

VII

SIC MUR AD ASTRA

EDITORS
GERGELY GOSZTONYI
IMRE KÉPESSY
DUNJA MILOTIĆ

Collection
of papers
on **Hungarian**
and **Croatian**
legal history 2024

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Eötvös Loránd University / Faculty of Law / Department of the History of Hungarian State and Law / 2024

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Matija MATIĆ: Show Trials in Communist Yugoslavia (1945-1948) – The Staged Trial Against the Archbishop of Zagreb Alojzije Stepinac

University of Zagreb, Faculty of Law

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1. Who was Alojzije Stepinac?

Alojzije Stepinac was born on 8th May 1898 in Brezarić, a village in the parish of Krašić. After primary education, he attended the Archbishop's Oratory, which he left to serve in the Austro-Hungarian army. During World War I, Alojzije Stepinac was on the Italian front, where he was wounded in the leg and was captured by Italian forces who held him as a prisoner of war. After his demobilization, he returned to his homeland and from 1919 studied at the Faculty of Agriculture in Zagreb.

After much deliberation, Stepinac once again chose the priestly path. In 1924, at the age of 26, he enrolled in the Pontifical Gregorian University in Rome to prepare for the priesthood. He earned doctorates in philosophy and theology and was considered a brilliant student. He was ordained a priest in 1930 in Rome and rose rapidly in the church hierarchy. Although Stepinac's great wish was to be a parish priest, Archbishop of Zagreb Antun Bauer brought him to his curia and engaged him as a Master of Ceremonies working in the Archdiocesan Chancellery.

After the death of the Archbishop Bauer in December 1937 he assumed the office of Archbishop of Zagreb. At the age of 38, Stepinac became the youngest archbishop in Roman Catholic history.¹ Of course, the Archdiocese of Zagreb was then

¹ GITMAN, Esther: A question of judgement: Alojzije Stepinac and the Jews, *Review of Croatian History*, No. 1, 2006, pp. 49–50; AKMADŽA, Miroslav: *Stepinac riječju i djelom [Stepinac in his Words and Deeds]*, AGM, Zagreb, 2019, pp. 11–21.

and is still today known as the largest administrative unit of the Catholic Church in Croatia, and the position of its head in Croatia was and still is extremely important.

2. Catholic clergy in World War II

Hitler's invasion in the April War of 1941 led to the collapse of the First Yugoslavia and the establishment of the Independent State of Croatia (further in text: ISC). At the head of the ISC was the pro-fascist government of Ante Pavelić, called Ustaše, whose mission was the bloody persecution of Jews, Serbs and Roma. The Ustaše movement cooperated with the Axis powers to achieve the goal of Croatian statehood. By most accounts, the Ustaša movement enjoyed the support of much of the Catholic clergy in Croatia and Bosnia-Herzegovina. This support was not necessarily passive. Several priests and members of the Franciscan order joined the Ustaša movement and in some cases even participated in the implementation of its murderous policies.

The controversies surrounding the role of the Catholic Church in Croatia during the war center on four general issues, which identify as following: (1) the alleged high treason of the Croatian Catholic hierarchy headed by Stepinac, which welcomed the establishment of the Croatian state in April 1941 and allegedly actively supported the Ustaša regime from 1941 to 1945; (2) the alleged role of the Church in the forced and fear-induced conversions of Orthodox Serbs to Catholicism; (3) the participation of Catholic clergy in the Ustaša party and various institutions associated with that party; (4) the Church's reluctance to openly condemn the regime's methods and encroachments on Church prerogatives.²

² BIONDICH, Mark: Controversies surrounding the Catholic Church in Wartime Croatia, 1941–45, In: RAMET, Sabrina P. (ed.): *The Independent State of Croatia 1941-45*, Routledge, London and New York, 2007, pp. 31–59.

3. Stepinac's stance and reception

What was Stepinac's position in the World War II? The question of his activities during this period is the biggest point of contention among historians. Some claim (Ivo Goldstein) that Stepinac knew about the deportation of Jews to the camps but did not react.³ However, the vast majority of sources and opinions of others are positive about Stepinac. Among them are sources that say that Stepinac appeared publicly as early as July 1941 condemning racism, violence, and regime institutions such as the Jasenovac concentration camp. In one of his letters, for example, he openly told Ustaša Minister Mile Budak that censorship in the Independent State of Croatia was even worse than in the Kingdom of Yugoslavia.⁴

As for Stepinac's positions and opinions, he explicitly spoke out against racism and racist ideologies in a series of public speeches. In a sermon of 25th October 1942, for example, he said: *"The first thing we claim is that all nations are nothing before God. (...) The second thing we claim is that all peoples and races come from God. There is one race, and that is God's race"*.⁵ Not only does Stepinac say that all races are equal, which is against the propagation of Aryan supremacy, but he also attacks any judgements with racial characteristics, declaring them irrelevant from God's point of view.

4. Yugoslav political trials 1945-1948

The postwar period in Yugoslavia (1945-1948) was marked by a radicalism of the political power toward its opponents, especially toward the representatives of the defeated ISC, the followers of the Croatian Republican Peasant Party, and the hierarchy of the Catholic Church. What was the nature of criminal proceedings in Yugoslavia?

³ VUK, Tihomir: Djelovanje kardinala Alojzija Stepinca tijekom Drugoga svjetskoga rata [Activities of Archbishop Alojzije Stepinac during World War II], *Obnova – časopis za kulturu, društvo i politiku* [Renewal – Journal for Culture, Society and Politics], No. 1, 2018, p. 79.

⁴ *Ibid.*, pp. 79–80.

⁵ TRBUŠIĆ, Davor; BECK, Boris: Hierarchy And Exclusion – Alojzije Stepinac's Public Speeches Against Racism, *Nova prisutnost: Časopis za intelektualna i duhovna pitanja* [New presence : Review for intellectual and spiritual questions], No. 1, 2023, p. 86. DOI: doi.org/10.31192/np.21.1.5

We can say that the main characteristic of the criminal legislation of Yugoslavia after 1945 is the complete impreciseness of political incriminations.⁶ Numerous political trials turned into staged trials. Sentences were supported by coerced confessions of the accused. War crimes were also tried, but in many cases many of those incriminations were only about ordinary different political stances and opinions. The Yugoslav government registered with the UN war crimes commission a total of 7.812 Yugoslav citizens as the "war criminals".⁷

The courts judgements were delivered on the basis of national treason, which was not derived from evidence, but from a staged political accusation. It is precisely the lack of complete and systematized criminal legislation that has had an ominous effect on the entire criminal protection in the country. The General Part of the Criminal Code from 1947 defined the term criminal offense as: "*any dangerous act or omission committed against the state and social order of Yugoslavia*".⁸ As can be noticed, the definition itself was not sufficiently defined, which laid the foundation for inappropriate misinterpretations of analogies. The Code itself allowed the use of legal analogy, i.e. judging acts by their similarity to the acts described in the law.

As for political trials, the Law on Criminal Offenses against the State passed in August 1945 was applied.⁹ In that act, list of incriminations was exclusively political. It centered around punishing any action which was aimed at endangering the political system. The lack of precise legal descriptions of criminal offenses enabled the extensive interpretation and application of this law. The procedure was considered urgent by law. If the case was deemed important, the Supreme Court then tried as a court of first instance (Stepinac's case was deemed important). When the Supreme Court acted in

⁶ KISIĆ-KOLANOVIĆ, Nada: Vrijeme političke represije: „Veliki sudski procesi“ u Hrvatskoj 1945-1948 [The Time of Political Repression: "the Great Trials" in Croatia 1945-1948], *Časopis za suvremenu povijest [Journal of Contemporary History]*, No. 1, 1993, pp. 1–2.

⁷ *Ibid.*, p. 3.

⁸ *Ibid.*, p. 6.

⁹ *Ibid.*

this manner, the possibility of filing an appeal was reduced to a minimum. The punishments themselves were extremely severe.¹⁰

5. The institution of public prosecution and its role

As for the institutions regarding the criminal proceedings in Yugoslavia, one is The Public Prosecutor's Office, which was established by Presidency of AVNOJ (abbreviation for Anti-Fascist Council for the National Liberation of Yugoslavia) on 3rd February 1945. Public prosecution itself was regulated by the Law on Public Prosecution, dated 22nd June 1946.¹¹ The act regulates the Public Prosecutor's Office as a highly strict, centralized institution headed by a federal public prosecutor. The general supervision department was in charge of controlling the entire network of authorities. They also supervised all forms of economic activity and all social organizations on the suspicions of them committing endangering acts against the state. As can be noticed, The Public Prosecutor's Office extorted exceptional political power of the prosecution. This activity of the Office became a tool in the strengthening of political authoritarianism, which resulted in the complete takeover of the state's supervision and control over its citizens.¹²

Another institution is OZNA (Department for People's Protection, hereinafter: OZNA), which represented the most radical branch of the Public Prosecutor's Office. OZNA was the communist secret police ("*security-intelligence service*") of Yugoslavia. It carried out the arrests of political opponents and took them to be searched and questioned by the Public Prosecutor's Office. As for the Department's role in the

¹⁰ *Ibid.*, p. 7.

¹¹ KISIĆ-KOLANOVIĆ, Nada: Pravno utemeljenje državnocentralističkog sistema u Hrvatskoj 1945.-1952. godine [Legal Grounding of the state-centralized System in Croatia 1945-1952], *Časopis za suvremenu povijest [Journal of Contemporary History]*, No. 1, 1992, p. 58.

¹² *Ibid.*, p. 59.

criminal procedure, OZNA delivered opinions to the courts directing them what punishments should be imposed on the accused.¹³

6. The position of judiciary

One of the first acts of the new Yugoslav state was the Law on the Organization of People's Courts, dated 4th September 1945. The act states that the main goal of the courts is the protection of the "*democratic assets of the NOB*" (NOB is abbreviation for Narodnooslobodilačka borba, i.e. Yugoslav communist partisan movement founded in World War II with its main goal being the liberation of the peoples from the oppressive regimes), the protection of the "*rights and interests of public and private institutions, companies and organizations*" and, finally, the protection of the "*personal and property rights of citizens*".¹⁴ The principle that judges are independent in the administration of justice, the principle of equality of citizens before the law and the principle of public hearings were also enumerated in the act. Specialized courts could only be established by law. The jurisdiction of the courts was also standardized.¹⁵

It could be concluded that the act itself was a relatively stable piece of regulation, which, however, was constantly destroyed in practice by a dominant political factor. The new constitutional system proclaimed the idea of unity of government, which helped to transfer the ideas of the dictatorship of the proletariat. The doctrine states that the government is just a mere instrument driven by the revolutionary class will. This enforces the statement that every state is dictatorial, and the law was always used as repressive tool against the oppressed class. Now the new political government is also using force, but in the interests of protecting broad layers

¹³ ŠARIĆ, Tatjana: Osuđeni po hitnom postupku: Uloga represivnih tijela komunističke vlasti u odnosu na smrtne osude u Hrvatskoj u Drugom svjetskom ratu i poraću, na primjeru fonda Uprava za suzbijanje kriminaliteta Sekretarijata za unutrašnje poslove SRH [Sentenced under urgent procedure: the role of repressive bodies of communist order during the WWII and in the post-war period, illustrated by data from the funds of the administration for the suppression of delinquency of the Secretariat for internal affairs of the Socialist Republic of Croatia], *Arhivski vjesnik [Archival Journal]*, No. 1., 2008, pp. 341–343.

¹⁴ KISIĆ-KOLANOVIĆ, *op. cit.*, 1992, p. 62.

¹⁵ *Ibid.*

of workers and citizens.¹⁶ On the other hand, the Ministry of Justice of the People's Republic of Croatia at that time had a major influence on the selection of judges. Ministry also gave them instructions, notices, and regular consultations, adapting them to the newly formed political circumstances.¹⁷

7. Indictment of Alojzije Stepinac

Shortly after the World War II ended, Stepinac was arrested by OZNA. The trial was ruled by the Supreme Court of the People's Republic of Croatia, which deemed it as an important case. It started on 30th September and lasted until 11th October 1946. Public prosecution was administered under the leadership of Jakov Blažević – in August 1945 he was elected public prosecutor of the People's Republic of Croatia. According to Blažević, all political defendants were ordinary criminals and traitors deprived of human dignity and he addressed them with the greatest contempt. The indictment consisted of 51 pages. Prosecution indicted Stepinac for the following crimes: (1) political cooperation with the enemy during the occupation, meeting with Pavelić and other Ustaša officers and giving them help during the entire period (2) forced conversion of Orthodox Serbs to Roman Catholicism during the occupation, (3) assisting armed military formations of the enemy and (4) helping armed gangs and inserting them into the territory of the Federal People's Republic of Yugoslavia to overthrow the system.¹⁸

The first series of the prosecution's arguments concerned the incrimination of collaboration with the Ustaše. The principal charges levelled against Stepinac were that he welcomed the Ustaša government while Yugoslavia was still at war and he invited the clergy to cooperate with them. Immediately after Pavelić assumed power, many priests were appointed to local and provincial administrative posts of newly created

¹⁶ *Ibid.*, p. 57.

¹⁷ *Ibid.*, p. 63.

¹⁸ *The Case of Archbishop Stepinac*, Information Officer, Embassy of the Federal Peoples Republic of Yugoslavia, Washington, 1947, pp. 88–95.; KISIĆ–KOLANOVIĆ, *op. cit.*, 1993, pp. 7–8, 13–14.

ISC. Stepinac was accused of supervising the Catholic press during the war and encouraging its fascist propaganda. Furthermore, that he turned traditional church ceremonies and processions into political events for Pavelić and celebrated mass on April 10 every year on the anniversary of the foundation of the ISC.¹⁹

8. The Staged Trial against the Archbishop of Zagreb Alojzije Stepinac

Because of the uniqueness of Stepinac's position and his stances in contrast to the Catholic clergy during the World War II, bringing the archbishop to court proved to be a bad decision for the communist authorities. The prosecution itself was indeed effective, but at the same time highly compromising for the communist government. As much as the Catholic clergy tended to denigrate and disparage the communist government in Croatia after the War, an excessively negative weight was attached to the authorities during the Stepinac's prosecution.

Chief prosecutor Jakov Blažević dominated the trial, speaking for more than 40 hours total, while the defense had approximately twenty minutes of uninterrupted presentation for their statements. The defense suffered many disadvantages. It had only six days between indictment and the trial to prepare its case. While the prosecution had a seemingly unlimited reservoir of witnesses at hand, the court severely restricted the number of defense witnesses it was prepared to hear. The court regularly rejected defense's witnesses, both persons of Serbian nationality who wanted to testify about Stepinac's humanitarian rescue of people, as well as his closest associates, most of whom were bishops who were blackmailed by police. It also excluded much of the available documentary evidence offered by defense.

¹⁹ AKMADŽA, *op. cit.*, p. 103.; ANDREIĆ, Dominik: Okolnosti suđenja zagrebačkom nadbiskupu Alojziju Stepincu, analiza sudskog spisa i pravne održivosti presude [Trial of Zagreb Archbishop Alojzije Stepinac: its circumstances, analysis of the court file and the analysis of the legal viability of the judgment], *Obnova – časopis za kulturu, društvo i politiku* [Renewal – Journal for Culture, Society and Politics], No. 1, 2019, pp. 98–99.

The trial proceeded at an accelerated pace. Most of the hearings lasted from 8 am to 9 pm, so it was tiresome to maintain the concentration of the trial subjects and subsequently review the court files. The police forbade taking notes during the trial or confiscated them later. Newspaper reports further helped the regime by publishing tendentious articles which omitted all of defense's statements. They were comprised of inciting tones and in many instances made a complete propaganda mockery of Stepinac's defense.²⁰

Stepinac, however, decided to defend himself in silence. Ivo Politeo (Stepinac's attorney defense) predominantly went in the direction arguing that the legal situation of the ISC was not about statehood but about occupation, so the legal relations between the inhabitants of the occupied territories and the occupiers should be judged according to the regulations of The Hague Convention (Convention no. IV Respecting the Laws and Customs of War on Land) from 1907. The inhabitants of the occupied territory, according to the Convention, were not obliged to be loyal to the occupier, but disobedience was at their own risk. Stepinac's behavior was, therefore, within the limits of The Hague Convention. Also, the defense pointed out that Stepinac had a very hostile attitude towards Ante Pavelić, who was only present at the service of God in the Zagreb Cathedral once in the regime's four years of existence.²¹

9. Verdict, imprisonment and death

Despite all the evidence presented, the defense could not have expected a positive result due to the political context. The court found Stepinac guilty and sentenced him to 16 years' imprisonment at forced labor, followed by five years' deprivation of civil and political rights. Despite the sentence, Stepinac did not in fact have to perform hard labor. He served his sentence in Lepoglava penitentiary where he had a special double

²⁰ KIRCHHEIMER, Otto: *Political Justice: The Use of Legal Procedure for Political Ends*, Princeton University Press, Princeton, New Jersey, 1961, pp. 99-100. DOI: doi.org/10.1515/9781400878529; KISIĆ-KOLANOVIĆ, *op. cit.*, 1993, p. 14.

²¹ KISIĆ-KOLANOVIĆ, *op. cit.*, 1993, p. 14.

cell - he had a cell and a smaller room where he could celebrate holy service. In 1951, when Tito was trying to improve relations with Vatican, Stepinac was released from prison and moved to house arrest in Krašić. On 12th January 1953, while being in house arrest, Pope Pius XII appointed him cardinal.²²

In this trial political incriminations completely took over the proceedings, and the entire evidence material of the prosecution was a skillfully crafted hoax. Archbishop Stepinac was convicted, not because of his collaboration with the Ustaša, as the communist government said, but because of his loyalty to the Vatican. The imprisonment and conviction of Stepinac proved to be a big mistake for the communist authorities. Many protests were held by numerous cities around the world such as Rio de Janeiro, Philadelphia, Milan, Buenos Aires, Santiago, Chicago, Lima, Spain, Lebanon, and Egypt. The Pope himself also issued an objection. These complaints began to pose an increasing burden to the authorities. On 7th March 1947 Vladimir Bakarić (head of the Communist Party of Croatia) visited Archbishop Stepinac in Lepoglava penitentiary and offered him to sign a document with a request for pardon to free him and allow him to leave the country. The archbishop refused, stressing that he will not abandon the Croatian people in these difficult times. Alojzije Stepinac died of illness on 10th February 1960 in Krašić, the place of his birth.²³

10. Legacy of Alojzije Stepinac

Croatian Sabor condemned the Stepinac Trial as early as of 1992. The Croatian Parliament adopted at its session on 14th February 1992 *“the Declaration on the Condemnation of the political process and the Verdict against Cardinal Alojzije Stepinac”*. In this declaration the following was determined: *“Stepinac was innocently convicted at a staged political trial, because he refused to carry out a church schism and separate the Catholic Church of the Croats from Rome and the Vatican at the behest of*

²² *Ibid.*, p. 14; AKMADŽA, *op. cit.*, pp. 113–125.

²³ AKMADŽA, *op. cit.*, p. 121–126; 134–141.

the communist rulers, with the far-reaching goal of destroying the Catholic Church as the centuries-old guardian and protector of preserving the identity and freedom of the Croatian people. (...) Although the Croatian people and the Catholic Church have never recognized the conviction of Archbishop Stepinac, the Croatian Parliament, as the highest representative body of Croatia, corrects the historical injustice and insult to the Croatian people by expressing a clear attitude towards the unjust conviction of Cardinal Stepinac".²⁴

On 22nd July 2016, the extra-judicial panel of the Zagreb County Court presided over by Judge Ivan Turudić, completely overturned the verdict against the Archbishop Stepinac. This decision was made on the basis of a request for appeal submitted by Archbishop's nephew Boris Stepinac. Judge Turudić said that the request for appeal was founded because the sentence of the Supreme Court of the People's Republic of Croatia from 1946 violates all principles of the current material and procedural criminal law, as well as the law in force at the time the sentence was passed. The 1946 ruling violated the principle of legality, the ban on the retroactive application of the criminal code, the principle of guilt, as well as the right of the accused to a fair trial.²⁵ Moreover, Pope John Paul II declared Alojzije Stepinac blessed on 3rd October 1988, and the memorial day Stepinčevo is celebrated on the date of Stepinac's death, February 10th. Today, we can say that Stepinac's position in Croatian society is mostly positive.²⁶

As for me, I think it's important to emphasize the large burden one has to face when making decisions in exceptionally dire and turbulent times, as it was for Archbishop's himself during the war period and all the horrors that come with it. Therefore, I will end the paper with the famous statement of Archbishop Stepinac:

²⁴ Deklaracija o osudi političkog procesa i presude kardinalu Alojziju Stepincu [Declaration on the Demnation of the political process and the Verdict against Cardinal Alojzije Stepinac], *Narodne Novine*, No. 140. , 1992.

²⁵ The sentence of Zagreb County Court in case Stepinac is available at: <https://sudovi.hr/sites/default/files/dokumenti/2020-09/22.7.2016.%20STEPINAC.pdf> [Access on March 24, 2024].

²⁶ <http://stepinac.zg-nadbiskupija.hr/hr/vijesti/ponistena-presuda-kardinalu-stepincu/1302> [Access on March 24, 2024].

"When everything is taken from you, you are left with two hands. Fold them in prayer and then you will be the strongest."