framework went through a radical transformation in the period 1948-1956 when the rhythm of institutional changes was the most intense in the entire Gheorghiu-Dej era. Then, I present that part of the legislation which the judicial apparatus used in order to integrate political repression. In the third part, I describe and analyze the contribution of the *Securitate* to this process. In the fourth part, I focus on the contribution of the Prosecutor's Office, lawyers, and courts to the development of the last stage, i.e. that of the trial and sentencing. In the last part, I make a quantitative approach to the phenomenon by comparing the data obtained at the local level to that approximated at the national level, and by analyzing this information from the perspective of the social and professional categories involved as well as the crime descriptions used within the general policies of the communist regime.

The choice for this topic was determined by the fact that the juridical mechanisms of the political repression perpetrated by the communist regime in Romania have been largely neglected by historiography, one of the reasons being the underestimation of their importance. Romanian historiography lacks an approach which goes beyond the study of individual cases (focused on the specific) and which analyzes the phenomenon at the level of the institutional mechanisms involved and

approaches it from a quantitative perspective. Throughout this dissertation, I demonstrate that the juridical stage of political repression in particular, and its legal aspects in general, were more important to the regime than it has been believed thus far. Regarding the chosen period (1948-1956), the year 1948 was the moment when military courts took over the role of legally integrating the mass political repression that had started as early as 1947, when a wave of arrests had been carried out against the members of the historical political parties. The year 1948 also witnessed the republication of the old penal code with modifications as well as the beginning of the transformation process of the legal framework of political repression. The year 1956 was a turning point, because the vents that took place in the autumn opened the path towards a new wave of political repression which took place in the period 1957-1962. It was also a key-moment for the institutional transition, because this year witnessed the introduction of the last significant elements from the Soviet procedural system into the Romanian legislation. The documentation for the present dissertation is based, apart from the secondary bibliography, on three major archival funds: the penal, informative, and documentary fonds in the archive of the National Council for the Study of the Securitate Archives [NCSSA]¹, the fond People's Tribunal at the Cluj County Directorate of the National Archives, and the fond Romanian Workers' Party [RWP]² at the Braşov County Directorate of the National Archives. These unpublished sources are added with more than twenty interviews with individuals who were subject to political trials in the epoch. They provide an alternative voice to the institutional discourse of the communist state. Edited sources, such as source-books, legal codes, decrees, and collections of regulations pertaining to the legislation in the epoch, as well as theoretical works on the legal system and articles from periodicals with a general (*Scânteia*) or specialized (*Justiția Nouă*) character, played an important role as well. For the reconstruction of the judicial practices of military courts as well as their role within the political repression, I used the records of more than one hundred and twenty cases (comprising every criminal offense that made the object of the repression) tried at the Military Tribunal in Cluj throughout the period 1948-1956. Based on these sources, I collected the data regarding the criminal matters in which sentences were issued by the Military Tribunal in Cluj in the aforementioned period, and whose records are kept in the county archive of the Cluj Regional Office of the *Securitate*. The dissertation pursues this direction on two levels: 1. by researching the manifestation of juridical repression at the micro-social level with the help of case studies; 2. by analyzing the effects of this phenomenon at the macro-

¹ [author's note] The Romanian name of the institution is Consiliul Național pentru Studierea Arhivelor Securității.

² [author's note] The Romanian name of the party is Partidul Muncitoresc Român [PMR].

social level through the obtainment and interpretation of quantitative data pertaining to the activity of the Cluj Military Tribunal on the territory of the actual county of Cluj, created after the administrative reform from 1968.

Given that the dissertation includes a case study, a few considerations on its relevance are necessary. The analysis of the activity of a particular military court out of all the military courts at the national level allows for an in-depth research as well as the assessment of the inter- and intra-institutional through the delineation of certain smaller-scale units (for instance, the Cluj Regional Office of the *Securitate*, the Military Prosecutor's Office in Cluj, and the Cluj Military Tribunal) on the one hand, and the evaluation of the social impact of the repression in a particular area through the use of quantitative data, on the other hand. Furthermore, the territory of the present-day county of Cluj was socially, economically, ethnically, and religiously very diverse at the time, thus appearing as illustrative of Transylvania from this point of view. Due to this diversity, the present research was able to assess the manifestation of the repression in various *milieus*: the social rural *milieu*, the working *milieu* in Cluj and Turda, the intellectual and student *milieus* in Cluj, as well as the religious circles. However, quantitative data are relevant due to their relation not only to local realities, but also the available national data. Furthermore, the case study that I discuss here aims at presenting certain institutional mechanisms typical of the Romanian society from the 1950s, realities which I compared to those found at other military tribunals, such as those in Oradea and Sibiu, in order to confirm the generalization. At the same time, the present analysis is also relevant for the verification of the parity between the import of Soviet institutional elements and the preservation of local institutional traditions. The first part of the dissertation discusses the central role of political repression within the internal functioning of communist regimes, and concludes that these political systems were dependent on repression. The mass terror perpetrated by communists was essential to them, initially in their pursuit of power, and later in their endeavor to transform society according to the utopian model outlined by the Marxist-Leninist ideology. This repression had a judicial component as well. In order to play an active role within the political repression, the justice system was submitted to major changes. That is why we can consider that from an institutional and legal perspective, the period 1948-1956 witnessed the transition from the bourgeois justice system to the socialist one. Besides, at the time, this transition was theorized through the concept of “people's democracy.”

The Romanian judicial system started to be reshaped as early as 1944-1945, during Lucrețiu Pătrășcanu's tenure as Minister of Justice. Then, a purge of the magistrate corps was carried out by

means of personnel reductions and a series of controls conducted according to political criteria. As for lawyers, the purge was achieved through Law no. 3 from January 3, 1948, which stipulated the transformation of Bar associations into lawyer colleges. Older lawyers were allowed to join the new colleges only after careful scrutiny of their political and professional background. The purge was accompanied by the promotion of young cadres, whose superficial legal training was counterbalanced, according to the new regime, by their pro-communist leanings and their “healthy” social origin. After the ground was prepared at the level of cadres, the communists embarked on the transformation of the institutions involved in the judicial process. One of the transitional forms towards the new model was the People's Tribunal, which maintained within the judiciary system forms of justice placed under tight political and ideological control. Thus, its courts perpetuated the practice of massive political involvement in the juridical process, which had also been prevalent during the Antonescu regime. However, the existence of People's Tribunals was short-lived due to the limited purpose for which they were created: the judgment of war criminals. However, this label was arbitrarily broadened by communists in order to include certain unwanted individuals from the political, economic, and administrative spheres as well. They continued with this practice in the 1950s and 1960s, when those who opposed the regime were frequently accused of being fascists as well as continuators or sympathizers of the former Iron Guard. The Sovietization process of the Romanian justice system is not only an integral part of the overall process of institutional Sovietization, but it is also determined by it.

The crucial moments in the Sovietization of the justice system are the adoption of Law no. 341 from December 5, 1947 (which created the institution of people's assessor and simplified the legislation that regulated the functioning of the justice system, thus adapting it to the new aims as well as cadres with a superficial legal training), Decree no. 132 from April 2, 1949 (which connected the judiciary system to the new Constitution, and brought additional stipulations regarding the tasks of the justice system, the status of judges and people's assessors), and Laws no. 5 and 6 from June 19, 1952 (which adapted the organization of the justice system to Romania's new administrative organization, created a Prosecutor's Office with multiple tasks, and established the organizing rules, status, and role of Military Tribunals). Following these transformations, the basic cell of the judicial system became the People's Tribunal, while the responsibility for the legal characterization of political repression was devolved on the Military Tribunal.

At the procedural level, until 1952, military tribunals had worked in accordance with the Code of Military Justice adopted in the 1930s. Beginning with this year, there was a steady transfer of the

Soviet procedural model into the Romanian criminal judicial practice. The main features of the new Romanian judicial system of Soviet inspiration are the profound ideologization of the judicial activity and its strict subordination to the political power. The official discourse did not deny the political control over the justice system, but supported it with the help of ideological arguments. Because of this total control, the justice system lost its role as arbiter, which it plays in democratic societies, and became the regime's political instrument (the same as the administration and the Militia) to control society and implement its policies of economic and social transformation.

Among the former political detainees, there was the belief that the inquest and trial were a formality, because the evolution of each case was already predetermined by the *Securitate*. However, the documents found in the penal and documentary fond of the *Securitate* archives reveal another facet of the issue, which those who suffered the effects of the system's actions could not have known before they were open to the public. The study of these files reveals that the *Securitate* was a complex bureaucratic apparatus in which decisions regarding the evolution of a certain case were taken at different levels (via a so-called system of impulses). The *Securitate* agents worked in the context of certain specific pressures and constraints (the observance of socialist lawfulness, the fulfillment of norms, the observance of procedures and deadlines, and competitive environment). All these elements influenced the evolution and outcome of many cases. The influence of these institutional and human factors determined not so much the innocence or guilt of an individual, but the type and degree of guilt and the manner in which punitive-pedagogical measures were to be taken against the respective individual. I called them as such because the regime also had a pedagogical-social perspective in the sense that the punishment was to transform the conscience of the individuals, to make them ready for the new society. The evolution of the inquest determined the type of measures than were to be taken: those against whom there was sufficient real or fabricated evidence were to be tried, while those against whom there was insufficient evidence or whose guilt was deemed diminished were sent to work units. Exceptionally, there were also individuals who were set free following an inquest.

The inquest began at the order to initiate criminal proceedings and ended with the drawing up of the final report on the inquest. The key-moments were the arrest, interrogation, and the drawing up of the final report. Then, the record was handed over to the Prosecutor's Office and courts. A central factor in the progress of a *Securitate* inquest were the strategies devised through the activity of several levels of its bureaucratic apparatus. The establishment of aims to be reached through interrogation as well as the tactic used to reach these aims is a practice attested by the internal memos of the *Securitate*. In

order to obtain incriminating confessions – the main piece of evidence in the case of most political trials – investigators resorted to both violent and non-violent methods. Albeit historiography has insisted mainly on the physical methods of interrogation (torture), the studied confessions and criminal records reveal the hitherto underestimated importance of psychological methods. Apart from being an easy way to obtain an essential piece of evidence for the prosecution, the inquest was also a reeducation and brainwashing instrument. It was a means to crush the resistance and ruin the dignity of detainees, a symbolic victory of the regime's “truth” over the victim's “truth.” Based on the investigative material presented by the *Securitate*, the guilt of the victim was constructed by discursive means. This stage involved the active participation of not only the *Securitate*, but also the Prosecutor's Office and courts. These institutions carefully selected the available information and transposed it into the communist ideological universe which divided reality between those who were building the socialist society and those who opposed this process. Thus, certain real deeds were attributed a different meaning through which they received a political connotation, transforming them into “counterrevolutionary” deeds. The discursively-constructed political guilt was then legally classified, which involved long prison sentences and, in certain cases, the death penalty.

The quantitative approach in the last part of the dissertation reveals certain general tendencies which confirm and nuance the quantitative researches regarding military courts at the national level. The theory of the existence of two waves of intensification of the repressive activity, which naturally implied a raise in the number of political convictions in the periods 1949-1952 and 1957-1962, is confirmed. Furthermore, we can note the greater percentage of peasants (more than 50%) within the total number of the condemned (structured according to profession) in Cluj county in the period 1948-1956 as well as the sudden intensification of judicial repression against peasants in the period 1949-1952. This further strengthens the conclusion that repressive policies were components of the general policies to transform the social body, such as collectivization. Another important conclusion is the predominance of the crime of conspiracy against the social order in the period under scrutiny. The same as in the case of the structuring according to profession, the quantitative analysis of legal classifications reveal the connection among collectivization, the intensification of repression, and the targeted social categories. The need to juridically repress a vast number of individuals in such short time determined the intensified use of the crime of “plot against the social order” in the period 1949-1952.

The internal memos of the *Securitate* indicate that judicial repression was preferred to the extra-judicial one. In the present dissertation, I tried to emphasize this preference of the regime, despite the

fact that the dispatch to a Work Unit would have been a simpler solution on all accounts. Judicial political repression ensured the legitimacy of the violence perpetrated by the communist regime, thus becoming a lawful, rational, and explainable act from the perspective of the ideological discourse. The authority of courts was used in order to impose a new system of values and new types of behavior. Court decisions were keys towards understanding social reality. By means of restriction policies, the communist regime created behavioral reflexes which were meant to shape the “new man” who was supposed to be docile and passive in front of the state. At the same time, the judicial stage bureaucratized terror, transforming it into a phenomenon that the political power could control, manage, and steer against the targeted social groups. Thus, terror became a long string of planned repressive policies which included geographically-distributed quotas. All these aspects of the judicial repression reveal the fact that it was a mistake not to have given proper attention to this stage of the mass terror. The justice system played a decisive role within the phenomenon of political repression, which otherwise destroyed its credibility.