

Field Courts Martial, the Cheka and Penal Policy in the Estonian War of Independence in 1918–1920

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Between December 1918 and December 1920, less than 300 men and women were sentenced to death in Estonian army field courts martial. Meanwhile the Red Terror of Cheka yielded 600 to 700 fatalities between December 1918 and early spring of 1919. It's difficult to judge how Penal Policy of both sides affected soldiers. On both sides the majority of those who received the capital punishment were civilians, not soldiers. The legal basis for both sides offered a lot of freedom of interpretation with sentencing. Four months after the creation of Estonian field courts martial these institutions received quite detailed instructions. The Cheka however continued to work on guidelines of the 'Red Terror' Decree dated September 5th 1918, allowing them much wider freedom. However Estonian Field Courts Martial but also local Chekas worked in various ways. Also, it can't be ruled out that Estonian society did not get the full picture of Penal Policy from newspapers.

The Republic of Estonia like other countries at the eastern coast of Baltic Sea suffered in 1918–1920 of the crime wave caused by the war. Particularly the number of criminal assaults increased. In the situation became more worse Estonia after the beginning of War of Independence on 28 November 1918. All powers in the region tried to re-establish the law and order and to curb the violence, even with rigorous repressions. Among the latter were the extraordinary courts and field court martials.

A field court martial is defined in Estonian as an extraordinary military criminal court for suppressing unrest on the battlefield or in a state of emergency or war. Section 1281 of the previously used 24th Book of the Digest of Russian Military Laws, which was the basis for field courts during the War of Independence, stipulates the field of activity for the

field courts. They can be convened in the areas of military operations and in the regions under the state of war, for trials of the servicemen whose crimes are too clear cut to require (preliminary) investigation. Appendix VIII section 1309 specified the order of field courts in eight points. The crucial aspect was that the court would be convened by a commander of a military unit or a garrison no lower than regiment commander. Court should convene, if possible, within 24 hours after crime detection and identification of a suspect. Hearing the case would take place no later than within two days. Hearing the case would take place behind closed doors and the decision of the field court would need to be confirmed by the same commander whose order of the day brought the accused to court. It could also be convened under the circumstances specified by section 91 of the 24th Book of the Digest of Russian Military Laws.¹ According to the Code, under extraordinary circumstances, people involved in anti-state activities were subject to military trials also in peacetime “for defending military discipline”.² For the purposes of this article, the activity of field courts in a state of war is of main interest. The best-known case of the punishment of the guilty by the field courts in the War of Independence is probably the Saaremaa Rebellion of 16–21 February 1919, when 68 men were executed by order of the field court.³ Field courts were also engaged in the cases of evading conscription, desertion, leaving the unit without permission and mutiny. The best

¹ *Svod voennykh postanovlenij 1869 goda, Kniga XXIV, Ustav voenno-sudebnyj (Свод военных постановлений 1869 года, Книга XXIV, Устав военно-судебный)* (Riga: Voенно-sudebное управление (Военно-судебное управление), 1921), 230, 291–292.

² *Voinskij ustav o nakazanijax (S. V. P. 1869 g. XXII, izd. 4), raz“jasnennyj rešenijami pravitel’stviujuščego senata i Glavnogo voennogo suda, prikazami po voennomu vedomstvu, cirkuljarami Glavnogo voenno-sudebnogo upravlenija i proč. po 1 marta 1917 g. (Воинский устав о наказаниях (С. В. П. 1869 г. XXII, изд. 4), разъясненный решениями Правительствующего сената и Главного военного суда, приказами по военному ведомству, циркулярами Главного военно-судного управления и проч. по 1 марта 1917 г.)*. (Reval: Типография Я. Циммермана (Типография Я. Циммермана), 1923), 75.

³ *Eesti Vabadussõja ajalugu. I, Vabadussõja eellugu. Punaväe sissetung ja Eesti vabastamine (History of the Estonian War of Independence. Prelude to the War of Independence. Invasion of the Red Army and Liberation of Estonia)*, written by Peeter Kaasik, Lauri Vahtre, Urmas Salo et al., maps by Reigo Rosenthal, compiled and edited by Lauri Vahtre, Eesti sõjamuuseumi – kindral Laidoneri muuseumi toimetised (Estonian War Museum – General Laidoner Museum Publications) 10/1 (Tallinn: Varrak, 2020), 510.

known case of mutiny took place in the Tartu Reserve Battalion on July 10–13, 1919 where 21 soldiers were sentenced to execution by the field court.⁴ The estimated number of the victims of the Red Terror by the Cheka in the War of Independence is 600–700 people.⁵

The activity of the field courts in the 20th century wars has been studied just in the last 30 years by a relatively small number of historians. The activity of the field courts in the Finnish Civil War of 1918 has been studied by Marko Tikka.⁶ In Latvia, Ēriks Jēkabsons has done research on the crimes committed by soldiers in the Latvian War of Independence,⁷ but despite the availability of source materials in the Latvian Archive of History, Latvian historians have not yet done research on the field courts. Lithuanian historians have made a bit more progress. Andriejus Stoliarovas has analysed Lithuanian martial law from 1919, including regimental courts and field courts.⁸ The experiences of Estonia's neighbouring countries in 1918–1919 were somewhat similar but the mass armies of the superpowers were quite different. In World War I, the armies of Germany and Britain had no problems with unrest but the unwillingness to continue fighting was a big issue. The German and British field courts in the World War I have been comparatively analysed by Christoph Jahr,⁹ and his approach to the studies of the background of suspects served to some extent as a model for this article. However, these more or less comparative studies are of little help when analysing the extraordinary courts of the Estonian War of Independence.

⁴ *Eesti Vabadussõja ajalugu. II, Kaitsesõda piiride taga ja lõpuvõitlused* (History of the Estonian War of Independence. II, Defensive War behind Borders and Final Battles), written by Peeter Kaasik, Lauri Vahtre Urmas Salo et al., maps by Reigo Rosenthal compiled and edited by Lauri Vahtre, Eesti sõjamuuseumi – kindral Laidoneri muuseumi toimetised (Estonian War Museum – General Laidoner Museum Publications) 10/2 (Tallinn: Varrak, 2020), 175–176.

⁵ *Eesti Vabadussõja ajalugu I*, 265–266.

⁶ Marko Tikka, *Kenttöoikeudet. Välittömät rankaisutoimet Suomen sisällissodassa 1918* (Helsinki: Suomalaisen Kirjallisuuden Seura, 2018).

⁷ Ēriks Jēkabsons, "Latvijas Neatkarības karš 1918.–1920. gadā: savējo karavīru noziegumi," *Latvijas Vēstures Institūta Žurnāls* 2 (2020): 65–93.

⁸ Andriejus Stoliarovas, *Lietuvos Respublikos karinė justicija 1919–1940 m.* (Vilnius: Vytauto Didžiojo karo muziejus, 2014).

⁹ Christoph Jahr, *Gewöhnliche Soldaten: Desertion und Deserteure im deutschen und britischen Heer 1914–1918* (Göttingen: Vandenhoeck and Ruprecht, 1998).

In 1918–1919, on the territory of Estonia, the two opposing sides managed to put into operation extraordinary courts, field courts in the Republic of Estonia and the Cheka on the territory occupied by the Bolsheviks, respectively. So far the studies of the field courts and the Cheka in 1918–1919 have focused primarily on political violence and the repressions associated with terror. Studies of this type of focus have been published by Marko Mihkelson,¹⁰ Taavi Minnik¹¹ and Reigo Rosenthal.¹² Minnik's later approaches have rather focused on the assessment of the legal bases of the activity of the field courts¹³ and the Cheka¹⁴ e.g. taking into consideration the Hague Convention.¹⁵ Minnik came to a final conclusion that the activity of the temporary field courts in 1918–1919 did not follow martial law.¹⁶ Minnik considered the activity of the Cheka to be the execution of the policy of fear and destruction.¹⁷ However, Rosenthal considers field courts to be the institutions involved in a more general and extensive “struggle” for securing domestic order. He also finds the quality of the administration of justice by field courts uneven and preliminary investigation insufficient. At the same time, Rosenthal considers the existing studies insufficient for assessing the criticisms by the War of Independence contemporaries of the motives of the field courts and the competence of judges.¹⁸ No doubt, it is possible to assess the activity of these institutions from the point of view of legal history.

¹⁰ Marko Mihkelson, „Punane terror Eestis“ (Red Terror in Estonia) (Graduation Thesis, University of Tartu, 1993).

¹¹ Taavi Minnik, „Terror ja repressioonid Eesti Vabadussõjas“ (Terror and Repressions in the Estonian War of Independence) (Master's Thesis, University of Tallinn, 2010).

¹² Reigo Rosenthal, *Kord ja kohus: Eesti sõjaväejuhtkond Vabadussõja-aegses sise poliitikas* (Order and Justice: Estonian Military Leadership in Internal Politics during the War of Independence) (Tallinn: Argo, 2019).

¹³ Taavi Minnik, “The Establishment of “Drumhead” Courts Martial and their actions,” *Juridiskā zinātne / Law 7* (2014): 99–112.

¹⁴ Taavi Minnik, “Kontrevolutsiooni vastu võitlemise komisjonid enamlaste terroripoliitika täideviijatena Eestis aastail 1918–1919” (Commissions for Combating Counter-Revolution as Executors of Policy of Terror of the Bolsheviks in Estonia in 1918–1919), *Acta Historica Tallinnensia* 21 (2015): 51–68.

¹⁵ Minnik, “The Establishment of “Drumhead” Courts Martial,” 101–102.

¹⁶ *Ibid.*, 108.

¹⁷ Minnik, “Kontrevolutsiooni vastu võitlemise komisjonid,” 66.

¹⁸ Rosenthal, *Kord ja kohus*, 189.

The current article presents its own approach from the point of view of a military historian, not a legal historian or a military scientist. Various source materials not cited by previous researchers have been used, as well as previously used sources with a stronger focus on servicemen. The article gives an overview of the development as institutions and the organization of the field courts of the Estonian People's Force (official name of the Estonian army during the War of Independence, henceforth Estonian Army) and the Cheka of the Bolsheviks. The main issue is how the penal policy of these extraordinary judicial authorities impacted the servicemen; what the purpose of the penal policy was and how it was executed.

Field Courts Martial of the Estonian Army

According to the Estonian Provisional Government (henceforth PG) decision of 5 December 1918, the activity of the field courts martial had to be based on the former Russian military law. The activity of these courts was primarily targeted against Bolsheviks and their supporters, as well as deserters and insubordinates. No distinction was made between servicemen and private individuals – “all who were somehow working against the Republic of Estonia or for the enemies of the state “would be prosecuted by field courts. The definition of deserters was to be taken from the 22nd Book of the Digest of Russian Military Laws.¹⁹ Its section 128 stipulated that in wartime any serviceman who stayed away from his unit without his commander's permission for three or more days would be considered a deserter.²⁰ It is known that during WW I, Estonian soldiers who had been drafted to the Russian army, used to leave their units for a couple of days and go home in Estonia when their training was taking place near

¹⁹ Regulation of the Provisional Government on the Establishment of Field Courts, *Riigi Teataja* (State Gazette), 1918, 6.

²⁰ *Svod voennykh postanovlenij 1869 goda. Č. 6, Ustavy voenno-ugolovnye (po 1 oktjabrja 1900 goda). Kn. XXII–XXIV (Свод военных постановлений 1869 года. Ч. 6, Уставы военно-уголовные (по 1 октября 1900 года). Кн. XXII–XXIV)* (St. Petersburg: Gosudarstvennaja tipografija (Государственная Типография), 1900), 30.

Estonia.²¹ It probably also happened in the War of Independence as well because on 29 December, 1918 the Provisional Government decided to amend section 128 of the 22nd Book of the Digest of Russian Military Laws, making deserters any Estonian Army servicemen who left their units or the front line without commander's permission.²² Taavi Minnik considers the main purpose of the establishment of field courts to be the need to re-establish discipline in the Estonian Army.²³ One should rather agree with Reigo Rosenthal, according to whom the establishment of field courts aimed at securing discipline in the Estonian Army as well as suppressing communists.²⁴ In the process of ensuring domestic security, soldiers made for merely one group.

The need to specify the legal basis of field courts was realized by institutions outside Tallinn and the Estonian Army. On 4 December, Viru County Government addressed the Minister of War, pointing out that the martial law had been in force since 28 November but the court established with the 5th Regiment of the Estonian Army was unable to start performing its tasks until the court's jurisdiction, composition, aims and specified authorities had been set.²⁵ It is unknown what exactly made the county government write this letter – concern about the discipline in the Estonian Army or the anti-state activities of Bolsheviks. This letter was not the only expression of opinion on the activity of the field courts. Rosenthal writes about the proposal by Jaan Peterson, Chairman of Viljandi County Council of 21 January 1919 to replace field courts by military district courts.²⁶

Minnik has referred to the circular letter of the military prosecutor of 18 December as the milestone in regulating the structure and organiza-

²¹ Toivo Kikkas, "Võitlusvõime eesti sõdurite ja ohvitseride sõjakogemuses 1914–1920" (Combat Effectiveness in the War Experience of Estonian Soldiers and Officers during 1914–1920) (Master's Thesis, The University of Tartu, 2020), 82.

²² Decision of the Provisional Government on Amendment of the Meaning of the Concept of a Deserter, 29 December 1918, Estonian National Archives (henceforth RA), ERA.31.1.9, 69.

²³ Minnik, "The Establishment of "Drumhead" Courts Martial," 103.

²⁴ Rosenthal, *Kord ja kohus*, 35.

²⁵ Chairman of Viru County Council Juhkam to War Minister of Provisional Government, 4 December 1918, RA, ERA.927.1.3, 3.

²⁶ Rosenthal, *Kord ja kohus*, 70.

*Regulation of
the Provisional
Government on the
creation of field courts
martial, 5 December
1918. Riigi Teataja
(State Gazette) no 6,
11 December 1918*

Ujutise Walitfufe määrus wälja- kohtute asutamise kohta.

Sõjaseaduse wäljakuulutamise puhul käsib Ujutine Walitfus sõjaministri ettepanekul, Wene sõjawäe seaduste kogu XXIV raamatu, lisa VIII põhjal:

§ 1. Iga jalawäepolgu juures wäljakohus asutada.

§ 2. Üksikute polkude wäljakohtute alla käiwad:

Saare-, Lääne- ja Harjumaa — 1. polgu wäljakohtu alla.

Järvamaa — 5. polgu wäljakohtu alla.

Wirumaa — 4. polgu wäljakohtu alla.

Wiljandi- ja Pärnumaa — 6. polgu wäljakohtu alla.

Tartumaa — 2. polgu wäljakohtu alla.

Wõru- ja Petserimaa — 3. polgu wäljakohtu alla.

§ 3. Wõim isikuid wäljakohtu kätte anda on kohalise polgu ülemal.

§ 4. Wäljakohtu otsused kiinitab sõjaminister.

§ 5. Wäljakohtu alla langewad:

a) Kõik, kes kuidagi wiisi Eesti Wabariigi vastu wõi riigi waenlaste kasuks töötawad, ehk kes nendega läbikäimises ja ühenduses seistes mõnesugusel kombel abiaks on.

b) Kõik, kes sõjawäelisele tegewusele, nagu edasiliikumisele, sidemete pidamisele jne. kuidagi wiisi piüüawad takistust teha.

c) Kõik tapjad, põletajad, röövijad, riisujad ja wägistajad.

d) Kõik Eesti Wabariigile kahjulikkude kuulujuttude laialilaotajad.

e) Kõik wäejooksikud. (Jooksikute mõiste määrus on antud Wene sõjawäe seaduste kogu XXII raamatus.)

f) Wastuhakkajad ja kõik sõjawäelased, käsu täitmata jätmise pärast waenlase filmapiiril.

§ 6. Wäljakohtud määrawad süüdlastele kuritegude eest süü raskuse järele wangiroodu, sunnitöö ehk surmanuhtluse.

§ 7. See määrus hakkab kohe maksma.

Tallinnas, 5. detsembril 1918. a.

Pea- ja sõjaminister: K. P ä t s.

Ujutise Walitfufe asjade

walitfeja k. t.: T h. K ä ä r i k.

tion of field courts.²⁷ Some facts need to be specified, though. As early as on 13 December, Lieutenant Colonel Peeter Kann, a prosecutor and an employee of the Ministry of War²⁸ notified Staff Captain (Sub-Captain; Russian military rank between Lieutenant and Captain) Marder, Lieutenant Hiop, Ensign Rebas and Ensign Jõgi that according to the order of the Chief of Staff they had been appointed members of Rakvere Field Court and had to depart for Rakvere the following day.²⁹ Probably the field court was established with the 5th Infantry Regiment in Rakvere. In a circular letter of 16 December, prosecutor Kann explained the current situation. According to him, a field court had already been established in Tallinn (probably with the 1st Infantry Regiment) and orders had been given to establish the court in Rakvere. He proposed to establish field courts primarily in Tartu with the 2nd Infantry Regiment, in Võru with the 3rd Infantry Regiment and in Pärnu with the 6th Infantry Regiment. In his legal explanations he relied on Appendix No 8 of the 24th Book of the Digest of Russian Military Laws.³⁰ These books were not necessarily at the disposal of the field courts. So it was stated at the 6th Infantry Regiment field court trial on 17 December that due to the lack of the books of the Digest of Russian Military Laws or manuals of court proceedings, hearing the case of desertion had to be postponed till the acquisition of relevant books.³¹

As for the activity and jurisdiction of field courts, prosecutor Kann referred to the 5 December regulation of the PG, published in *Riigi Teataja* (State Gazette) on 11 December. According to Kann, the higher court was to be the military district court with the General Staff in Tallinn.³² However, the field courts were not to fall under the jurisdiction of

²⁷ Minnik, “The Establishment of “Drumhead” Courts Martial,” 101.

²⁸ Peeter Kann served as prosecutor at Ministry of War since 7 December 1918, Midshipman Alfred Nirk served as military prosecutor since 6 January 1919. Officer database, Estonian War Museum – General Laidoner Museum, <http://prosopos.esm.ee/index.aspx?type=1>, 19 November 2022.

²⁹ Military Prosecutor Kann to Marder, Hiop, Rebas and Jõgi, 13 December, 1918, RA, ERA.927.1.3, 8.

³⁰ Circular letter of Military Prosecutor Kann to units of the Estonian army, 16 December 1918, RA, ERA.927.1.3, 20.

³¹ 6th Infantry Regiment Field Court Decision, 17 December 1918, RA, ERA.932.1.30, 13.

³² Circular letter of military prosecutor, 16 December 1918.



Swedish military attaché in Helsinki Major Henrik Lagerlöf is visiting the 3rd Division of Estonian Armed Forces. In the back seat Commander of the 3rd Division Major General Ernst Pödder and Major Lagerlöf on his left hand. In the middle seat Deputy Commander of the Division Colonel Peeter Kann (1883–1943) and on his left hand Chief of Staff of the Armoured Train Division Captain Johannes Poopuu. Valga, 23 September 1919. RA, EFA.114.A.256.322

the district court.³³ The lawyers of the era saw the field courts as independently functioning units. In December 1918, the regiments of the Estonian Army retreated in the counties of Viru and Võru and it is possible that under such circumstances the establishment of courts or running trials was mostly impossible. In December, field courts were established in Tallinn and Rakvere but only single cases of field court trials are known. There was a similar situation in Lithuania where the first recorded field court trial took place in February 1919.³⁴

³³ Judicial Administration of War Ministry to the Office of Chief of General Staff, 7 January 1919, RA, ERA.927.1.3, 39.

³⁴ Stoliarovas, *Lietuvos Respublikos karinė justicija 1919–1940 m.*, 118.

Minnik and Rosenthal have only touched upon the field court related developments in January 1919. At the same time, Rosenthal elaborates on the processes which led to the so-called February crisis (the climax of disagreements between military authorities and their critics), part of which was criticism of penal policies.³⁵ This helps to better understand the development of field courts in January. From January 1919, the situation on the front began to improve and it helped the authorities to start thinking about a more detailed regulation of the organization of work of field courts. On 4 January, the Commander of the 6th Regiment, Colonel Puskar asked for more detailed guidelines on the cases which would require preliminary investigation by field courts.³⁶ On 5 January, Head of Judicial Administration Karl Ferdinand Karlson summoned the representatives of field courts to the Judicial Administration to discuss the area and fields of activity on 10 January.³⁷ On 10 January, updated guidelines for field courts were confirmed. The document could be interpreted in many ways. Relying on Russian military law, the Judicial Administration meant that hearing the cases which were under the jurisdiction of field courts according to the 5 December regulation of Provisional Government, could be run without preliminary investigation in the case of obvious guilt. If preliminary investigation was necessary, the case had to be closed in a field court with a reference to the regulations of Provisional Government, published in 1918 in State Gazette No 8 and 9, on 9 and 18 December, respectively [1918]³⁸. In the case of doubt, more detailed information was to be acquired from the Military Judicial Administration.³⁸ The author of the guidelines referred to State Gazette No 8 (published on 19 December) which had published the regulation on the relations between the military court, field court and civil court under martial law: “Persons fall under field courts for the offences which are the jurisdiction of field courts according to the 5 December regulation of the Provisional Government, in case these offences have been committed after the declaration of

³⁵ Rosenthal, *Kord ja kohus*, 50–80.

³⁶ Colonel Puskar to Chief of General Staff, 4 January 1919, RA, ERA.927.1.3, 35.

³⁷ Circular letter of Judicial Administration to the People's Force, 5 January 1919, RA, ERA.927.1.3, 37.

³⁸ Guidelines to Courts Martial, 10 January, 1919, RA, ERA.927.1.3, 47.

the martial law by the Provisional Government.” The offences committed before the regulation of the 5 December fell under civil courts and military crimes under military courts according to the usual procedure.³⁹ He also referred to State Gazette No 9 (published on 24 December) which had published the decision of 18 December on military courts, including regimental field courts and military district court and the crimes falling under these institutions. It did not concern the field courts.⁴⁰ The most remarkable standpoint of the 10 January guidelines is the fact that all the cases which require preliminary investigation, should be closed in field courts. This issue was never mentioned in State Gazette No 8 or 9 and this standpoint moved away from the former Russian military laws which stipulated very clearly that only the offences which required no (preliminary) investigation, fell under the jurisdiction of field courts.

On 30 January 1919, a supplementary regulation on field courts martial was adopted. Primarily the establishment and composition of courts were outlined. Field courts could be established with garrisons, units and military districts, including a chairman and four officers as members. Field courts would be convened by an order of the day and if possible, within 24 hours after the crime had been committed. The order of the day had to include names of the accused and the acts they were accused of. Hearing the case could not take longer than two days and the hearing had to take place behind closed doors. The court decision had to be immediately forwarded for confirmation to the commander by whose order of the day the hearing had been convened.⁴¹ Hence, the original plan to establish permanent field courts with staff was abandoned and the Digest of Russian Military Laws was followed, which did not provide the establishment of ‘permanent field courts martial’.

These regulations were the basis for action in the two following months. On 25 March 1919, a new regulation of the Provisional Government was confirmed, regulating the activity of field courts. Now the accused were entitled to get or let the court nominate a lawyer. The clause leaving room for interpretation, which made it possible to send to court

³⁹ *Riigi Teataja*, 1918, 8, p. 1.

⁴⁰ *Riigi Teataja*, 1918, 9, p. 2.

⁴¹ Regulations on Battlefield Court, 30 January 1919, RA, ERA.927.1.3, 44.

those individuals who had acted against the Republic of Estonia or collaborated with the enemies of state, was removed. At the same time, now spies and active enemy's agents, as well as rebels and instigators of rebellion could be punished. Probably section 6 was the most important clause of the regulation: "Servicemen and private individuals will be taken to field court when the crime is obvious and preliminary investigation is not required. Should the crime and the guilt of the guilty persons require preliminary investigation or a preliminary hearing which takes longer than section 5 provides, then the case will not be under the jurisdiction of field courts but of a corresponding court, following the usual procedure."⁴² Thus, the system returned to Russian military law and abandoned the 10 January instruction's position that even if the need for preliminary investigation became apparent, the hearing should be continued by the field court. A comprehensive instruction was complete only in August, including the three manuals in Estonian on the organization of field courts which had earlier been sent to army units and published in the magazine *Sõdur* (Soldier).⁴³ Rosenthal has pointed out that the concept of time of preliminary investigation was expressed in vague terms in the new regulation.⁴⁴ However, the issue of the time of preliminary investigation of 25 March regulation had already been confirmed in the 30 January regulation. Hence, in the field of preliminary investigation, the guidelines which had been implemented in the two previous months, continued.

The Number and the Organization of Field Courts Martial

Taavi Minnik lists ten field courts in his article.⁴⁵ According to surviving sources, there were actually twenty-two. Unfortunately, the activities and names of presiding judges of many courts are not known.

⁴² *Riigi Teataja* 1919, 19, pp. 145–147.

⁴³ Alfred Nirk, *Juhatuskiri polgu- ja väljakohtutele, juurdluse toimepanemiseks ja eeluurimise algatamiseks* (Guidelines for Regimental and Field Courts, for Carrying out Investigation and for Initiating Preliminary Investigation) (Tallinn: Military Judicial Administration, 1919).

⁴⁴ Rosenthal, *Kord ja kohus*, 97.

⁴⁵ Minnik, "The Establishment of "Drumhead" Courts Martial," 103–104.

*Captain Paul Triik
(1896–1941),
Commander of
the 3rd Battalion
of the 3rd Infantry
Regiment. 1919.
RA, EFA.114.3.1080*



Field courts operated with the 2nd Division (presiding judges Sub-Captains Peeter Kraav and Jaan Ritso), with the staffs of the 2nd and the 3rd Divisions and the Armoured Trains. There were also field courts in all the numbered regiments. The presiding judges of the 2nd Infantry Regiment Field Court were Sub-Captain August Priks, Captain Andreas Tomingas, Sub-Captain Karl Riigov and Captain Karl Preisberg. The presiding judge of the field court of the 3rd infantry Regiment was Sub-Captain Paul Triik, the members of the field court of the 4th Infantry Regiment Captain Voldemar Koch, Lieutenant (later Sub-Captain) Jaan Mets, Captain

Nikolai Steinmann and Sub-Lieutenant Mart Saarepera, of the 6th Infantry Regiment Sub-Lieutenant Karl Podrätsik, Sub-Captain Bruno Vitas and Captain Ludvig Jakobsen. Field courts also operated in the Naval Headquarters, the 1st Cavalry Regiment, the Battalion of the Partisans of Sakala and the Battalion of the Partisans of Kuperjanov (Lieutenant Nikolai Piip). There were also field courts with the 2nd Division Reserve Battalion (members Sub-Captain Boris Muraveisky, Lieutenant Bernhard Kolk and Lieutenant Tõnis Adamson) and the 3rd Division Reserve Battalion and the Narrow Gauge Armoured Trains Unit. Field courts operated also on the island of Saaremaa and in the town and county of Võru (Sub-Captain Ritso⁴⁶).⁴⁷

Some of these field courts made hundreds of decisions, some a lot less. In order to compare the organization of courts, the materials of the three field courts (4th Infantry Regiment,⁴⁸ 6th Infantry Regiment⁴⁹ and 2nd Division⁵⁰) will be analysed below. In the case of the field court of the 2nd Division it must be pointed out that a share of their materials are cases of the field courts of the units that were subordinated to the Division. Thus, the field court materials of the 2nd Division included the files of the field courts of the 2nd, 3rd Infantry Regiments and the 2nd Division Reserve Battalion. The selection includes the decisions made before the end of the War of Independence but among all the decisions there are many that were made after the war. For the sake of clarity, the acts of the field court have been represented as one set under the materials of the judicial division of the 2nd Division.

The field court materials used in this article come from the funds of the 2nd Division (232 cases, used 88), the 4th Regiment (76 cases, used 18) and the 4th Infantry Regiment (84 cases, used 13).

⁴⁶ Johan Haavapuu's case, 5 February 1919, RA, ERA.518.1.286.

⁴⁷ In compiling the list, the lists of the field courts decisions of the military prosecutor's office and the materials of single field courts were used: RA, ERA.3704.1.353; 2nd Division Field Court, RA, ERA.518; 6th Infantry Regiment Field Court, RA, ERA.932; 4th Infantry Regiment Field Court RA, ERA.939.

⁴⁸ 4th Infantry Regiment Field Court, RA, ERA.939.

⁴⁹ 6th Infantry Regiment Field Court, RA, ERA.932.

⁵⁰ 2nd Division Field Court, RA, ERA.518.

The time, place and staff of a field court hearing, as well as the defence lawyer were appointed by the unit commander's order of the day. The name of an offender and the title of an offence were recorded.⁵¹ The court included the presiding judge who was, as a rule, the most senior among the appointed officers, 3 to 5 members who were officers and an administrator-secretary. Exceptions occurred – for example, at a hearing of the field court of the 6th Infantry Regiment in November 1919, the presiding judge was Lieutenant Podrätsik, whereas among the members there were also Lieutenants Laur and Kulbok.⁵² It is hard to say why at some hearings there were three and sometimes five members next to the presiding judge. Both, the Appendix No 8 section 1285 of the 24th book of the Digest of Russian Military Laws⁵³ and the 25 March regulation of the Provisional Government clearly stipulated that the composition of the court included a presiding judge and four judges who were officers. According to the Russian law, section 1285 had to be followed, “if possible“, according to which the field court judges needed at least four years of experience in service (most probably as officers).⁵⁴ The regulation of the Provisional Government made no mention of the required experience and it would have been hard to follow in the situation where the majority of the Estonian Army officers were the graduates of wartime short time officer courses (schools for ensigns). Identifying the judges is a complex task because court decisions only have ranks and surnames recorded. In some cases there are signatures instead of surnames. Membership in field courts was not recorded on service sheets – probably for its temporary character. A large number of officers who participated in the War of Independence, had a degree in law but they seldom ended up as presiding judges in field courts. For example, Sub-Lieutenant Leonhard Ernst Luha served in the 6th Infantry Regiment, had studied law for seven years at the University of St. Petersburg, and furthermore, in 1917 he had been a long-term presiding judge of the 2nd Machinegun-Reserve Battalion Field Court. In

⁵¹ 2nd Division Reserve Battalion Commander's Order of the Day no. 314, 30 October 1919, RA, ERA.518.1.306, 4.

⁵² 6th Infantry Regiment Field Court Decision, 9 November 1919, RA, ERA.932.1.16, 10.

⁵³ *Svod voennyx postanovlenij 1869 goda, Kniga XXIV*, 230.

⁵⁴ *Ibid.*, 231.

the early stages of the War, Luha served in the field of economics and then was involved in the training of reservists who were called up, but in April 1919 he became Head of the 3rd Division Court Department.⁵⁵ Instead of appointing Luha the presiding judge of the 6th Infantry Regiment Field Court before April 1919, Bruno Vitas got the appointment among others.

Court decisions had to be confirmed by the commanders of units by whose orders of the day the field courts were convened.⁵⁶ The enforcement of judgment had to be confirmed by the local commandant who was military commander of the district. After the establishment of field courts in December 1918, the trials could be obstructed by the lack of books of Russian military law. For example, at the hearing of the 6th Infantry Regiment Field Court, a statement was made: “Due to the lack of *Положение о Военно-Полевых судах* [---] and court manuals [---]“, the hearing of the deserter will be postponed till the acquisition of the required books.⁵⁷ The death penalty imposed by the field court would be generally executed in the early hours of the next day, between 2 and 5 o'clock. In Tartu, the persons sentenced to death, were executed in the gravel pit of Raadi manor.

Case Study: Aleksander Sild and Aleksander Vahk

In February 1919, the 2nd Infantry Regiment Field Court discussed the charge of desertion of the soldier of the same regiment. Aleksander Sild was 22 years old, a Lutheran, a member of Kavilda parish and had no previous court punishment in his own words. His files lack the service sheet and therefore, his profession is unknown. It is not known when Sild was arrested but on 22 January his mother submitted an appeal for “prompt hearing” of Aleksander’s case. The file was opened on 27 January when

⁵⁵ Toomas Anepaio, *Kohtunikud, kohtu-uurijad ja prokurörid. 1918–1940: biograafiline leksikon* (Judges, Court Investigators and Prosecutors. 1918–1940: Biographical Lexicon) (Tartu: University of Tartu Publishers, 2017), 171–172.

⁵⁶ 2nd Division Field Court Decision’s Confirmation by Colonel Viktor Puskar, 29 December 1919, RA, ERA.518.1.278, 30.

⁵⁷ 6th Infantry Regiment Field Court Decision, 17 December 1918, RA.ERA.932.1.30, 13.

the committee for extraordinary investigation decided after hearing the case, to bring Sild to justice in a field court. On 2 February, preliminary investigation commenced on the request of First Lieutenant (German rank *Oberleutnant* was used for a short time in the beginning of the War of Independence) Tang, a 2nd Division judicial investigator. Next, with no dates mentioned, Aleksander Sild and four witnesses were interrogated, including Aleksander's landlord and his mother. After interrogations, new evidence came to light. After that, Aleksander was interrogated again on 12th February and he admitted that in the first interrogation he had been too scared to admit his service for Bolsheviks. On 15 February, Andres Purri, Head of Tartu Office for Counter-Intelligence, decided to declare Aleksander Sild a defendant. He sent the act to the judicial investigator of the 2nd Division, charging Aleksander Sild of desertion and service for Bolsheviks. The hearing of the field court took place on 21 February. It was common practice to fill in the court protocol on the form "Act of Interrogation".⁵⁸ (Much more informative were the 2nd Division Reserve Battalion's "Protocols of Battlefield Court Hearings" which included defendants' background information incl. marital status, religion, education and profession.)⁵⁹ In June and July of the same year, different forms could have been used – e.g. in June marital status and education were not recorded.) The presiding judge was Sub-Captain Riigov, accompanied by three members and one administrator, all in the rank of ensign. The field court found Aleksander Sild guilty and sentenced him to death by shooting after losing all civic rights. The court sentence was executed. By error, the date of execution was recorded as 26 January at 5 a.m. and this led to writing an incorrect date of closing the case on the file.⁶⁰

The end-of-January field court materials of the same unit are much more scarce. The whole file contained three documents – an interrogation protocol, an indictment and a court protocol including the decision. None of these documents include the defendant's age, profession, religion

⁵⁸ Sild, Aleksander Indictment for Joining the Red Army as a Deserter, 27 January 1919, RA.ERA.518.1.440, 1–11.

⁵⁹ Richard Kaitsa Indictment for Leaving Unit without Permission and Evading Conscription, 10 July 1919, RA.ERA.518.1.306, 2.

⁶⁰ Aleksander Sild's Indictment, 1–11.



*Orderly officer of the
Headquarters of 2nd Division
and the presiding judge of the field
court martial Sub-Captain Karl
Riigov (1892–1942). June 1919.
RA, EFA.114.3.3156*

or any other detail. Typically, a deserter was arrested on 17 January, interrogated the following day, followed by a court hearing on 29 January and the death sentence.⁶¹ The number of such decisions is fairly small – there were under 10 in the course of investigation. It is possible that some rush decisions came from the presiding judge, Captain Preisberg.

Another case study comes from the period after the adoption of 25 March 1919 regulation on specifying the activity of the field courts. The 6th Infantry Regiment Field Court was investigating Aleksander Valdek, soldier of the 1st Infantry Regiment, charged with evading military service. Valdek was 23 years old, Lutheran, field hand, member of Velise parish, resident of Haimre parish. The investigation commenced on April and closed on 14 April. The latter probably is the date of prosecution. Actually, Valdek had been detained by the Defence League much earlier on a road in Pärnu county near Sanga (Soomra) and he had been interrogated by the local militia (probably the senior militiaman of Tahkuranna) on 1 February. Unlike the case of Sild, interrogations were not run by

⁶¹ Joosep Pöörand's Indictment, 18 January 1919, RA.ERA.518.1.409, 3.



Battalion commanders of the 2nd Infantry Regiment. From the left: Captain Felix Tannenbaum (1st Battalion), Captain Karl Preisberg (1893–1969; 3rd Battalion) and Captain Eduard Liibus (acting commander of 2nd Battalion). Alūksne (Latvia). July 1919. RA, EFA.7.3.4324

military counter-intelligence. Valdek's excuse for evading military service was his health condition, but he admitted his guilt. On 27 March, Velise parish issued a certificate confirming that Valdek was a member of the parish, single and had no criminal record. The certificate arrived at the regiment by 30 March. A similar certificate from Haimre parish first went missing in the post and never arrived at the 6th Regiment. Sub-Lieutenant Anton Simmo, officer of the 6th Regiment, interrogated Valdek once again on 1 April and then also the witnesses. The field court convened on 14 April with Captain Jakobsen as presiding judge, accompanied by four officers and an administrator who was Sub-Lieutenant Simmo who had previous experience of running interrogations. The hearing was also attended by Valdek's defence lawyer, Lieutenant Hans Birkenberg. The court took into account Valdek's testimony and regret and sentenced him to a military prison for one year. The enforcement of the judgment was postponed till the end of war and Valdek was sent back to the army.⁶²

The two different field court case studies do not necessarily present typical files but in general, the contents of the surviving court files are very much like this. Marko Tikka wanted to find out about field court cases in Finland during the civil war and whether the court materials (protocols) rather reflect investigations or convictions.⁶³ The same question would be appropriate in the case of field courts as well. Another aspect of the problem is the fact that in the chaos of war, court files were probably not completed with care. Based on over one hundred field court and the Cheka files, we can say that in a number of cases, documents went missing later, e.g. court decisions, interrogation protocols, testimonies, certificates issued by parishes, service sheets etc. This makes it almost impossible to answer Tikka's question in many cases. On the other hand, it is possible that certain documents were never in court files. As the case of Valdek demonstrated, some documents could have gone missing in the post.

⁶² Indictment of Aleksander Valdek, son of Tönis, member of Velise parish for avoiding military service, 5.4.1919, RA, ERA.932.1.22, 1–25.

⁶³ Tikka, *Kenttöoikeudet*, 214.

Establishment and Activity of the Chekas

The Cheka ran temporary trials for the Bolsheviks.

The Cheka (pronunciation of the Russian abbreviation ЧК – *чрезвычайная комиссия*, extraordinary committee) is known as a notorious special service of Russia, a counter-intelligence organisation combating counter-revolution. Its name comes from the abbreviation ВЧК (*Всероссийская чрезвычайная комиссия по борьбе с контрреволюцией и саботажем* or All-Russian Extraordinary Commission for Combating Counter-Revolution and Sabotage under the Council of People's Commissars of the RSFSR). ЧК – (Cheka) was an abbreviated form for extraordinary commissions which was used in daily life.⁶⁴

The materials available in the Estonian National Archive are not sufficient to know whether the (Estonian) Cheka implemented surveillance over the Red Army Estonian national units like the Estonian military counter-intelligence (incl. an agency) did. A Latvian historian Šiliņš has written that the Cheka diligently monitored the soldiers' moods in the Latvian Red Army and agents were busy writing reports.⁶⁵ He has used materials from Russian archives and these materials could give more information about the activities of the Estonian Cheka as well.⁶⁶ Unfortunately, the majority of the Cheka-related sources are stored in the Federal Security Service (FSB) archives in Russia, making the more extensive studies of the impact of the Cheka on Estonians in the Red Army a future project. The reports on the mood of chekists from various areas of Russia in 1918–1920 have been published in a ROSSPEN collection but Estonia, Estonians or Estonian national units in the Red Army during

⁶⁴ Vladimir Dolmatov (Владимир Долматов), *VČK, Glavnje dokumenty (ВЧК, Главные документы)* (Moskva: Komsomol'skaja pravda (Комсомольская правда), 2017); *Sovetskaja derevnja glazami VČK-OGPU-NKVD. Dokumenty i materialy*, 4 t. (*Советская деревня глазами ВЧК-ОГПУ-НКВД. Документы и материалы*, 4 т.), edited by A. Berelovich and V. Danilov (Moskva: ROSSPEN (РОССПЭН) 1998–2012).

⁶⁵ Jānis Šiliņš, "The Soviet Army in Northern Lithuania between January and June 1919," *Acta Historica Universitatis Klaipedensis* 36 (2018): 30.

⁶⁶ Šiliņš has claimed in his correspondence, though that the majority of Cheka reports are in FSB archive which is closed for researchers.

the War of Independence are not mentioned. Reports made by chekists have been published in the collection.⁶⁷ It turns out that the moods of the Red Army soldiers were reported by the “information bulletins” of the special departments under military-revolutionary committees of the army. They covered political sentiments and desertions of the Red Army soldiers.⁶⁸ The chekists also drew up weekly reviews on the moods of the local population.⁶⁹

It is possible that the Cheka made secret reports on sentiments in the Estonian Red Army units, but the surviving sources in Estonia enable us to study the role of chekists as prosecutors and judges simultaneously. In interrogation protocols and decisions the motives of soldiers emerge and for better understanding of the source materials it is worth giving a review of the mechanisms of the Cheka.

From the beginning of the Estonian War of Independence (in late November 1918) to June 1919, the violence apparatus of the Estonian Workers' Commune (*ETK = Eesti Tööraha Kommuun*) operated. It was a pendant state, formed by the Soviet Russia to act against the Republic of Estonia. Its structure included internal affairs directorate as well as local Chekas. Initially, authorities duplicating each other's activities were established but basically it was evolving into the Cheka. For example, an instruction was drawn up for the commissars of revolutionary order who were entitled to carry out searches and arrests in collaboration with the administrative department in combating counter-revolution.⁷⁰ Marko Mihkelson has written that this authority performed the same anti-counter-revolutionary function as the local Chekas. From December 15 December 1918 Johannes Käspert was on this position until he was appointed Head of the Internal Affairs Directorate.⁷¹

⁶⁷ *Sovetskaja derevnja glazami VČK-OGPU-NKVD. Dokumenty i materialy*, t. 1, 1918–1922 gg. (Moskva: ROSSPEN, 1998).

⁶⁸ Из информационного бюллетеня особого отдела при реввоенсовете Запасной армии республики за 2—4 октября 1919 г, 5 октября 1919 г. – *Sovetskaja derevnja glazami VČK-OGPU-NKVD*, t. 1, 205–206.

⁶⁹ Из еженедельной сводки, за 1—7 октября 1919 г. – *Ibid.*, 206–208.

⁷⁰ Guidelines for Revolutionary Order Commissars, RA, ERAF.28.1.60, 17.

⁷¹ Mihkelson, “Punane terror“, 23.



Counterintelligence officers of the Soviet Baltic Fleet in Kronstadt, 1926. Johannes Käspert (1886–1937, in center) was Head of the State Security (OGPU) Department in Kronstadt then. RA, ERAF.2.1.2432.2

On 26 December 1918, the Internal Affairs Directorate with Johannes Käspert as its head was founded by the decree of the ETK Council. Within the competence of the internal affairs directorate were the following affairs: governing of the administrative activities of counties, towns and parishes, executing administrative power over all citizens, maintaining order, registration of births, deaths, marriages etc, organisation of the central office of statistics, combating counter-revolution and administering courts. Regional offices of the internal affairs directorate were administrative departments of town councils and county councils with their local commissions for combating counter-revolution and executive committees in parishes.⁷² The structures of institutions had all been put on paper but they were never implemented to their full extent.

⁷² Circular letter of the ETK Internal Affairs Directorate, 28 December 1918, RA, ERAF.28.1.60, 26.

The main repressive organs of *ETK* (even before the establishment of internal affairs directorate) were the local Chekas or extraordinary commissions for combating counter-revolution. The life span of the central Cheka of *ETK* was short and ended in January 1919. According to the instruction, Cheka commissars could impose the death penalty on any person who was a member of a White Guard organisation. All professional profiteers, illicit vodka makers, thieves and people selling vodka to the Red Army soldiers were to be shot. As well as all who were hiding weapons or possessions abandoned by the White Guard soldiers. All those whose “sons had fled” i.e. could be serving in Estonian Army or the Defence League, were threatened by potential fines or forced labour. Aristocrats and owners of manors as well as large landowners were to be sent as hostages at the disposal of the Cheka.⁷³ This document basically legalized unlimited violence against anybody and everybody, because merely the first clause leaves room for limitless interpretation. Lack of knowledge on who and when could be arrested and executed, must have created a genuine atmosphere of terror. It also made it possible for settling personal scores through informing.

The activities of chekists did not stop when they were withdrawing from Estonia. On 22 February 1919 on the initiative of Johannes Käspert, the local Chekas were replaced by commissars of revolutionary order who continued combating the so-called counter-revolutionaries in the rear of the grouping of the Red Army 7th Army who had been expelled from Estonia, fighting south of the lakes of Peipsi and Pskov.⁷⁴ By March 1919, the commissars were called “rear commissars”⁷⁵ – basically the chekists responsible for security in the immediate vicinity of the Red Army. It was no “genuine” extraordinary committee but it is worth getting acquainted with this institution. The people working for it were the same people who would be performing very similar tasks. The *ETK* Council issued a very detailed instruction which worded the aims of the rear commissars as

⁷³ Guidelines sent to commissars, RA, ERAF.28.1.60, 18.

⁷⁴ Report to *ETK* Council by Johannes Käspert, Head of Internal Affairs Directorate, 22 February 1919, RA, E.28.1.68, 3-4.

⁷⁵ *ETK* South Group Rear Commissar Aleksander Jea to district commissars and county councils, 20 March 1919, RA, ERAF.28.3.71, 21.

well as the district commissars. The *ETK* Council appointed rear commanders and rear commissars to all the units operating in Estonia. The rear commander was to appoint commandants on the territory under his administration, and the rear commissars appointed commissars to these commandants. Rear commanders and district commandants represented executive power and the commissars' supreme power in their district, about a 26-km wide zone behind the frontline. With the help of district commissars, the rear commissars had to counteract local White Guard soldiers, combat illicit vodka makers etc. In order to perform their tasks, the commissars were entitled to carry out searches and arrests, impose fines or imprisonment on culprits and to shoot them. They also had to make sure that the army would be performing their tasks and not abuse their authority.⁷⁶ Their functions were almost identical to the Cheka. The earlier guidelines of the chekists of Moscow were also followed.⁷⁷ This way they watched that the 22nd February regulation drawn up in the special department of the Soviet Cheka, regarding going to the front from Russia, would be complied with on the Estonian front as well.⁷⁸

The rear commissar of the Red Army South Group was Aleksander Jea and from 1 March he had four district commissars under him. This restructured, renamed Cheka employed 38 people. With exclusive decisions by Jea, 387 people were arrested and 50 death sentences were signed mostly in the county of Pechory between 1 March and 4 June.⁷⁹

In the early April the rear commissar of the South Group encouraged his district commanders to record other notices and prisoners' background information in addition to interrogation protocols.⁸⁰ The activi-

⁷⁶ Guidelines to Rear Commissars and District Commissars of the Forces Operating in Estonia, RA, ERAF.28.3.71, 5.

⁷⁷ *ETK* Internal Affairs Directorate Head Käspert to Rear Commissars of South and North Groups on the Implementation of the Russian SFSR Regulation, 19 March 1919, RA, ERAF.28.1.60, 12.

⁷⁸ Regulation on Travel Permissions to the Front and to Border Areas, 22 February 1919, RA, ERAF.28.3.71, 22–23.

⁷⁹ Minnik, "Kontrevolutsiooni vastu võitlemise komisjonid" (Commissions for Combating Counter-Revolution'), 66.

⁸⁰ *ETK* South Group Rear Commissar to all District Commissars, 7 April 1919, RA, ERAF.28.3.71, 17.



Aleksander Jea (1888–1938, in the middle). Photo is taken in the Soviet Union probably in 1920s. RA, ERAF.2.1.2411.1

ties of the Estonian chekists can be better interpreted with the help of the instruction which had been sent to the commissars for implementing arrests and interrogations.⁸¹ One of the leading figures of the Cheka, a Latvian Mārtiņš Lācis put it bluntly that the bourgeoisie as a class must be destroyed and in order to complete this mission, questions were asked about people's background, upbringing, education and profession. These questions were to decide the fate of defendants. "This is the essence of the Red Terror", declared Lācis.⁸² At interrogations, chekists had to require the following: is the interrogated person a witness or a defendant, surname, first name and patronymic name, age, place of residence (county, parish, village and farm), profession, financial status, close family (brothers, sons etc. whoever could be suspicious), party membership and "why arrested or in whose case interrogated".

⁸¹ South Group Rear Commissar's Guidelines to District Commissars on Searches, Arrests and Interrogation, RA, ERAF.28.3.71, 19.

⁸² Max Jakobson, *XX sajandi lõpparve* (The Final Account of the XX Century) (Tallinn: Vagabund, 2005), 64.

Two clauses of the instruction express the chekists' ambition to find accomplices or open new cases. Witnesses had to answer the questions "whether the defendant and other local residents might know accomplices in the neighbourhood, or any other culprits (counter-revolutionaries etc.) who could be immediately arrested." Upon drawing up the protocol, the interrogator had to show diligence and find out "whom the defendant considers to be suspicious or guilty or something else which has nothing to do with this person."⁸³ The South Group was not only engaged in the cases of "the local White Guard soldiers". With the decision of the Rear Commissar Aleksander Jea, August Anton was executed; he had served in the Defence League and had given himself up as a prisoner to Bolsheviks and was shot as "a voluntary White Guard soldier"⁸⁴ At the same time, Jea sent an Estonian Army defector to a reserve regiment of the Red Army.⁸⁵ On the basis of the interrogation materials, the decisions made were not always unambiguous.

Case Study: Aleksander Allmann

Typically, an investigation file of the Cheka is a bound selection of various cases in alphabetical order. Therefore, Allmann's documentation was not in a separate file like lots of the Estonian army field courts martial materials, but together with lots of other cases between the same covers. Upon opening the investigation, an act with the data of the suspect would be completed. It included the question whether the person had been earlier charged (not punished). As a rule, the Cheka did not fill in this part of the act and this was also the case with Allmann. The recorded reason for arrest in Allmann's case was "White Guard" which was one of the most popular causes. How the case ended, was usually not recorded in the act but at the end of the protocol. Sometimes the documents taken away from the interrogated were enclosed to files. From the documents that

⁸³ South Group Rear Commissar's Guidelines to District Commissars on Searches, Arrests and Interrogations, RA, ERAF.28.3.71, 19–19v.

⁸⁴ August Anton, son of Mihkel, 22–24 April 1919, RA, ERAF.28.1.172, 66–68.

⁸⁵ Juhan Lepp, 5–9 May 1919, RA, ERAF.28.1.190, 125–127.

were confiscated from Allmann, the certificate of his service in Estonian national units of the Russian army in 1917 and in the Russian army prior to this were attached. The main data in the files of the Cheka are interrogation protocols. The protocol of 15 December does not explain how Ensign Aleksander Allmann, interrogated by the Cheka, fell to the hands of the Reds.⁸⁶ According to a reference book by Jaak Pihlak, Allmann became prisoner of war on 11 December.⁸⁷ According to the protocol, Aleksander was 19 years old, came from the Vahaste parish and his parents belonged to the merchants class. Allmann had served as a volunteer in the World War I from 1916 and had studied in a school of ensigns. In the era of Estonian national units of the Russian army he served in the 4th Estonian Regiment. In 1918 when the order was given to all previous officers to join the Estonian Army, Allmann joined the 4th Infantry Regiment in Narva on 26 November. When retreating to the village of Rannu, the soldiers under him scattered and Allmann was captured: “I came to realize that combating was pointless because the chance to win was gone.” Without any serious arguments or references to laws, chekists Oskar Ellek and Eduard Otter sentenced Ensign Allmann to death as “a White Guard officer” after the interrogation on 15 December 1918.⁸⁸

Allmann’s case reflects quite a typical Cheka style trial recording – a scarcely completed act and an interrogation protocol ending in the written decision of the commission. The answers of the interrogated regarding their residence or earlier punishments (charges in the case of the acts of Chekists) were usually not checked with local governments. It would have been impossible in lots of cases because Bolsheviks never controlled the whole Estonian territory. However, there were exceptions. For example, the Cheka arrested a resident of Kooraste parish in the county of Võru for keeping hunting guns at home, after which they sent an inquiry to the local executive committee and they got an answer.⁸⁹ Typical of the

⁸⁶ Aleksander Allmann, RA, ERAF.28.1.171, 219–224.

⁸⁷ Jaak Pihlak, *Eesti ohvitser – langenud Vabadussõjas* (Estonian Officer, Fallen in the War of Independence) (Viljandi: Viljandi Museum, 2020), 47.

⁸⁸ Aleksander Allmann, 219–224.

⁸⁹ Certificate of the Executive Committee of the Workers Council of Kooraste Parish, 16 January 1919, RA, ERAF.28.1.183, 136.

Cheka, their materials unlike the materials of field courts, include search warrants. Collective community appeals were submitted to the Cheka whereas field courts mostly received appeals from families. The documents that are often part of the Estonian Army field court files, e.g. service sheets that were prepared at military admission committees upon conscription, could not be in the files of the Cheka for obvious reasons. In comparison with the field courts, the Cheka collected much less background information about defendants. Unlike field courts, a number of the Cheka cases dealt with the events of 1917–1918. For example, shoemaker Kolk, a deserter was judged to have betrayed the Reds in 1917 and participating in the activities of the Home Guard organisation (*Omakaitse*) in 1918 and was executed.⁹⁰

Both, the field courts of the Estonian Army and the Cheka(s) were established in haste. Investigations could be performed by counter-intelligence or officers of the militia for field courts but it was never the case with the Cheka. In a legal sense, judging was done by amateurs on both sides. Unlike chekists, the field courts made their decisions at least to some extent on a legal basis. Field courts processed the cases for much longer than the Cheka. In field courts, it took weeks from arresting a suspect to interrogating and making a decision, whereas with the Cheka it only took a couple of days. Therefore, the files of field courts make much more informative sources for historians than the materials of the Cheka.

Penal Policy

A number of questions arise regarding the possible impact of both sides' *ad hoc* courts on soldiers. Did the penal policy have an impact on the fighting spirit of soldiers and motivate them as an external factor, creating background fear for conscripts? Did the field courts have much less to do with soldiers than the name might indicate? Maybe their main target were political adversaries among the civil population, as the previous studies have suggested? Maybe political dissidents prevented the emergence of social unity and weakened the will to fight?

⁹⁰ Johannes Kolk, RA, ERAF.28.1.185, 51–53.

Penal Policy of Field Courts Martial

According to legal scholar Marin Sedman, field courts martial were *ad hoc*-courts and on the basis of the first regulation of December 1918, the procedural legislation was seriously faulty. Sedman considered the regulation of 25 March 1919 to be more specific.⁹¹ It was extremely scarce and declarative, targeting primarily the persons acting against the Republic of Estonia and the supporters of Bolsheviks. It was based on former Russian military law.⁹² The regulation of 25 March did indeed regulate the work of field courts in a more specific way, specifying particular sections.⁹³ This regulation, though, left room for interpretation to field court judges.

In his master's thesis Taavi Minnik addressed the activity of field courts martial as an instrument for the Republic of Estonia to inflict the White Terror⁹⁴ but in his later and much more detailed article he draws the conclusion that back then, the activity of field courts did not conform to the military laws which were valid at the time.⁹⁵ His estimation was that in Estonia's field courts 284 people were sentenced to death – out of them 19% were war prisoners, 21% Estonian Army servicemen, 60% civilians. These figures must be viewed with caution. Minnik's data are based on the lists of decisions of the 2nd and 4th Infantry Regiments and extracts of decisions from the collection of the Headquarters of Tallinn Garrison. He used as examples the 52 field court files (51 files of the 2nd Regiment (51) and 1 file of the 6th Regiment), focusing only on death penalties.⁹⁶ Although Minnik's figures and references have errors and shortcomings, the overall figure and percentage of soldiers are probably fairly accurate.⁹⁷

⁹¹ Marin Sedman, "Sõjakohtud ja Riigikohtu roll sõjakohtute süsteemis EV esimesel iseseisvusperioodil" (Courts Martial and the Role of State Court in the System of Courts Martial in the First Period of Independence of the Republic of Estonia), *Juridica* 9 (2019): 646.

⁹² Meeting Protocols of Provisional Government, 5 December 1918, RA.ERA.31.1.8, 59–60.

⁹³ *Riigi Teataja*, 1919, 19, pp. 145–147.

⁹⁴ Minnik, "Terror ja repressioonid Eesti Vabadussõjas" (Terror and Repressions in the Estonian War of Independence), 56–63.

⁹⁵ Minnik, "The Establishment of "Drumhead" Courts Martial," 108.

⁹⁶ *Ibid.*, 103–104.

⁹⁷ Minnik's table lacks e.g. the persons sentenced to death in the 4th Infantry Regiment. The sources of the data on death sentences of several infantry regiment field courts are not known.

In Rosenthal's estimation (based on statistics, found in archives), the number of people who were sent to field courts with political charges was 554, out of whom 214 were sentenced to death.⁹⁸ The materials of the Court Chamber (court of appeal) include a report using the notion "political crimes" instead of "political charges". The summary of 1919 considered the following activities as "political crimes": an attempt to overthrow the state (250), working for adversaries and contributing to their armies (166), spying for enemy (38), voluntarily joining the opposing army (75) and anti-state agitation (25).⁹⁹ Whether classified as 'terror' or 'repressions', the number or list of victims suffering because of the penal policies of both sides, is not complete. In Minnik's first estimation, the number of victims of the Red Terror was over 600 people and the number of victims of the repressions of the Republic of Estonia during the whole period of the War of Independence was up to 800 people.¹⁰⁰ Later Minnik increased his estimated number of the victims of the Red Terror to 650–700 people.¹⁰¹ Mihkelson in his earlier research suggested the number of victims of the Red Terror 512 people, out of whom 335 were executed in January 1919. Mihkelson asserted the existence of the White Terror but only relied on the article by Tiit Noormets in the magazine *Sõdur* (Soldier) in 1992.¹⁰²

Rosenthal refers to a consolidated list of the military prosecutor's office which Minnik never used. The list includes the data on 1661 people who were prosecuted in field courts in 1919.¹⁰³ This source provides an opportunity to analyse other categories of punishment besides the death

E.g. The Headquarters of Tallinn Garrison fund only includes the decisions of the field courts of the Naval Forces and Chief of Internal Security.

⁹⁸ Rosenthal, *Kord ja kohus*, 73.

⁹⁹ Report on Political Crime in the Republic of Estonia in 1919, RA, ERA.71.1.103, 101, 106.

¹⁰⁰ Taavi Minnik, "Terror ja repressioonid Eesti Vabadussõjas" (Terror and Repressions in the Estonian War of Independence) – *Eesti ajaloost 19.–20. sajandil: uurimusi historiograafiast, allikaõpetusest ja institutsioonidest* (On the History of Estonia in the 19th–20th Centuries: Studies on Historiography, Source Teaching and Institutions), compiled by Tõnu Tannberg, *Eesti Ajalooarhiivi toimetised* (Estonian Historical Archive Publications) = *Acta et commentationes Archivi historici Estoniae* 19 (26) (2012), 256, 264–265.

¹⁰¹ *Ibid.*, 248.

¹⁰² Mihkelson, "Punane terror," 68–69.

¹⁰³ Alphabetical list of the persons, punished by courts martial, RA, ERA.3704.1.353.

penalty. The first comparison of the consolidated list and the court materials proves the validity of the data presented by the military prosecutor's office regarding names, dates, charges and decisions. From the total of over 1700 decisions in 1918–1920, nearly 300 are death sentences.¹⁰⁴ As a smaller share of decisions were made after the war, i.e. after 2 February 1920, the list of decisions and the final figures need further specification. A large number of field court files have not survived, and this makes the checking of figures complicated.

Based on the consolidated list of decisions by the military prosecutor's office, a selection has been made separately from the 2nd, 4th, 5th and the 6th Regiment field courts data and as a consolidated list. The 2nd Division creates confusion because the decisions of the 2nd Regiment Field Court have been erroneously presented in the consolidated data of the military prosecutor's office as the decisions of the 2nd Division Field Court decisions. Checking on single cases, it becomes obvious that lots of them were the decisions of the 2nd Regiment Field Court. There is a separate section on the consolidated chart of the military prosecutor's office on the 2nd Division Staff Field Court decisions – it is possible that some cases were the 2nd Division Field Court decisions from Tartu.¹⁰⁵

The 884 decisions of the selected four regimental field courts make up nearly half of all the decisions on the list. Also a sufficient number of files of the mentioned four field courts have survived unlike in the case of all the others, enabling us to better check on the validity of the data and present sample cases.

The 2nd Regiment Field Court made 346 decisions according to the consolidated list. The majority of these date from the time period 22 December 1918 –2 April 1919. Only five decisions were made from September to November 1919. Among all the decisions, 122 death sentences were passed down and enforced, 114 acquittals were made and 108

¹⁰⁴ The list includes data on the persons taken to courts martial in 1918–1920. A detailed database of all the decisions of the list is being constructed by author.

¹⁰⁵ Eduard Bosch's Charge of Espionage, Murdering of a Guard and Escaping the Prison 1–23 January 1919, RA, ERA.518.1.263.

imprisonments or penalties of hard labour were enforced.¹⁰⁶ Minnik suggested the number of death sentences by the 2nd Regiment Field Courts was 94.¹⁰⁷ In one case, the penalty was a fine – 1000 marks for hiding a deserter and in one case reduction in rank from Ensign to Private. Only in 86 cases a defendant was a serviceman and the most common charge was evading military service, including leaving without permission, late return, deserting or defection. Some cases regarded insubordination, disobedience and inciting rebellion. Out of them 38 were executed, six were set free and the rest were charged with imprisonment of varied lengths or hard labour. In 260 cases, defendants were civilians and they were mostly charged with collaborating with the Bolsheviks or acting against the Republic of Estonia, including spying and agitation. Among the 2nd Regiment Field Court cases, there were criminal charges like theft, robbery, murder and smuggling.

The first recorded decision of the 4th Regiment Field Court was made on 6 January 1919. Among 135 decisions, the only exceptional cases were the prosecution of four spies and one spreader of rumours. A total of seven people were executed by court decision, out of whom three were not servicemen. 34 were acquitted and the rest were charged with imprisonment of various lengths or hard labour. No other decisions were made. At the beginning of 1920, about twenty more decisions were made and work continued till November of that year. After the 2 February 1920, 44 more decisions were made.¹⁰⁸

The first decisions of the 5th Regiment Field Court were made on 11 February 1919 but unlike the other researched courts whose decisions were mostly made in the first three months of 1919, the 5th Regiment Field Court actively operated throughout the year 1919 and made 282 decisions.¹⁰⁹ It is possible that the regulations of 25 March 1919 were mostly ignored and the procedures relied on better understanding. In comparison with the other field courts, the penalties imposed were lenient indeed, including exceptional 5–20-day lock-ups while the most

¹⁰⁶ The List of Field Court Decisions in 1918–1920, RA, ERA.3704.1.353, 1–275.

¹⁰⁷ Minnik, “The Establishment of “Drumhead” Courts Martial,” 103.

¹⁰⁸ The List of Field Court Decisions in 1918–1920, RA, ERA.3704.1.353, 1–275.

¹⁰⁹ *Ibid.*, 4–275.

common length was 10 days. The other imprisonment penalties were also fairly lenient and thus, a number of the convicted were sentenced for months, not years. However, for the same charge, leaving the unit without permission, one defendant was sentenced a 10-day arrest (25 March), the other one four years of hard labour (on 2 May) and the third a three months arrest (4 May).¹¹⁰ Nearly a tenth of all defendants were civilians. Very few death penalties were imposed – among nearly 300 decisions there were five. 59 defendants were acquitted.

The 5th Regiment Field Court stands out with its large number of all possible cases and imposed decisions which differ from the practices of the other field courts. Instead of imprisonment or hard labour, a number of defendants were simply expelled from the judicial district and in two cases the persons who had crossed the frontline, were sent back to Russia. At the same time, two such illegal “border crossers” (term used in the court decision) were sent to a prison camp on the island of Naissaar. Nearly 30 defendants turned out to be Red Army soldiers, and were sent to a military prison camp. The most weird was the investigation of the two persons who turned out to be tramps and they were expelled from the judicial district. Disciplinary offences were also an issue, e.g. leaving the guard post. Notably, the 5th Regiment Field Court decisions that the executions were either postponed till the end of war or the offence had been redeemed by valour in battle. The majority of the defendants were soldiers and the main offences were evading military service, leaving without permission and deserting. Holding trials continued after the war and decisions were made in 27 cases.

The earliest recorded decisions of the 6th Regiment Field Court were made on 5 January 1919. Out of the total of 121 decisions, 16 people were sentenced to death by firing squad and 29 were set free. Differently from the 4th Regiment Field Court, 13 cases had different solutions – eight defendants got disciplinary penalties (incl. one month imprisonment), in one case an officer was demoted to private, in three cases it was decided to retry the charges and in one case the defendant was rescued by a doctor’s examination which identified a disease (the defendant’s excuse had prob-

¹¹⁰ 5th Regiment Field Court Decisions from 1919, RA, ERA.3704.1.353, 23.

ably been a health issue).¹¹¹ The court continued its work after the war, its last decisions were made in November 1920.

Misdemeanours going under disciplinary punishment (this term has been used on the list of court decisions) should not have really been under the jurisdiction of field courts. In the Russian army, the disciplinary offences which were not under the jurisdiction of courts, were punished by general internal rules of units and decisions were made by unit commanders. In general, the Estonian Army relied on the earlier rules of the Russian army in its actions and it is hard to understand why the 6th Regiment Field Court acted like this.

Table I. 844 Decisions of the Four Field Courts Martial of the Estonian Army in 1918–1920

Decisions	Death sentence	Acquittal	Prison/hard labour	Other punishment
2nd Regiment	122	114	108	2
4th Regiment	7	34	94	-
5th Regiment	5	59	152	66
6th Regiment	16	29	63	13
Total	150	236	417	81

The field courts of the 4th, 5th and 6th Regiments were mostly engaged in the cases of servicemen and the most common offence was evading military service or leaving without permission. The activity of the 2nd Regiment Field Court was quite different, as they mostly tried political offences. The three field courts operated most actively in the first half of 1919, till early April.

Regimental field courts often postponed enforcements of judgments till the end of war or offences were redeemed by valor on the battlefield. In both cases, the data need to be specified because they might help to answer several questions in the field of the severity of penal policy. It is also significant that the active operations of most field courts, including

¹¹¹ The List of the Decisions of Field Courts in 1918–1920, 2–275.

the 2nd Regiment Field Court which passed down the largest number of death sentences, had ended by the enforcement of the regulation of 25 March 1919. We can look at the problem from a different angle and admit that the activity of the field courts stopped abruptly in the first days of April and the only reason for that is obviously the regulation adopted on 25 March. Maybe with the new regulations, there was no longer any reason to continue a harsh line.

Considering the share of the decisions of the four field courts among all the decisions on the consolidated list, we can draw some general conclusions but there are still more questions than answers. If the regimental field courts were so different, then we should question the opinion that the penal policy of the Republic of Estonia was aimed at frightening or containing or even punishing the servicemen. The total of all decisions (884) included one fourth (236) of acquittals and less than a fifth (150) were sentenced to death. The death sentence was not mostly imposed on servicemen but on civilians whose number among nearly 900 defendants was about 300. Marko Tikka, a researcher of the Finnish Civil War, wrote on the basis of the materials from 12 courts (sample cases were from the field courts of Varkaus and Vyborg) that only 27% of suspects had been involved in a revolutionary movement. Nearly 40.6% of the convicts were acquitted and 13.4% were sentenced to death.¹¹²

The court decisions made after the war are a separate issue. About 100 decisions were made in the field courts of the three regiments in addition to the 884 decisions, mentioned in the previous passage. When the field courts martial of the Republic of Estonia operated so differently and only some imposed death sentences (in addition to the 2nd Regiment also the Field Court of Saaremaa), mostly the field courts dealt with civilians/political adversaries, then we cannot really speak about all field courts martial as instruments of a repressive policy.

¹¹² Tikka, *Kenttäoikeudet*, 459–460.

Field Court Judges

A more detailed analysis of the judges might help to understand the reasons why some courts made harsher decisions than others. The compositions of courts are not included in the above consolidated lists and they can only be identified by researching single cases. The presiding judges of Estonia's field courts were officers who were appointed by commanders of units who had convened the court.

Penal Policy of the Cheka

The surviving materials of the Cheka of the Estonian Workers Commune from the end of 1918 and the beginning of 1919 are mostly decisions made on civilians. In half of the cases with over a hundred offenders were the servicemen of the Estonian Army, members of the Defence League or conscripts. A large share of work was dedicated to the events of the years 1917–1918, for researching the background, settling relations and frequently for retaliation. According to materials, the activity of the Cheka with its combating of illicit vodka makers, smugglers, landlords, clergymen and other 'former people' like policemen, makes for a sprawling impression. We also need to take into account the way the judges of the Cheka interpreted laws in 1918–1920. Marko Mihkelson has stated that the documents issued by the *ETK* Internal Affairs Directorate, only minimally covered the legal gap and in reality the local Chekas enjoyed unlimited power.¹¹³ Minnik pointed out that the Red Terror lacked any legal basis whatsoever¹¹⁴ Jekaterina Kobeleva studied the role of the Cheka in the process of Sovietization and according to her, under conditions of the Russian Civil War the situation was the same everywhere and there was no rule of war but rather subjective interpretation of law. This was the case in all the regions of Russia.¹¹⁵

¹¹³ Mihkelson, "Punane terror," 26.

¹¹⁴ Minnik, "Terror ja repressioonid Eesti Vabadussõjas," 257.

¹¹⁵ Ekaterina Kobeleva (Екатерина Кобелева), "Mesto i rol' organov ČK v processe stanovlenija Sovetskogo gosudarstva. 1918 – načalo 1922 gg.: na materialax Permskogo Prikam'ja"

On 4 December 1918, the first work meeting of Estonian chekists took place in Narva. Local commissions for combating counter-revolution operated in Narva (chairman Oskar Ellek), in the county of Viru (from 15 December in Rakvere, Juhan Hansing), in the county of Võru (from 16 December Otto Tiisler, from 16 January Villem Jaakson), in the county of Tartu (from 1 January 1919 Aleksander Kull) and the county of Pärnu (actually in the South of Viljandimaa, under the leadership of V. Busch). An attempt was made to establish a governing body and departments under it but the established Estonian Commission for Combating Counter-Revolution, i.e. Estonian Cheka (chairman Eduard Ott) remained a merely formally operating organization which lost its meaning after the establishment of the Internal Affairs Directorate. On 17 January 1919, the Directorate of *ETK* dismissed Eduard Ott from the position of chairman. Mihkelson has stated that the work of the local Cheka was governed by a troika with its exclusive competence for executing searches and arrests and punishing offenders. The operations of the presidium were governed by its chairman.¹¹⁶

At the same time, administrative departments whose commissions for inquiry could be of overlapping competence, i.e. engaging in arresting suspects of counter-revolutionary and sanctioning searches seemed to have been parallelly operating. In the county of Võru the administrative department issued search warrants for the militia.¹¹⁷ For setting free the person who had already been arrested by the local Cheka, a polite and reasoned application had to be submitted.¹¹⁸ The Cheka did not see the administrative department as a subordinate authority. For example, the Cheka of Võru asked (not ordered) the local administrative department to notify them of all public gatherings in towns and in the

(Место и роль органов ЧК в процессе становления Советского государства. 1918 – начало 1922 гг.: на материалах Пермского Прикамья) (Candidate of Sciences Paper, Perm State University, 2005), 209.

¹¹⁶ Mihkelson, “Punane terror,” 22–26.

¹¹⁷ The Warrant of the Administrative Department of the Executive Committee of the Municipality of Võru, 2 January 1919, RA, ERAF.28.1.661, 11.

¹¹⁸ The Investigation Commission of the Administrative Department of the Municipality of Võru to the Commission Combating Counter-Revolution, 25 January 1919, RA, ERAF.28.1.191, 236.



Members of the Council of the Estonian Workers' Commune in 1919. First row, from the left: August Pihlap, Jaan Anvelt, Otto Rästas, Maks Trakmann and Karl Mühlberg. Second row: Hans Pöögelmann, Johannes Käspert and Artur Valner. RA, ERAF.2.1.553

countryside.¹¹⁹ According to Andres Purri, head of Tartu information collection point of Estonian military intelligence, the administrative department of Tartu was working hand in hand with the local Cheka.¹²⁰ However, based on the research completed, it is impossible to make a final assessment of administrative departments.

According to the report of Tartu Cheka, the work of local Cheka was “hard.” In the estimation of the chekists, the troika lacked the power which would enable them to carry out searches and arrests. In Tartu there was a plan to organize a 150-men strong defence group but they managed to find only 117 members.¹²¹ Mihkelson was not certain whether the

¹¹⁹ Võru Cheka to the Municipal Administrative Department, 26 January 1919, RA, ERAF.28.1.661, 22.

¹²⁰ Memoirs of A. Purri, RA, ERA.2124.3.1041, 10.

¹²¹ Report of Tartu Department of the Estonian Commission for Combating Counter-Revolution, 1–14 January 1919, RA, ERAF.28.1.68, 5–11.

group participated in shootings but he considered it likely.¹²² According to Purri, the searches, arrests and shootings in Tartu were carried out by a flying squad. He listed 40 names of the members of the squad.¹²³

The Comparison of Penal Policies of the Two Sides

How should we assess the penal policies of both sides? One of the key questions is whether the penal policy was orchestrated by the central authorities. Rosenthal has called the penal policy which was enforced on the suspects of Bolshevism, repressions without using the term ‘terror’.¹²⁴ Minnik has claimed that although the aims of both sides were the establishment of power, the repressions during the War of Independence and the rear violence were not controlled by the central governing authorities.¹²⁵ Jānis Šiliņš is of a different opinion, claiming that the Reds considered a strictly organised and controlled central system of terror a means of achieving prompt success. Šiliņš points out that the repressive system of Bolsheviks was used as a tool for changing society and ensuring the authority of their regime.¹²⁶ In his later research Minnik has stated that in the process of carrying out the Red Terror in 1918–1919, Estonian Bolsheviks copied the models of Soviet Russia, establishing commissions for combating counter-revolution as executors of terror. Minnik sees the violence against civilian population of chekists as a special operation and a part of military strategy.¹²⁷

Nicolas Werth has emphasized that on 5 September 1918, the Soviet government legalized terror with its notorious decree “on the Red Ter-

¹²² Mihkelson, “Punane terror,” 27.

¹²³ Memoirs of A. Purri, 11.

¹²⁴ Reigo Rosenthal, “Eesti Vabadussõda” (Estonian War of Independence) – *Eesti sõjaajalugu. Valitud peatükke Vabadussõjast tänapäevani* (Estonian History of War. Selected Chapters from the War of Independence to Today), compiled by Tõnu Tannberg (Tartu: The University of Tartu Publishers, 2021), 109–110.

¹²⁵ Minnik, “Terror ja repressioonid Eesti Vabadussõjas,” 6.

¹²⁶ Jānis Šiliņš, “Padomju Latvijas militārā un politiskā attīstība (1918. gada decembris – 1919. gada jūnijs)” (doctoral thesis, Latvian University, 2011), 85.

¹²⁷ Minnik, “Kontrrevolutsiooni vastu võitlemise komisjonid,” 66–67.

ror". The decree pronounced the decision to shoot without delay any person who was "a class enemy".¹²⁸ According to Minnik, the decree left room for interpretation, but administration of justice requires definitions which are as accurate as possible.¹²⁹ We can probably claim the same about the Estonian field courts martial – first they were permitted to work on the basis of the Russian military law but the 10 January regulation for field courts moved away from their initial field of activities. Indirectly, we could say the same about the Provisional Government regulation of the 5 December 1918 which left room for interpretation.

Warning of the General Public and the Awareness of Penal Policy

How or how much did the awareness of the so-called cautionary examples reach the general public? In the units of the Estonian Army where the field courts were operating, the soldiers had good knowledge of the decisions. On the other hand, they would not necessarily have reliable data on what was going on in other units. Civilians had even more scarce information. The main means of communication was probably the media. Too few publications of Bolsheviks have survived, therefore, we can analyse only the newspapers of the Republic of Estonia. It is obvious that the population had been warned about the field courts even before they were established. Namely, Prime Minister and Minister of War Konstantin Päts in his appeal which he signed on 1 December 1918 and which was published a couple of days later in newspapers, called the population to defend their homeland in peril. Päts threatened with field courts those who would rather not make "light sacrifices".¹³⁰ Threatening as such is still very different from executing threats. The fact that Päts was serious about dodgers and adversaries, became apparent after the establishment

¹²⁸ Nicolas Werth, "Country against People: Violence, Repressions and Terror in the USSR" – Black Book of Communism: Crimes, Terror, Repressions (Tallinn: Varrak, 2000), 85.

¹²⁹ Minnik, "Kontrevolutsiooni vastu võitlemise komisjonid," 55.

¹³⁰ "Decree of the Provisional Government on Defence of the Republic of Estonia," *Tallinna Päevaleht*, 3 December 1918, 2.

of field courts. Mari-Leen Tammela has written that it was common practice to publish the field court decisions in the newspapers.¹³¹ The decisions would be published in the newspapers *Postimees*, *Waba Maa*, *Maa-liit*, *Tallinna Teataja* and *Sotsiaaldemokraat*. From January to late March 1919, the newspapers mostly published the judgments regarding criminals and political adversaries. It was not only about the persons who had been sentenced to death. The punished servicemen were occasionally mentioned. Taking into consideration that each newspaper had its readership, the population's knowledge of field court activities depended on the regularity of published announcements in them. The newspapers did not publish announcements of judgments on a regular basis. For example, newspaper *Postimees* published them only three times in February and March 1919, at the peak of the field court activity. It is possible that newspapers wanted to be careful with publishing announcements. The published lists of deserters had sometimes been erroneous and therefore, *Postimees* wrote that the publishing of such announcements had occasionally been too hasty and it gave an example of the two servicemen who had denied the claim of them being on the list of deserters.¹³²

Tammela wrote that General Aleksander Tõnisson was in favour of publishing the decisions of field courts.¹³³ The main standpoint of Colonel Jaan Soots, the Commander-in-Chief's Chief of Staff, representing the military high command, was that under extraordinary conditions, the newspapers had to support the Estonian Army will to defend the homeland and the commander-in-chief had to be entitled to ban with military censorship any articles of negative impact.¹³⁴ We are only sure about the standpoint of General Tõnisson. It is not known whether Soots considered the publication of field court decisions as an activity supporting the

¹³¹ Mari-Leen Tammela, "Ristilöödud töörahva nimekiri nr. 11 Eesti Asutava Kogu valimistel" (List no. 11 of the Crucified Working People in the Elections of the Constituent Assembly of Estonia) – *Vabadussõja mitu palet. Rahvusarhiivi toimetised* (Various Facets of the War of Independence. National Archive's Proceedings) = *Acta et Commentationes Archivi Nationalis Estoniae* 3 (34), compiled by Tõnu Tannberg (Tartu: National Archive, 2019), 441.

¹³² "Väejuoksikute nimekiri lohakalt kokku seatud" (List of Deserters Sloppily Put Together), *Postimees*, 21 March 1919, 3.

¹³³ Tammela, „Ristilöödud töörahva nimekiri,“ 441.

¹³⁴ War Time Censorship. J. Soots, before 27 February 1920, RA, ERA.495.10.23, 195–199.

will of the Estonian Army. Neither is it known whether the newspapers published only few decisions because they did not cross the news threshold or whether it was impeded by the military authorities.

In 1919, two prominent events for field courts martial took place – the Saaremaa Rebellion and the Mutiny in the Tartu Reserve Battalion. The covering of these two events could have been considered to be of cautionary character as there were more than four months between these two events. The rioters of Saaremaa were conscripts. The covering of the activities of that field courts in the first months could have been influenced by politicians because the elections of the Constituent Assembly were coming up in the second half of April. Informing the population of the punishment of murderers, makers of illicit vodka and perpetrators of incitement against the state suited political and military authorities. These cases were to be cautionary examples, a proof of the Republic of Estonia's capability of securing order on its own territory.

Conclusions and Summary

The field courts martial of the Republic of Estonia carried out penal policy in accordance with regulations of the Provisional Government and the instruction of the judicial administration. On the consolidated list of field court judgments, charges had been written as “desertion” or with a reference to a regulation, e.g, section 19-9, also a charge of desertion according to the regulation of 25 March [1919] of the Provisional Government. The instructions and regulations following the Provisional Government regulation of the 5 December 1918 offered more accurate definitions, leaving less room for interpretation. One of the most significant amendments of the law was the new definition of desertion – from 29 December 1918, deserters were all soldiers leaving their units without the commander's permission. In the Russian military law, deserters were the soldiers who had been away from their units without a permission for at least three days. As Estonian soldiers had become used to leaving their units in the Russian army without permission for a couple of days, it is possible that they continued with this habit in the Estonian Army. A lot

more important amendment to the old Russian laws was the instruction for field courts of the 10 January 1919, providing the hearing of the case even when the need for a more detailed investigation became apparent. No doubt, it was going away from the principles which defined the field of activities for field courts in the Russian law. On the other hand, it was not always possible to follow the Russian military law in the work of the field courts. Namely, according to the Russian law, only officers with the minimum of four years experience would qualify as field court judges. Due to a shortage of career officers in the Republic of Estonia, observing this law would have been impossible. The activity of the field courts as well as of the Cheka very much depended on the local circumstances and the personalities of individual judges.

The main difference between the field courts martial and the Chekas as extraordinary *ad hoc* courts was that when the field courts had to follow the former Russian military laws, then the only basis of the activities of the Chekas was the decree legitimating the Red Terror. In the Republic of Estonia, the society was gradually moving toward more specified responsibilities of extraordinary courts.

Insufficient competence of judges or the lack of books of Russian law help us to understand *why* the administration of justice in field courts may have been faulty. The comparative analyses of the activity of single field courts questions the existence of a uniformly implemented penal policy in the Republic of Estonia. Penal policies of both opposing sides are similar in the sense that in field courts as well as in the Cheka, more severe punishments fell more often on the political adversaries. Nearly one third of all the persons sentenced to death by Estonian field courts, received capital punishment after being charged with participation in one of the two largest riots or in their organization. The rioters of Saaremaa were conscripts who performed armed resistance to the representatives of state power during martial law. In the case of the mutiny in Tartu Reserve Battalion, the servicemen who were under training, were executed.

The chekists became infamous with their executions in Tartu, Rakvere and Valga where the number of servicemen among the victims was very small. In general, more severe punishments fell on civilians on both sides ca 60% of the persons sentenced to death in field courts were civilians.

The research shows that the Bolsheviks sent the servicemen who had fallen into their hands, to serve in the Red Army due to its shortage of soldiers. This explains why in half of the cases the backgrounds of suspects were hardly studied. Another larger difference was in the approach of the two institutions to preliminary investigation – when in field courts there were shortcomings in the investigations prior to decision-making, then the Cheka hardly ever bothered with preliminary investigations.

It is hard to evaluate unambiguously the impact of the field court decisions on servicemen, separately from the whole society but also various control mechanisms and mechanisms for ensuring internal order. We should not rule out the option that the general public's awareness of the penal policy of the field courts was rather scarce. We can claim that the penal policy implemented in the field courts of the Republic of Estonia had two aims – to strengthen military discipline and to hinder the activities of the Bolsheviks and to limit the spreading of Bolshevik ideas among the Estonian soldiers. In order to establish its authority and order, both courses of action were crucial to a young republic. The Russian military laws which formed the basis for the operations of the field courts, were observed to a smaller or larger degree, according to the circumstances. The penal policy of the Cheka aimed at punishing civilian as well as military 'class enemies'. In the Estonian War of Independence, the main victims of the penal policy of the Cheka were the men who had served in the Estonian Army and the Defence League. The former Russian military laws were never observed by the chekists.

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