

POLITICAL CRIMES PHENOMENA: COURTS' PRACTICE OF ESPIONAGE CRIMES IN LITHUANIA 1919–1940

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Introduction

After Lithuania regained its independence on 16 February in 1918, the establishment of its law began with the first Provisional Constitutional Act on 2 November 1918. It declared, that legal acts adopted before World War I for a time remained in force in Lithuania, as long as they did not contradict the Constitution. In the beginning of 1919 the 1903 Criminal Code of the Russian Empire was adopted in Lithuania; later on it was referred to as the Penal Statute of Lithuania.

In the First Republic of Lithuania the term of political crimes was not widespread in legal regulation¹, but this type of crimes, based on the aforementioned Penal Statute were called state crimes or pointed against state security. These crimes in the interwar period were divided into three groups: rebellion, high treason and subversion. In this article it will be mostly concentrated on the high treason subgroup – espionage.

In the interstate relationships, especially in military operations, it was always needed for reliable information on the neighboring countries, potential enemies of the state. Lithuania was not an exception, its geopolitical situation between the three big neighbors: Germany, Soviet Union and Poland determined their intelligence activity in the country. There were 3 ways to combat espionage: first, to strengthen the counter intelligence, second, to pursue the prevention of espionage by educating military and society, and third – the legal way – punishing spies in the courts. In this article it will be concentrated on the third way – the judicial one.

Espionage crimes in the First Republic of Lithuania until now were mostly researched in the context of intelligence service activities by Arvydas Anušauskas² and Tomasz Gajownik³, also German agents in Lithuania were analyzed by Ingrida Jakubavičienė⁴. Espionage crimes in the legal sphere of interwar Lithuania were mentioned in Andrejus

¹ An attempt to define political crimes in interwar period in Czech lands see ŠOUŠA, Jiří. Amnestie politických deliktů v době 1. Československé republiky [Amnesty of Political Delicts in the time of the 1. Czechoslovak Republic]. In: *Paginae Historiae*, 24/2. Národní archiv: Prague, 2016, p. 43–56.

² ANUŠAUSKAS, Arvydas. *Lietuvos žvalgyba 1918–1940* [Lithuanian Intelligence Services in 1918–1940]. Vilnius: Versus aureus, 2014.

³ GAJOWNIK, Tomasz. *Tajny front niewypowiedzianej wojny: działalność polskiego wywiadu wojskowego na Litwie w latach 1921–1939* [Secret Front, Undeclared War: Polish Military Intelligence Activities in Lithuania in the years 1921–1939]. Warszawa: Instytut Pamięci Narodowej, 2010.

⁴ JAKUBAVIČIENĖ, Ingrida. Soldaten der unsichtbaren Front Deutsche im Visier der litauischen Geheimdienste 1919–1940 [Soldiers of the invisible front Germans secretly investigated by Lithuanian intelligence service in 1919–1940]. In: *Annaberger Annalen*, 2015, Vol. 23, p. 148–173.

Stoliarovas monography⁵, Modestas Kuodys⁶ dissertation and Tadas Valančius⁷ article. However, full research of espionage as a political crime in the penal law context was not fulfilled. Therefore the main object of this publication will be espionage crimes in Lithuania in 1919–1940 and it will be analyzed for the first time in the context of all three courts practices that were examining espionage against Lithuania's state.

In this research, as the primary historical sources of law, the normative legal acts are analyzed, which are dealing with or directly defining espionage crimes and punishment for them in Lithuania 1919–1940. That is the Penal Statute of Lithuania and its amendments and replacements, the Special State Protection Articles, etc. The main sources of this article are stored in the Lithuanian Central State Archive, more than 500 archival files have been analyzed from the Fund of the Army court (f. 507) and its prosecutor's office (f. 483), the Chamber of Appeal (f. 932) and other funds of this archive, where espionage cases of court-martials are stored.

I. General typology of political crimes in the Interwar Lithuania

As it was before mentioned, political crimes in the interwar period Lithuania were divided into three groups: rebellion, high treason and subversion.

At the beginning of statehood the part of the Penal Statute where the crime of rebellion was described was eliminated, but in 1919 this crime was restored to the Special State Protection Articles⁸ that were operating under martial law and later also added to the Penal statute. The crime of **rebellion** in Lithuania was referred to by a narrow term – armed revolt. It was applied to: armed revolt which sought to extinguish Lithuania's independence; remove part of its territory; maintain relations with countries which were working to compromise Lithuania's sovereignty; overthrowing the constitutional order and government⁹. Arrangements to accomplish the crime were also punished. This rebellion law addition to Penal statute allowed punishment for this crime not only under the martial law but also in the peace time, for which the criminal was sentenced to a hard labor prison or suffered the death penalty. Based on States department documents, in 1919–1939 there were organized not less than 17 rebellions in Lithuania's territory¹⁰. Between the two world wars, political crimes law list continued to expand, not only by modifying old ones, but also by adopting the new ones. Rebellion and other political crimes were also described in the 1929 law – Organizations that were established in the occupied Lithuania or in for-

⁵ STOLIAROVAS, Andriejus. *Lietuvos Respublikos karinė justicija 1919–1940 m.* [Military Justice of the Republic of Lithuania in 1919–1940]. Vilnius: Lietuvos Respublikos krašto apsaugos ministerija, 2014.

⁶ KUODYS, Modestas. *Karo padėties režimas Lietuvos Respublikoje 1919–1940 m.* [Regime of martial law in Republic of Lithuania in 1919–1940], Doctoral dissertation, Kaunas: Vytauto didžiojo universitetas, 2009.

⁷ VALANČIUS, Tadas. *Gyvenimas šalyje, tapusioje dviejų gruobuonių taikiniu: spalvingi netyrinėtų bylų puslapiai* [Living in a country that has become a target of two predators: colorful pages of unexplored files]. Available online under: <https://www.delfi.lt/news/daily/lithuania/gyvenimas-salyje-tapusioje-dvieju-gruobuoniu-taikiniu-spalvingi-netyrintetu-bylu-puslapiai.d?id=74453934> [accessed on 21 09 2017].

⁸ Ypatingi valstybės apsaugos įstatai [Special State Protection Articles]. In: *Laikinosios vyriausybės žinios* [Temporary governmental news], 05 03 1919, nr. 4/42; *Ibid.*, 04 04 1919, No. 5/55.

⁹ Baudžiamojo Statuto papildymas ir pakeitimas [Penal statute addition and replacement]. In: *Laikinosios vyriausybės žinios* [Temporary governmental news], 1920 03 04, No. 20/243.

¹⁰ POVILAITIS, Augustinas. *Neramios dienos: sukilimai Lietuvoje nuo nepriklausomybės atgavimo iki šių metų sausio mėn. 1 dienos* [Restless days: revolts in Lithuania since the restoration of independence to the 1st day of January this year]. Kaunas: Atmintis, 1996, p. 6.

eign countries, participants and their assistants to punish and 1934 For Nation and State to protect law.

The political crime **subversion** regarded threatening or damaging the state's peace and safety, and was divided into 3 subgroups: sedition, forbidden (criminal) alliances; rout. Sedition was defined as a provocation to commit a crime and therefore to damage the peace and security of the state; forbidden alliances – were a few people organization, which ran for a longer period of time with an aim to damage state order; rout – the unlawful assembly, unorganized crowd which resisted the authorities and was breaking the law¹¹. Particular crimes of these subgroups were discussed in Penal Statute fifth chapter, articles 120–137, which were not changed substantially during the First Republic of Lithuania period. Usually for this kind of crimes communists, some pro-Nazi agitators or government's opposition were punished.

The last group of political crimes was – **high treason**. In general, it is considered as a criminal disloyalty to one's government. In the ancient times, the analyzed crimes were associated only with loyalty to one's own state, but in modern Europe's criminal law high treason began to be associated with subjects who could have been either a citizen, or a foreigner who was just present in the state at the time of the offence¹².

In Lithuania high treason was described as criminal offence whereby one attempts to damage the state's independence. These offences were subdivided into 4 subgroups: military treason; espionage; diplomatic treason; and treason in the army supply field. These political crimes were most fully elaborated in the Penal Statute articles 108–119, as well as in the Special State Protection Articles that were operating under martial law.

II. Legal definition of espionage

In 1903 Penal Statute, espionage was defined quiet narrowly; only after the addition of 1912 novel all espionage related criminal activity was a bit specified. Military espionage was described in the 14th article 5th clause of **Special State Protection Articles** which operated under martial law, where the punishment was death penalty, as well as in **Penal Statute** 108th article 3d part 6th clause – if the state's enemy was helped by spying for it, the punishment was death. The latter defined its subject only as its own state citizens, in the context of Europe between the two world wars; it could be regarded as outdated. Other articles from 111th to 113th of Penal statute, does not limit espionage subject so narrowly.

In the 111 article has been stated that a crime is committed if a foreign state government or agent was helped by gathering information of Lithuania's external security, its armed forces and defensive equipment. For this criminal was sentenced to a hard labor prison, the attempt was also punishable.

The cases, where crime degree was magnified were discussed in 1912 replacement of 111st article. It was stated, that someone who informed foreign state without a permission about: 1) secret information of goods related to Lithuania's external security, its armed forces or buildings, for land defense affairs; 2) plan, scheme, drawing or any other representation or description of a fortification, warship and other facilities for the land

¹¹ STANKEVIČIUS, Vladas. *Baudžiamoji teisė: paskaitos* [Criminal law: lectures]. Kaunas: Lietuvos universiteto teisių fakultetas, 1925, p. 233–239.

¹² *Ibid.*, p. 229.

defense or a document about mobilization or any other orders of military affairs, he shall be punished for the first part of mentioned article not less than 8 years of hard labor prison, for the second part –hard labor prison temporarily¹³. A person who has learned the secrets of the state through its service were punished more harshly (Penal statute article 111³).

Extraordinary cases of espionage were: 1. Production without a permission of national defensive plan of military locations, its drawings or other descriptions (Penal statute 112 article); 2. False infiltration into before mentioned locations; 3. Flying an aircraft in the forbidden areas (Penal statute 113¹ article); 4. Having a post pigeons or wireless telegraph for espionage purposes (Penal statute 112¹ str)¹⁴. These crimes were punished from ordinary to hard labor prison sentence.

Espionage crimes were also described in the **Military penal code**, which was also adopted from imperial Russian laws. This statute regulations were applied for soldiers for discipline and overstepping the Army order, for general and special crimes of military service, and for other military officers, and sometimes for civilians and residents of military occupied enemy territory; they were also applied to crimes that were committed in the areas where martial law was declared¹⁵. One 271st article in the military penal code was intended for prisoners of war and for spies¹⁶. Espionage in military courts did not get its own separate article; it was generally interpreted as a high treason and was described in 243, 244, 264 articles for military officers and in 268, 269, 271 articles for civilians. Because of that, most of the statistical data found in the archive is counted as one – high treason data.

The High tribunal concept of espionage specified in 1933: “Espionage, generally understood as a transfer of a war secrets to a foreign country or rendering information about these secrets, which have to be kept in secrecy from foreign countries because of military defense and external state’s security consideration. Espionage is lawfully persecuted in war as well as in peace time. The concept of espionage is broad. Treason in espionage is more dangerous to a state; therefore the law punishes this crime in its various manifestations, even those activities that have not yet made any perceptible harm yet”¹⁷.

All in all, the High tribunal, like all articles of law, described espionage only as military espionage. In Lithuania, there was no political or economic espionage, therefore the concept of military espionage was narrow and outdated. Naturally, this was the result of the 1903 Russian Empire’s penal code; but also espionage crimes did not get a separate,

¹³ 111¹ article. In: *Baudžiamasis statutas su papildomaisiais baudžiamaisiais įstatymais ir komentarais, sudarytais iš Rusijos Senato ir Lietuvos Vyriausiojo Tribunolo sprendimų bei kitų aiškinimų* [Penal statute with additional legislation and comments, made from Senate of Russia and Lithuanian High Tribunal verdicts and other interpretation] / Editors M. Kavolis M., S. Bieliackinas. Kaunas: D. Gutmano knygnas, 1934, p. 129.

¹⁴ JAKOBAS, A. Baudžiamosios teisės vadovėlis [Criminal law textbook]. In: *Vadovėlis policijai* [Textbook for police]. Kaunas: V.R.M. Piliečių apsaugos departamentas, 1926, p. 29.

¹⁵ STOLIAROVAS, Andriejus. *Lietuvos Respublikos karinė justicija 1919–1940 m.* [Military Justice of the Republic of Lithuania in 1919–1940]. Vilnius: Lietuvos Respublikos krašto apsaugos ministerija, 2014, p. 130.

¹⁶ 271 article. In: *Karo baudžiamasis statutas* [Military penal code]. Composed by J. Papečkys. Kaunas: Karo mokslo skyrius, 1922, p. 79.

¹⁷ A. Kiškio, P. Dirmos ir P. Maciulevičiaus baudžiamosios bylos kasacijos svarstymas Vyriausiąjame Tribunole [Criminal case cassation hearing of A. Kiškis, P. Dirma and P. Maciulevičius in High Tribunal] 05 12 1933. *Vyriausiojo Tribunolo baudžiamųjų kasacinių bylų sprendimai, pradėdant 1933 m. rugsėjo mėn. 15 d.* [Decisions of the High Tribunal of criminal cases startic with 15 09 1933]. Kaunas: Vyriausiasis Tribunalas, 1938, p. 45.

corrected and renewed law, also new Penal code was not created during the period of 1919–1940.

III. Cases of Espionage Crimes in Lithuania's Courts

For a better understanding of Lithuania's justice system it should be explained that during the period of 1919–1940 in Lithuania both general courts (civilian) and military courts operated. For general courts there were three level system established. Until the courts reform of 1933, courts of peace formed the lowest level of the judicial system, regional courts formed the second level and the High (or Supreme) Tribunal of Lithuania was the supreme judicial instance. In 1933 the new Law on the Judiciary was passed which established a new four level system of general courts: district courts, regional courts, the Chamber of Appeal and the High Tribunal of Lithuania.

Military justice permanent institutions were the Army (Military) Court, the Regiment Court, the Military Court of Honour and as a temporary institution – the (Field) Court-Martials. In the context of political crimes it is important to remember only the Army Court and the Court-Martials.

High treason crimes (including espionage) were judged until 1933 in the first instance in the Army Court and Court-Martials, and after the reform in Chamber of Appeal as well. High Tribunal was appeal instance for political cases until 1928, and after it was also a cassation instance for Army court until the reform¹⁸. From 1933 the appeal instance became Chamber of Appeal and High Tribunal had only a cassation function for political crime cases.

1. Espionage crimes in the Chamber of Appeal

As was said before, in 1933 a new court in Lithuania was established – the Chamber of Appeal. In the new Law on the Judiciary 19th article it was said: “Chamber of Appeal is a court for criminal cases of crimes, committed in state's territory or abroad against state's security.”¹⁹ So Chamber of Appeal became the first instance for all the cases previously mentioned, including espionage. However, most of the cases of espionage remained in the Army court competence, because of Special State Protection Articles that were operating under the martial law. It should be mentioned, that different regimes of martial law were operating in Lithuania almost until the occupation in 1940.

After analyzing the remaining Chamber of Appeal archival files it can be said that in the interwar period this court examined only 4 espionage cases, and all of them were heard in the first half of 1939. It could be explained by the fact, that on November 1 of 1938, after the pressure from Germany to abolish martial-law in Klaipėda (*Memel*) region, martial-law was abolished in whole Lithuania. Because of that Special State Protection Articles expired and some cases of espionage were transferred from the Army court to the Chamber of Appeal.

¹⁸ STOLIAROVAS, Andriejus. *Lietuvos Respublikos karinė justicija 1919–1940 m.* [Military Justice of the Republic of Lithuania in 1919–1940]. Vilnius: Lietuvos Respublikos krašto apsaugos ministerija, 2014, p. 62.

¹⁹ Teismų santvarkos įstatymas [The law on the judicial system]. In: *Vyriausybės žinios* [Governmental news], 1933, No. 419/2900.

One case was about Alfred Paul Hecht, who was convicted of espionage for Germany. He was conscripted by Nazi Germany Gestapo in Germany, where he fled after the unrest created in Klaipėda in 1938. He had to provide information about Lithuania's military, The Lithuanian Riflemen's Union and Lithuanian security police activities against Germans²⁰. A. P. Hecht because of his young age, 17, should have been sent to disciplinary educational institution. But the punishment was changed to 2 years of probation²¹. The other 3 cases were about spying for Poland. All of them were based on spying of Army secrets, important for external state's security. For example, Mykolas Šilanskis case²², who was spying of Lithuanian army anti-aircraft protection unit composition, as well as preparation for mobilization and political mood of residents at the time of the ultimatum of Poland²³ and Lithuania's opinion on the events in Czechoslovakia²⁴. He also took pictures of Lithuanian railway, part of Kaunas fortress, roads and send it to the Polish agent via post. In another case there were caught two men who were recruiting spies for Poland and giving information to Polish intelligence about artillery regiment of Lithuanian army²⁵. The last case was about observing the Radviliškis garrison (North Lithuania), and trying to get information about the composition of officers and quantity of locomotives and wagonloads of railway military company²⁶. Because martial law was already banished, the punishments for Polish spies were quite soft. From 4 years of hard labor to 3 years excluding 1 year and 2 months imprisonment until the trial.

Softer punishments because of the martial-law abolition also affected the military leadership, who were complaining that because of the martial-law abolition they cannot adequately punish spies and others who work against the state. It changed in 1939, when the Penal statute was adjusted and "the state of emergency" law was adopted, which stated, that minister of internal affairs and minister of national defense could agree on transferring someone who is incriminated of working against the state to prosecute to military courts²⁷.

2. Army court

In order to talk about espionage crimes in court practice it is relevant to note that in the interwar Lithuania's criminal law practice it was important to evaluate damage of spying

²⁰ VALANČIUS, Tadas. *Gyvenimas šalyje, tapusioje dviejų gruobuonių taikiniu: spalvingi netyrinėtų bylų puslapiai* [Living in a country that has become a target of two predators: colorful pages of unexplored files]. Available online under: <https://www.delfi.lt/news/daily/lithuania/gyvenimas-salyje-tapusioje-dvieju-gruobuoniu-taikiniu-spalvingi-netyrinetu-byly-puslapiai.d?id=74453934> [accessed on 21 09 2017].

²¹ Apeliacinių rūmų nuosprendis Alfredui Pauliui Hechtui [Chamber of Appeal verdict for Alfred Paul Hecht] 26 01 1939. Lietuvos centrinis valstybės archyvas [Lithuanian central state archive – later on LCVA], fund 932, inventory 1, file 243, page 46.

²² Apeliacinių rūmų nuosprendis Mykolui Šilanskiui [Chamber of Appeal verdict for Mykolas Šilanskis], 11 02 1939. LCVA, f. 932, inv. 1, f. 278, p. 34–35.

²³ It was delivered to Lithuania in March 17 of 1938, demanding to agree to establish diplomatic relations with Warsaw. The Lithuanian government had no diplomatic relations with Poland since 1920, because of annexation of the Vilnius region.

²⁴ It means the Munich Agreement in 1938 September permitting Nazi Germany annexation of parts of Czechoslovakia's later called Sudetenland.

²⁵ Apeliacinių rūmų nuosprendis Jonui Vyšniauskui ir Boleslovui Jankauskui [Chamber of Appeal verdict for Jonas Vyšniauskas and Boleslovas Jankauskas], 23 01 1940. LCVA, f. 932, inv. 1, f. 318, p. 184–185.

²⁶ 5 men were incriminated in the espionage, but only two were convicted. Apeliacinių rūmų nuosprendis Jonui Rakauskui ir Jonui Ambrazui [Chamber of Appeal verdict for Jonas Rakauskas ir Jonas Ambrazas], 22 05 1939. LCVA, f. 932, inv. 1, f. 288, p. 220–223.

²⁷ *Karo padėties režimas Lietuvos Respublikoje 1919–1940 m.* [Regime of martial law in Republic of Lithuania in 1919–1940], Doctoral dissertation, Kaunas: Vytauto didžiojo universitetas, 2009, p. 229.

to national security. In espionage cases pre-trial interrogation had to be a document from General headquarters of the Army, where the significance to external state security of the criminal activity was assessed. This evaluation determined if the offence constituted security of state secrecy and what kind of qualification of the crime has to be written into accusation. At the same time it determined the size of the punishment. However, as the High Tribunal explained in 1933, the real harm to the state did not matter; in reality all cases of espionage were harmful for the state in general²⁸.

It has to be mentioned however in some cases there was no possibility to determine if the crime is military espionage, or in general military treason. So after the research of almost 500 archival files of Army court it could be said that the biggest part of spies were working for Poland. The highest number of spies were convicted in 1933–13, also 23 people were discharged and for two High Tribunal after finding mistakes in the process of Army court decided to send the case to Army court to reconsider from the beginning. However in 1934, in the mentioned case Pranas Dirma was convicted of 2 years in hard labor prison and Pranas Maciulevičius was discharged²⁹. Another high point of convictions for espionage for Poland was 1938. Just before the ultimatum there was a large trial of Vytautas Giakas and others, who created a network of spies. V. Giakas was sentenced to death, but then the cassation was sent to High Tribunal, it decided to send back the case to Army court to reconsider but the punishment remained – death penalty³⁰. The president granted his mercy and changed the punishment to life in hard labor prison. It could be understood, that this decision was based on political reasons – after the ultimatum Lithuania did not wanted to sharpen the diplomatic relations even more. Also, in the second half of 1930s there were no executions for espionage crimes in general.

When talking about German spies it should be said that there are two periods of espionage cases in Lithuania. First one, would be related to Lithuanian wars of Independence³¹, were Bermont's army spies who were sent to trials in 1920–1921. In 1920 two were convicted and 2 were discharged, one person was discharged in 1921. Cases of Nazi Germany spies got to Army court trials in 1936. Just after the 1934–1935 first Nazi trial in Europe³². In 1936–1940 (with the exception of 1939 where no German spy cases were found) there were 14 individuals were condemned, 2 were found to be not guilty and were acquitted. The punishment varied from 1 year in an ordinary prison to 15 years of hard labor prison. Most of the spies were Germans, but had Lithuanian citizenship and most of them lived in

²⁸ A. Kiškio, P. Dirmos ir P. Maciulevičiaus baudžiamosios bylos kasacijos svarstymas Vyriausiajame Tribunalo [Criminal case cassation hearing of A. Kiškis, P. Dirma and P. Maciulevičius in High Tribunal] 05 12 1933. *Vyriausiojo Tribunalo baudžiamųjų kasacinių bylų sprendimai, pradėdant 1933 m. rugsėjo mėn. 15 d.* [Decisions of the High Tribunal of criminal cases startic with 15 09 1933]. Kaunas: Vyriausiasis Tribunalas, 1938, p. 45.

²⁹ Kariuomenės teismo nuosprendis Pranui Dirmai ir Pranui Maciulevičiui [Army court verdict for Pranas Dirma and Pranas Maciulevičius] 02 11 1934. LCVA, f. 507, inv. 2, f. 56, p. 71.

³⁰ Kariuomenės teismo nuosprendis Vytautui Giakui ir kitiems [Army court verdict for Vytautas Giakas and others] 22 07 1938. LCVA, f. 483, inv. 3, f. 107, p. 89.

³¹ Lithuanian Wars of Independence refers to three wars Lithuania fought defending its independence at the end of World War I: with Bolshevik forces (December 1918 – August 1919), Bermontians (June 1919 – December 1919), and Poland (August 1920 – November 1920).

³² It is known as Neumann – Sass case, where in total 126 persons were charged with wide range of different crimes from murder to armed revolt. Four individuals were sentenced to death, but the verdict was commuted to life imprisonment in hard labor. JENKIS, Helmut. Der Neumann – Sass – Kriegsgerichtsprozess in Kaunas 1934/1935 Aus deutscher Sicht [The Neumann – Sass Army court trial in Kaunas 1934/1935 from the German perspective]. In: *Annanberger Annalen*, Vol. 17, 2009, p. 53.

Kaunas, a few in Klaipėda region and one was from Germany, the other one Hans – Edgar Russ was from Czechoslovakia, Sudetenland and worked as a journalist by profession³³.

Cases of spying for Soviet Union in Army court were not found. It could be guessed that because of maintaining diplomatic relations, communist underground followers that could be incriminated of espionage were prosecuted of subversion crimes – such as agitation and sedition, others exchanged as political prisoners. Also, the archives during the Soviet occupation could have been cleared by the acting agents' cases.

3. Decisions of Court-Martials

3.1 Harsh punishments for spies in court-martials

Another part of espionage crimes, on the grounds of court-martial statutes were in their competence. In the 9th clause of 12th article it was said, that soldiers that are caught red-handed will be judged by military penal code articles 243, 273³ and 273⁴.³⁴ Civilians were judged under the Penal statute 108 article (10th article).

In extraordinary – court-martials process was different than in the Army court. The defendant here did not have a defender, and sentence was final and could not be appealed, but it had to be confirmed by the chief who constituted the court, if he did not confirm then – Chief of Defense or the Minister of Defense. The sentence could be annulled or approved or the punishment reduced. If the sentence was annulled, the case could go to the Army court, if the punishment was approved a presidential pardon could be requested.³⁵ As the research shows, cases, when the sentence was annulled were very rare. The punishment for espionage in the court-martials was substantial, starting with hard labor prison to capital punishment.

From the remaining archival files, it could be concluded, that espionage cases were found only in every year from 1919 to 1929 and one case in 1938.

Consequently, in the analysis of court-martials cases, 74 unique individuals were found who were accused of espionage or helping enemy in war, which was considered as a high treason. As was mentioned before, espionage crimes were closely linked to military treason. Often in court-martial practice these two subgroups of political crimes and also some specific crime qualification were mixed up, sometimes accusations were proposed for espionage crime, but in court process it was proved as military treason, or the opposite. It was probably because judges did not have enough practice, were not educated enough, or there was a lack of legal literature. During the Lithuanian wars of Independence, in some body of troops there was a lack of Penal statute or Military penal code books.

The research shows that 4 persons were accused of spying for USSR, two of them were punished by capital punishment (Petras Meilus in 1919³⁶ and retired general of Lithuania's army Konstantinas Kleščinskis in 1927), both of executions were carried out. For

³³ Kariuomenės teismo nuosprendis Hansui – Edgarui Russui [Army court verdict for Hans – Edgar Russ] 06 12 1938. LCVA, f.507, inv.2, f. 219, p. 28.

³⁴ Karo lauko teismo įstatai In: *Karo baudžiamasis statutas* [Military penal code]. Composed by J. Papečkys. Kaunas: Karo mokslo skyrius, 1922, p. 116–118.

³⁵ ČERNEVIČIUTĖ, Sigita; KAUBRYŠ, Saulius. *Kartuvių kilpa, kulka ir dujų kamera: mirties bausmė Lietuvoje 1918–1940 m.* [The gallows' loop, the bullet and the gas chamber: The Death Penalty in Lithuania 1918–1940: the monograph]. Vilnius: Gimtasis žodis, 2014, p. 91.

³⁶ Karo lauko teismo nuosprendis Petruil Meilui [Field Court-martial verdict for Petras Meilus] 05 07 1919. LCVA, f. 483, inv. 3, f. 528, p. 8.

2 individuals in 1919 the case was opened, but it never got to the court. It may be assumed that they were exchanged as political prisoners between Lithuania and USSR.

70 people were accused of spying for Poland or military treason, which was described in 108th article of Penal Statute. One of the clauses where describing espionage, others – military treason. So there was not always known if it was a pure espionage or it was help for Poland in a war, for example an individual retreated from a body of troops or joined enemy's army. It is important to remember, that in Lithuania's criminal law concept of espionage and military treason were very close, and so in this research calculations it was counted as one.

From 70 individuals there were discharged 26, but 2 of them were sentenced for other crimes. It shows courts false qualifications of the crimes. Also, one individual committed suicide while waiting for the trial.

43 people were convicted of espionage for Poland or helping for Poland in a war. From them 28 individuals were sentenced to death, for 7 of them punishment was softened for extenuating circumstances and young age. For 14 convicts capital punishment was exchanged by president's mercy to life in hard labor prison or lesser punishment, 8 individuals were executed. It could be said, that capital punishment was used as a deterrent for future crimes.

In 1919–1929 court-martial capital punishment sentences for espionage were carried out for not less than for 10 individuals altogether. In comparison in Army court was executed only 2.

It is interesting to note that although not all the information about defendants nationalities and citizenship (only just about half of them) is known, but the biggest part of them were Lithuanians and Lithuanian citizens, and just a few cases of Poles, Ukrainians, Belarusians who had Lithuanian citizenship and only two exclusive cases: two individuals had Russian citizenship, one Romanian and Polish citizenships as well as its nationalities. So in conclusion, it could be said that interwar Poland's intelligence was usually using conscripted Lithuanians to gather the information.

3.2 Two death penalties: a soviet and a polish spy

For the end of this article it was left two court-martial cases to discuss – a Soviet spy, retired general Konstantinas Kleščinskis and Polish spy Aleksandras Greško, as the examples for different motivations of spying: money and blackmail versus ideological one.

K. Kleščinskis was a retired Lithuanian army general, his child and aunt were living in the grips of poverty in Soviet Russia, so he tried to get a permit to move them back to Lithuania. The Soviet Union's agency offered to supply information about political parties in exchange for help with moving his aunt and son to Lithuania, and also promised to pay 500 litas,³⁷ which, given the conditions of the Interwar period, was quite a big amount of money.

This scheme of blackmail worked and K. Kleščinskis decided in order to save his son to work for soviets and became an agent Ivanov 12. K. Kleščinskis was arrested at his home, where a Soviet Union diplomat was also found;³⁸ he was not arrested, but sent back

³⁷ Karo teismo nuosprendis Konstantinui Kleščinskiui. [Court-martial verdict for Konstantinas Kleščinskis] 31 05 1927. LCVA, f. 483, inv. 3, f. 526, p. 18.

³⁸ BUDRYŠ, Jonas. *Kontržvalgyba Lietuvoje: atsiminimai* [Counter – Intelligence in Lithuania: memoirs]. Vilnius: Žaltvykslė, 1991, p. 140.

to Soviet Union because of the fear for revenge of Lithuania's diplomats in Moscow³⁹. As it was mentioned before in 1927 K. Kleščinskas was sentenced to death and executed by firing squad.

An example of an ideological spy could be given by Aleksandras Greško case. On 17th of June in 1921, eighteen year old A. Greško was accused of espionage in favor of Poland. The defendant was found guilty because he, being a voluntary soldier in Lithuania's army fled and joined enemy's (Poland) army⁴⁰. The crime was qualified as 137th and 243d articles of Military penal code, which was practically military treason. Greško was sentenced to death, but because of his young age President Aleksandras Stulginskis pardoned him and changed punishment into hard labor prison for life⁴¹. On 1922 Amnesty bases the punishment was changed to 10 years of ordinary prison. Later on Greško asked many times for the pardon of the president or change the punishment to reduced sentence from Army court, but he was granted a full clemency only in February of 1927. After 6 years in prison he was free and went straight to occupied Vilnius, where he joined the "Border protection corps" (in polish *Korpus ochrony pogranicznej* (KOP))⁴². At the time KOP movement in Lithuania was becoming very active, in the end of 1927 KOP intelligence activity in Lithuania was even more intensified and was quiet successful. In a short time KOP collected information about Lithuanian military forces, police activity, commandants and even weaponry⁴³.

In July of 1927 A. Greško was arrested in the 5th infantry regiment district of Lithuania for suspected espionage. He confessed to the crime, said that he was sent from Vilnius and expected to get from 5th regiment clerk crew warrant-officer Kazimieras Karpavičius orders of Army and information, also he brought a letter of polish spy Vladas Monkevičius to another spy Stasys Rekštys, who was already serving time in Kaunas hard labor prison.

The case was built against 4 individuals, who created a spy network: Aleksandras Greško, Leokadija Przyjemskaitė, Barbora Radavičienė and Jonas Frizas. On the 12th of August in 1927 court-martial trial was examining the case, where aforementioned individuals were accused of "while working together, being citizens of Lithuania, in martial-law since the beginning of 1927 to this same year June, serving in the "Border protection corps" collected and provided to Lithuania's enemy's Poland secrete information about Lithuania's Army."⁴⁴ Court discharged Barbora Radatavičienė and Jonas Frizas, Leokadija

³⁹ ANUŠAUSKAS, Arvydas. *Lietuvos žvalgyba 1918–1940* [Lithuanian Intelligence Services in 1918–1940]. Vilnius: Versus aureus, 2014, p. 136.

⁴⁰ Karo lauko teismo nuosprendis Aleksandrui Greško [Field Court-martial verdict for Aleksandras Greško] 17 06 1921. LCVA, f. 483, inv. 7, f. 21, p. 149.

⁴¹ Baasmės dovanojimo aktas Aleksandrui Greško [The act of pardon for Aleksandras Greško] 02 02 1927. LCVA, f. 483, inv. 7, f. 21, p. 182.

⁴² The Border Protection Corps was a Polish military formation that was created in 1924 to defend the country's eastern borders. One of their tasks was intelligence and counter-intelligence organization. They collected security information of foreign countries borders to prepare their agents to safely redeploy and contact an enemy. GAJOWNIK, Tomasz. *Tajny front niewypowiedzianej wojny: działalność polskiego wywiadu wojskowego na Litwie w latach 1921–1939* [Secret Front, Undeclared War: Polish Military Intelligence Activities in Lithuania in the years 1921–1939]. Warszawa: Instytut Pamięci Narodowej, 2010, p. 76.

⁴³ GAJOWNIK, Tomasz. *Tajny front niewypowiedzianej wojny: działalność polskiego wywiadu wojskowego na Litwie w latach 1921–1939* [Secret Front, Undeclared War: Polish Military Intelligence Activities in Lithuania in the years 1921–1939]. Warszawa: Instytut Pamięci Narodowej, 2010, p. 83–84.

⁴⁴ Karo teismo nuosprendis Aleksandrui Greško [Court-martial verdict for Aleksandras Greško] 12 08 1927. LCVA, f. 483, inv. 3, f. 540, p. 146.

Przyjemskaite was sentenced to hard labor prison for 4 years, while Aleksandras Greško the second time in his life was sentenced to death. This time the president did not grant him mercy. Military police chaplain Adolfo Sabaliauskas who took part in the carrying out of a sentence of death, in his memoirs wrote that A. Greško in the execution place, blindfolded and standing in front of the stake where his hands were tight shouted: “Niech żyje Polska” (Long live Poland)⁴⁵. That is how tragically the life of ideological spy ended.

Instead of conclusions

Political crimes in the Interwar period Lithuania were divided into three groups: rebellion, subversion and high treason, which was subdivided into military treason, espionage, diplomatic treason and treason in army supply field. All these political crimes were explained in The Penal Statute chapter – State crimes as well as in the Special State Protection Articles that were operating under martial law, which in different regimes were operating in Lithuania almost until the occupation in 1940. Espionage in Lithuania’s criminal law was explained quite narrowly and understood only as a military espionage. Political or economic espionage in Lithuania’s criminal law was not described; therefore military espionage concept was narrow and outdated. However, it did not stop the fight against espionage crimes, state traitors and enemy’s agents were punished for spying on Lithuania’s state in Courts.

Espionage crimes were judged until 1933 reform in the first instance in Army court and Court-Martials, and after in Chamber of Appeal as well. In the Chamber of Appeal only 4 cases of espionage were found, which were judged only in the first half of 1939, because of the martial-law banishment. All of convicts were men, one case of spying for Germany, other three on spying for Poland, but all gathering information on Lithuania’s military. They were punished rather soft – from 2 years of probation to 4 years of hard labor prison.

In the Army court espionage cases it could be seen the same tendency – most of the spies were working for Poland, and highest points of convictions were in 1933 and 1938. German espionage was the most active in the second half of 1930s, there were 14 individuals were condemned altogether. In comparison to Polish spies, none of them were executed and were punished from one year in an ordinary prison to 15 years of hard labor prison. No cases of Soviet Union spies were found in the Army court.

In the Court-Martials espionage cases were found only in every year from 1919 to 1929 and one case in 1938. 74 unique individuals were accused of espionage or helping enemy in war. 4 persons were accused of spying for USSR, two of them were punished by capital punishment and executed in 1919 and 1927. 70 people were accused of spying for Poland or military treason, but convicted only 43. More than a half (28) were sentenced to death, and 8 were executed. In 1919–1929 court-martial capital punishment sentences for espionage were carried out for not less than for 10 individuals altogether. In comparison in Army court was executed only 2. In conclusion, the harshest punishments were in the Court-Martials, but the biggest number of people was condemned in the Army court.

⁴⁵ SABALIAUSKAS, Adolfo. *Juodasis kryžius arba palydėti pasmerktieji* [Black cross or escorted condemned men]. Vilnius: Vilniaus pedagoginio universiteto leidykla, 2006, p. 61.

“Political Crimes Phenomena: Courts’ Practice of Espionage Crimes in Lithuania 1919–1940”

Sigita Černevičiūtė

Summary

The article analyzes espionage crimes in the practice of three courts in Lithuania in 1919–1940. It reveals general typology of political crimes and puts espionage in the high treason group. Mainly espionage crime cases are discussed in the Chamber of Appeal, Army court and Court-martials, showing that the harshest punishments were declared in the latter.