Treason in an Era of Regime Change: The Case of the Habsburg Monarchy

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Whatever we call “treason”—*Hochverrat, trahison, velezrada, veleizdaja, fels­égsértés*—it has been a constant phenomenon in human history. The “traitor,” the individual who breaks a major bond of trust, has emerged in every era and is usually treated as a pariah in society. At the most significant treason trial of the late Habsburg monarchy, that of fifty-three Serbs in Zagreb in 1909, the main defense lawyer Hinko Hinković began his concluding speech with a typical legal adage: that treason was “the most loathsome thing” imaginable. Down the centuries, he said, humanity had singled out two types of traitors. First, there were those who betrayed God, best personified in Judas Iscariot. Second, there were traitors to the nation such as the Spartan Ephialtes who, according to Herodotus, fatally betrayed his homeland to the Persians at Thermopylae in 480 BCE. While both types were “repulsive and terrible,” Hinković quickly opined that the latter—the national traitor—was really the most terrible. However, with an eye on the Serbs he was defending, he added that some national treasons were not actually directed against the nation. For where national aspirations did not mesh with state aspirations, or where the state was not the same as the homeland (*otačbina*)—there, a deed that the state might consider treasonous could be viewed as a heroic, patriotic act by the nation. In other words, treason could be interpreted as liberation from oppression, and numerous examples might be cited in this regard from recent Habsburg history, not least the way that the Magyars were now able to celebrate and memorialize the traitor-liberator Lajos Kossuth.[[1]](#endnote-1)

Hinković in this speech was emphasizing the time-honored subjective interpretation of treason as something in the eye of the beholder. But he especially sought to differentiate between conflicting legal and ethical viewpoints. For while it was the state that created human law about treason, the nation’s law on treason was, he suggested, strictly moral and akin to divine law.[[2]](#endnote-2) In his view, any state prosecutions for treason were opportunistic and thoroughly political in their motivation (e.g., those of Jesus or the Serbian rebel Karađorđe). They were constructed to meet the *raison d’état* of the day,reflecting more the regime’s own security requirements than the actual presence of “traitors” in the community.[[3]](#endnote-3)

It was a point that one defense lawyer would make even more forcefully at another Habsburg treason trial a few years later. In October 1914, at the Sarajevo trial of Gavrilo Princip and other assassins of Archduke Francis Ferdinand, Rudolf Zistler tried to place the indictment for high treason in context, arguing that “in our monarchy unfortunately treason trials recur in a steady periodic cycle, like a chronic illness.”[[4]](#endnote-4) Both Zistler and Hinković in their defense of traitors sought to turn the prosecution case on its head, claiming that the sudden appearance of “traitors” was manufactured by the state and clear evidence of a Habsburg regime in crisis. For their provocative suggestions both lawyers would eventually be harshly punished. While Hinković in 1910 was disbarred and imprisoned for six months, Zistler would be permanently expelled from Bosnia for his “hostile disposition.”[[5]](#endnote-5)

**Treason as a Touchstone**

These introductory examples already show us that treason is a very useful touchstone for measuring the mind-set of any regime. Not only does it reveal the most serious security threats (domestic and foreign) in the eyes of the authorities but also it points up—as Hinković noted—the tension often present between the state’s expectations around allegiance and citizens’ own vaguer interpretation of such allegiance, which may clash with their regional, national, or ideological commitments. How a regime then manages treason—the supreme disloyalty—also reveals much about the actual rule of law in the state. Because treason is the ultimate political crime, and so closely aligned with a regime’s concern for its self-preservation, there is always ample scope for political interference with the rule of law when so-called traitors are identified, prosecuted, and convicted. In other words, the management of this crime can show the actual limits of the *Rechtsstaat*.

Treason as a phenomenon has received little space in the historiography of the late Habsburg monarchy.[[6]](#endnote-6) It is certainly touched upon tangentially, in studies about arbitrary military justice or the myths of *Hochverrat* during the First World War.[[7]](#endnote-7) But in these works there has been no focus on the crime and management of treason per se, a point of research very familiar (for example) in the historiography of early modern England.[[8]](#endnote-8) Indeed, for the Habsburg Empire, historians have recently paid far more attention to expressions of loyalty than disloyalty: what bound citizens together, how the dynasty tried to promote itself, and how popular allegiance was expressed in different sections of society.[[9]](#endnote-9) Usefully, this has reversed a nationalist, teleological approach to the empire’s history, rethinking Austria-Hungary as a vibrant domestic unit where, if internal crises occurred, they were—as the journalist Henry Wickham Steed suggested in 1913—“crises of growth rather than of decay.”[[10]](#endnote-10) Yet in this enticing narrative it is too easy to minimize the concomitant signs of domestic disloyalty, and particularly to ignore the mind-set of the ruling elite, many of whom by the twentieth century felt that their empire was indeed in crisis, assaulted by *staatsfeindlich* enemies at home and abroad. It is here that a study of treason or disloyalty in the *longue durée* can adjust an overly optimistic assessment of the dualist empire. It does not mean returning to the teleological prism. But it does explain better—through including the monarchy’s crucial foreign perspective (as a Great Power)—why a conservative regime could feel so insecure after 1900 and evermore inclined to violate the *Rechtsstaat*.[[11]](#endnote-11)

This article pursues this line of thinking with a new focus on disloyalty and in turn establishes a framework for understanding treason in late Habsburg space. It does so, first, by setting out the legal basis of treason in the state (acknowledging that treason law was always imprecise and open to political manipulation). Second, the article probes how and why leading “traitors” were identified and then processed by the authorities. The emphasis is on those cases that gained the most notoriety, and—to ensure a manageable discussion—most examples are taken from the Czech and South Slav lands, regions in any case that witnessed some of the major treason trials of the early twentieth century.

Chronologically, the discussion also concentrates on years of particular regime crisis, 1914–21.[[12]](#endnote-12) It deliberately passes through the “1918 watershed” in order to understand both continuities and breaks in the interpretation of treason. This not only reflects a recent historiographical trend toward relativizing the year 1918 as a major caesura.[[13]](#endnote-13) It enables us to weigh up different regime approaches toward perceived disloyalty, comparing the treatment of major traitors both in the wartime empire and in the successor states of Czechoslovakia and Yugoslavia when forms of emergency rule persisted. The fact that “treason” surfaced so strongly in these years reveals much about the insecurity of the regimes, whose vigilance over disloyalty at home was intensified due to evolving concerns about the state’s international insecurity. Typically, we can say, an official discourse about traitors has always been most prevalent during periods of war or regime insecurity. For the Habsburg monarchy, the previous such era of major regime crisis had been the chaos and aftermath of the 1848 revolutions. Then too, “traitors” had abounded and there had been brutal retribution. Habsburg war courts were quickly created to prosecute Hungarian traitors under special emergency legislation, with the ex–Prime Minister Lajos Batthyány as the most prominent victim.[[14]](#endnote-14) In the 1850s, however, as Francis Joseph’s neo-absolutist regime gradually felt more secure, it realized that pardons and amnesties were necessary to usher in what Alexander Bach and others termed “normal conditions.”[[15]](#endnote-15) In this way it reasserted quite successfully its power in the state and, arguably, prepared a certain stability for the eventual *Ausgleich* with Hungary in 1867.

This earlier revolutionary era however also showed the perennial dangers that could arise from any mass identification of “traitors” in the state community. For when a regime proceeds with an indictment for treason, it is choosing to silence opposition with an especially blunt instrument, what Otto Kirchheimer has termed “the heaviest and most cumbersome weapon in the fight for political power.”[[16]](#endnote-16) Having taken that step, careful management is essential if the process is not to backfire and damage those wielding the instrument. In short, the authorities need, from a position of strength, to know they can manage a degree of closure. The danger otherwise is that the prosecution of traitors may appear arbitrary or illegal, causing the regime’s moral authority to be severely tarnished in the eyes of the wider community.[[17]](#endnote-17) It is, therefore, vital for any regime to weigh up when and how far to prosecute “traitors” at moments of relative weakness and when to grant pardons or amnesties from a position of strength to restore stability. As we will see, this was a crucial dilemma for those seeking to control disloyalty in the wartime Habsburg monarchy and then in the early successor states.

**Treason Law**

Wartime Austria-Hungary made abundant use of treason law—perhaps unlike any other European belligerent.[[18]](#endnote-18) The abuse that circulated about *Hochverräter*, so common after the Sarajevo assassinations, was dangerous in the hands of regional state prosecutors because they could draw on a firm legal framework in the Austrian and Hungarian penal codes. In terms of treason law, it seems to have been the Austrian criminal code of 1852 that was most utilized, for it was applicable not just in Cisleithania but also in Croatia (despite adjustments after the *Nagodba* of 1868) and in Bosnia-Hercegovina after the Habsburg occupation of 1878.[[19]](#endnote-19) Treason law from the Hungarian code of 1878 appears—at least on the basis of current research—to have been far less invoked in wartime Hungary due to weaker military influence there.[[20]](#endnote-20) Hungary’s treason clauses mirrored those in Austrian law, but were more extensive in protecting the Hungarian kingdom from dismemberment while prescribing the death penalty only for violence against the king.[[21]](#endnote-21)

In the 1852 Austrian penal code, the main paragraph governing high treason or *Hochverrat* was §58 (in identical form, §111 in Bosnia).[[22]](#endnote-22) Like all European treason laws, those of the Habsburg monarchy criminalized acts that endangered both the internal and external security of the state, and it divided these into three main types or objects of treason.[[23]](#endnote-23) The first two clauses of §58 targeted domestic threats to the regime (traditional *Hochverrat*). Paragraph 58a protected the life of the monarch. In some prosecutions for treason of the late nineteenth century, this clause had certainly been “constructed” to include violent acts that only indirectly threatened Emperor Francis Joseph.[[24]](#endnote-24) But usually the target of §58a was quite clear. It covered, for instance, the assassination plot by Guglielmo Oberdan (1882) but excluded any oral or written abuse of the monarch (*Majestätsbeleidigung*), which under the imperial law code of 1787 had long ceased to be categorized as “treason.”[[25]](#endnote-25) The second clause (§58b) made it treason to attempt a violent change of government. This had been copiously used in the socialist and anarchist trials of the 1870s and 1880s, including the 1870 trial of Austrian socialists whose demonstrations on the streets of Vienna had been constructed as open revolt and, therefore, treasonous.[[26]](#endnote-26)

During the Great War however it was the third treason clause (§58c) that the authorities particularly exploited in major treason trials, for it focused on “territorial treason” (*Landesverrat* or *Staatsverrat*) as a special category of high treason.[[27]](#endnote-27) Based on the experience of the 1848 revolutions, when the empire had almost been torn apart through Hungarian and Italian machinations, §58c had been a completely new addition to the penal code of 1852.[[28]](#endnote-28) It defined as a traitor anyone who plotted to break off a part of the imperial territory, or who tried to increase the danger to the state from outside its borders. It was natural that this external dynamic of treason should come to the fore in wartime, all the more so in the case of the Habsburg monarchy with its numerous irredentist threats. As we will see, the wording of §58c was vague enough to facilitate for state prosecutors a wide construction of any acts deemed treasonous. Yet other sections of the 1852 penal code were also found very useful to manage those threats to state security that (in some eyes) were tantamount to “treason.” One example was the political crime of “disturbing public order” (§65), which could be interpreted as refusing to obey a state law or inciting hatred of the regime. Another was the sinister catchall nature of §67, covering “crimes against the war power of the state” (the term used in the military penal code: *Verbrechen wider der Kriegsmacht des Staates*). Besides precisely criminalizing espionage, this paragraph gave an extra edge to §58c by criminalizing any behavior that might benefit the enemy in wartime.[[29]](#endnote-29) In short, it was a license for arbitrary justice at times when the authorities would be particularly sensitive to disloyalty.

Indeed, the start of the war produced a proliferation of constructions of “treason”: not just a widespread public discourse about traitors but also mass arrests on the basis of vague interpretations of treason from the penal code. Certain episodes in Jaroslav Hašek’s novel *Good Soldier Švejk* ring true (e.g., when Švejk is suddenly arrested in a Prague pub on a charge of “high treason” because he had been talking cheekily about the Habsburgs), for they mirror hundreds of examples elsewhere in the early months of the conflict.[[30]](#endnote-30) Crucial in this accelerated use of treason law was the fact that the army assumed quasi-dictatorial powers in the areas that constituted “war zone” (*Armee im Felde*).[[31]](#endnote-31) But even more important was that all civilians outside Hungary now fell under military jurisdiction for all political crimes, including those covered by §58, 65, and 67. Until at least mid-1917, the military controlled much of the machinery of treason, promoting the investigation and prosecution of “traitors.” The result was an arbitrary interpretation of treason in the war zone, especially in Bosnia and Galicia, with a speedy court-martial and summary execution for anyone found guilty.[[32]](#endnote-32) In June 1915, for example, a man from Ljubljana who had publicly praised Italy and called the Germans “pigs” was found guilty of “disturbing public order” and immediately executed.[[33]](#endnote-33) On a grander scale, it was also the military who provided the momentum for the most significant Habsburg treason trials of the war against prominent Czechs and Serbs. But there, the power of the military was at least moderated by a civilian legal apparatus that guaranteed civilian defense lawyers and the appearance of some due process in the imagined tradition of an Austrian *Rechtsstaat*. As Jonathan Gumz has stressed, the military did still need to appear impartial, so military courts persisted with a *rechtsstaatlich* façade even during the war.[[34]](#endnote-34)

That the war facilitated a looser definition of treason, especially in the hands of the Habsburg military, was not surprising. After all, the same had happened during the 1848 revolutions, when those in power had arbitrarily constructed treason in imaginative ways outside the penal code.[[35]](#endnote-35) It is instructive, therefore, to compare the wartime Habsburg “blunt instrument” with the treason laws that emerged in the post-Habsburg successor states. Because the latter based their legitimacy on rejecting the Habsburg regime, since the Habsburgs’ wartime methods of justice were particularly excoriated, did this mean a watershed in how treason would be defined in the penal codes of new states like Czechoslovakia or Yugoslavia?

In fact, despite the burst of anti-Habsburg rhetoric, there was at first much legal continuity in the New Europe before each state felt the need to introduce draconian laws to meet new foreign and domestic dangers.[[36]](#endnote-36) For example, Deutsch-Österreich—the later Austrian Republic—began by simply continuing the 1852 penal code while removing references to the Kaiser from §58. Then in October 1919 the relevant treason laws were superseded by a law for the protection of the republic. On the lines of the old §58, what was now termed “Volksverrat” was interpreted as any serious assault on the government, any violent attempt to change the constitution of the republic, and any plots to separate territory from the state.[[37]](#endnote-37)

A similar pattern of legal breaks and continuities in treason law occurred in Czechoslovakia. On the eve of the republic’s proclamation on 28 October 1918, Alois Rašín prepared the text for the first law of the new state, announcing to the public that until further notice all current laws would remain intact. This meant the validity of the Austrian legal code for half of the new state (the Bohemian Lands), while the Hungarian code would continue in Slovakia. Although this “legal dualism” was always seen as a temporary measure, for Rašín and the incoming government such continuity was essential for stability.[[38]](#endnote-38) Indeed, as recent research has shown, the authorities during this long postwar period of transition were alarmed by widespread lack of respect for the law and the tendency for citizens, in fits of both retribution and revolutionary ardor, to usurp state justice.[[39]](#endnote-39) The Prague regime, maneuvering in the face of a public discourse that celebrated a new era and rejected “Habsburg injustice,” had to determine the needs of security and stability, not least to maintain its own credibility at the Paris Peace Conference. In July 1919 it duly passed a special defense act to reemphasize that previous Habsburg security laws still applied in the new state; references to the monarch had been removed but the old treason laws remained valid. At the same time, a special ministry was established to start planning a unification of the law codes across the Czechoslovak Republic. Until this was finalized, the current Austro-Hungarian codes would slowly be supplemented and adjusted.[[40]](#endnote-40)

Indeed, in the following years a more confident Prague regime felt it vital to respond to immediate threats with special legislation. In August 1921, following the winter crisis of strikes and violence associated with the burgeoning communist movement, a vague “law on terror” was enacted to criminalize public intimidation and violence. Then in March 1923, Prague moved much further by passing a “Law for the Defense of the Republic.” The immediate cause was the assassination of Rašín by a former communist, but the context also included the persistent foreign threat of Hungarian revisionism. It is important to see this law in terms of the prevalent penal framework (inherited from Austria-Hungary), rather than simply interpreting it as a moderate and democratic regime that was targeting “extremists.”[[41]](#endnote-41)

For the 1923 law amounted to an all-encompassing set of security laws, deliberately grouping together a whole range of measures that had previously been scattered across the inherited Habsburg codes.[[42]](#endnote-42) Some of them fully echoed the Austrian §58 or the Hungarian treason laws. Thus §1 of the new Czechoslovak law grouped together some generic “treasons”: endangering the head of state (president); trying violently to change the constitution; and seeking to break off territory from the state. There followed more specific clauses that had a long tradition under sections of the previous penal codes—collusion with the enemy (§2); endangering the republic through an armed uprising (§3); espionage (§5); founding anti-state secret organizations (§17), disturbing public order (§14); or deliberately spreading “false rumors” that might cause popular unrest or endanger state security (§18).[[43]](#endnote-43) Finally, there were completely new clauses: §19 made it a crime to help the Habsburgs enter Czechoslovak territory (in view of Emperor Charles’s two attempts to enter Hungary in 1921); and §7 tightened “treason” to include attacks on members of the government like Rašín (a crime that had not been available in 1916 to prosecute Friedrich Adler, the murderer of Count Stürgkh, the Austrian Prime Minister).[[44]](#endnote-44)

This whole package of laws was to be judged in a special court, and in the coming years it would be highly useful against Czech fascists. Yet if it seemed to demarcate political crimes quite clearly and to suggest a clear break with the Habsburg past, most of it was not new, nor was it an aberration from emergency laws being introduced elsewhere in Europe.[[45]](#endnote-45) The Czechoslovak package drew heavily on Austro-Hungarian penal codes; it was a full replacement for the Austrian paragraphs §58–67 and the Hungarian §126–52 (both now abolished). It also mirrored the kind of emergency legislation already introduced in neighboring states such as Germany and Yugoslavia.[[46]](#endnote-46)

Although a unified penal code would never be created during the First Czechoslovak Republic, the 1923 law in effect if not in name was a comprehensive “treason law” applied to the whole state territory. In contrast, in the new Kingdom of Serbs, Croats, and Slovenes (SHS: Yugoslavia), a unified security code had been imposed more ruthlessly from the start of the regime. This was surely less due to the special dangers facing the Yugoslav state (since Czechoslovakia faced even worse external threats in 1919). Rather it reflected the victorious mind-set of those in power who were determined to stamp Serbia’s control across the new state territory. In the summer of 1919, exactly parallel to events in Czechoslovakia, the Yugoslav Minister of Justice Marko Trifković appointed a legal commission to work on unifying the six penal codes of the new state.[[47]](#endnote-47) But already in February 1919, the Belgrade government had decreed that sections IX and X, covering §83–104 of the 1878 Serbian criminal code, would be imposed across the whole country. In July, Trifković retrospectively justified this decree to the Provisional National Assembly, explaining that a unitary security law was vital for the whole state; the Serbian clauses had been chosen for convenience because the Austrian code currently valid in the western regions of Yugoslavia would not give sufficient protection.[[48]](#endnote-48) Sections IX and X covered all political crimes, including collusion with the enemy, espionage, and threats to public order in word or speech.[[49]](#endnote-49) And within this code, §87 was strikingly similar to §58 of the Austrian imperial law: it criminalized acts threatening the Serbian king, the constitution, and state integrity.

While these clauses were to be valid across Yugoslav territory for most of the decade, by 1922 the special commission formulating a new criminal code had a draft ready, based largely on plans from 1910 for a revised but never implemented Serbian code. According to this draft of 1922, crimes against the state and constitution—treason—amounted to twenty-five paragraphs and were to be divided into two types. First, there was “high treason” (*veleizdaja*), the object of which was an attack or plot against the king or heir to the throne, or a planned attack on the constitution or state authority. Only one line here was devoted to “separating part [of the kingdom] from the whole to create an independent state.”[[50]](#endnote-50) Second, there was betrayal of the state (*izdajstva*), which mainly concerned *Landesverrat—*collusion with foreign enemies to undermine the state. Laid out much more precisely than before, this section included many crimes that would be covered systematically in Czechoslovakia’s Law for the Defense of the Republic: espionage, aiding the enemy in wartime, spreading “false rumors,” and “damaging” the home army during a war.[[51]](#endnote-51) When this draft was sent out to the kingdom’s judicial experts in late 1922, most agreed with the general tenor of the “treason” paragraphs but suggested extra clarity on a few points.[[52]](#endnote-52) The president of Zagreb’s high court was particularly incisive in this regard. He stressed that by greater differentiation—carefully circumscribing treason as an act involving violence—one would “reduce the number of tendentious trials which only damage the state, since they generally achieve the opposite of that which is intended.”[[53]](#endnote-53)

Most of this expert criticism was limited and certainly had only a minor impact on the final criminal code submitted to the Yugoslav Skupština and passed into law in January 1930. Until that time it was Serbian security laws that prevailed. Yet, typically, Belgrade had been more proactive than Prague in moving to supplement them, notably with the so-called *Obznana* (Proclamation) of December 1920 that had targeted the potential violence of communist groups and trade unions. The following summer, after communist terrorists had attacked Regent Aleksandar and murdered Milorad Drašković (the Minister of Interior who had promoted the *Obznana*), a new “Law for the Protection of Public Security” was duly introduced.[[54]](#endnote-54) Although its main purpose was to ban the Communist Party, in 1925 this law would be used as the ideal tool for arresting persistent “traitors” like Stjepan Radić and his colleagues from the Croatian Peasant Party.[[55]](#endnote-55)

The history of treason law under these three regimes—Habsburg, Czechoslovak, and Yugoslav—reveals how, during this long period of state crisis, it was the idea of *Landesverrat* or betrayal of state territory that most troubled the authorities. The laws available to them were notoriously vague and, therefore—as with so much treason law from other eras, very open to political manipulation. This in fact was a legal deficiency that the Austrian imperial regime had publicly recognized before the war. In June 1913, at a time when revision of the 1852 Austrian penal code was being debated, the Austrian Minister of Justice in a report to the Reichsrat had called for more precision in laws that protected the state, noting that contemporary laws did not adequately reflect the evolving modern relationship between the state and its citizens.[[56]](#endnote-56) Despite this, as we will see, existing treason laws continued to be used from 1914 in all the major trials, and were especially subject to construction when “treason” was judged solely by the military. The potential for such manipulation, however, then persisted well beyond the supposed watershed of 1918, for the new Czechoslovak and Yugoslav states perpetuated prewar security measures to shore up their stability. Although the new regimes publicly condemned Habsburg arbitrary justice (causing the abolition of the death penalty in the Czechoslovak and Austrian republics), they soon also felt the urgency of supplementing the vague treason laws they had inherited. This produced packages of treason laws that, though in theory systematizing the previous confusion and weakening the opportunity for “construction,” in fact placed much extra power in the hands of the state to manage potential “traitors.” As so often in the history of treason (e.g., in Tudor England), the New Europe soon witnessed regimes piling up new treason laws to ensure that all possible dangers were covered.

**Identifying and Prosecuting Major Traitors in Wartime**

Parallel to these breaks and continuities in the character of treason law was the way that these three regimes processed so-called traitors. To start with, we should note that, because of the highly political nature of treason, traitors have often been identified not due to some clear-cut crime (like murder), but rather due to the proactive decision of a prosecutor or some other state official. The trigger may be a regional prosecutor acting on evidence of the police or security forces, or there may be more overt regime influence, serving to pressurize the prosecutor to investigate. In either case, those with power may launch a treason case through a particular interpretation of the treason law. In the following notorious treason cases from the Habsburg, Czechoslovak, and Yugoslav states, this politicizing of treason was quite consistent. Most crucial then was the question of how the authorities behaved after first identifying suspects: whether or not they persisted with prosecution and conviction.

Yet alongside this political manipulation of the legal process, we must first highlight those individuals who had indeed committed serious acts of state betrayal. In wartime Austria-Hungary some of those identified as traitors were certainly guilty of the crime in law. This was the case with all those political idealists who fled abroad in 1914 with an unconditional mission to destroy the Habsburg monarchy. The Czech leader Tomáš Masaryk was convinced that the empire could never be reformed and risked his career by fleeing to the West.[[57]](#endnote-57) Similarly the Croatian lawyer Hinko Hinković was a very public wartime émigré. His publications and speeches in France and England were littered with accusations of how the Habsburg Empire had been massacring its own people and how, in a string of “Austro-Magyar” treason trials, it was the state that was the real traitor.[[58]](#endnote-58)

 Habsburg military intelligence quickly started to gather data about these separatist traitors, regularly updating its lists about the “treacherous South Slav movement abroad” to number more than a thousand names by 1917.[[59]](#endnote-59) The property of traitors was duly confiscated, and their public image discredited in the community: Masaryk and the Slovene Bogumil Vošnjak were suspended from their positions at Prague and Zagreb universities, respectively.[[60]](#endnote-60) But as the data accumulated, various regional authorities also took action to start legal proceedings against the major traitors *in absentia*. In the case of Hinković, Zagreb’s state prosecutor Viktor Aleksander had concluded by mid-1915 that he was “imbued with an overpowering hatred against the Austro-Hungarian monarchy”:a criminal charge under §58c was fully justified and legal proceedings were begun.[[61]](#endnote-61) It is possible that some of these trials *in absentia* took place, coordinated for the South Slav region by the military court in Graz.[[62]](#endnote-62) Most, however, had ground to a halt by 1917, the investigations losing momentum as other military obligations intervened.

That such infamous traitors would suffer the ultimate penalty if they returned and fell into military hands was very clear from the fate of the Italian émigré politician Cesare Battisti. After he had crossed the imperial border like Masaryk and Hinković in 1914, the Austrian military slowly pieced together an indictment under §58c. In July 1916, he was captured fighting on the Italian front, taken to Trento to be court-martialed, and found guilty of the “worst and most ignominious treason to the fatherland.” The regime’s moral success in ensuring a traitor’s fast conviction and execution was soon tarnished, however, by the news that leaked out about Battisti’s public humiliation, not least through circulated postcards that showed his corpse hanging alongside the grinning executioner. This not only enhanced at a stroke his status as Italian martyr rather than traitor but also it indicated how easily the public processing of traitors could backfire in the face of the regime.[[63]](#endnote-63)

This scenario was always possible in the case of all the major domestic treason trials of 1914–17, where the military authorities were determined to convict. As recent research has reminded us, during the war the army used the trappings of the *Rechtsstaat* for its own political ends.[[64]](#endnote-64) Yet it should be emphasized here that the exploitation of treason law in this way was not at all new, nor was it the special preserve of the Habsburg wartime military. On the contrary, it had a recent notorious history in peacetime—notably in the prewar prosecutions of Serbs and Ukrainians whom the civilian regimes in Croatia and Galicia had recklessly put on trial for high treason.[[65]](#endnote-65) These trials, especially the “travesty of justice” that was the Zagreb treason trial of 1909, show that the *Rechtsstaat* was being violated by “illiberal” elements long before 1914.[[66]](#endnote-66) The abuse of treason law was already proof to critics like Hinković or Masaryk that the *Rechtsstaat* was a façade. In short, to many contemporaries, it was not the model beacon that some historians have recently claimed to differentiate peacetime governance from the military misrule of wartime.[[67]](#endnote-67)

At most we can concur that in the aftermath of the Sarajevo murders in June 1914, and empowered by the new states of emergency, the military authorities were at the forefront of those who took up the treason weapon to purge society of *staatsfeindlich* elements, with a focus on a supposed network of South Slav traitors plotting against the monarchy.[[68]](#endnote-68) But many civilian and judicial authorities were also fully implicated in this crusade, dredging up evidence of “treason” from the previous decade. Immediately after mobilization, the Zagreb prosecutor Viktor Aleksander moved with an indictment for high treason against leading members of the Serb Sokol organization in Croatia (including Srdjan Budisavljević, who had been a defense lawyer at the 1909 treason trial). After a year’s investigation the case finally came to trial, but because the charge of treason could not be proved, the result was an upset for the regime. In January 1916 the accused were either acquitted or convicted on the lesser crime of disturbing public order (§65).[[69]](#endnote-69) It was a sign that in wartime Croatia, an area with weaker military influence, jurists were able to ensure a firmer adherence to the rule of law.

Such was not the case in Bosnia-Hercegovina, where against the backdrop of hostilities, the trial of the Sarajevo assassins had a veneer of the *Rechtsstaat* but a far more predictable outcome. The prosecution here deliberately chose §58c of the criminal code (§111 in Bosnia) to achieve maximum impact. For the charge against the Sarajevo terrorists was not to be one of murdering Archduke Francis Ferdinand (accurate in the case of Gavrilo Princip) but of treason: plotting irredentism with Serbia to achieve the secession of Bosnia from the empire. At the trial the state prosecutor presented a construction of §111, contending that anyone involved in spreading Serb propaganda in Bosnia was trying to destroy the monarchy and therefore guilty of the same treason charge.[[70]](#endnote-70) One of the defense lawyers, Rudolf Zistler, argued fiercely against this but to no avail because proceedings were heavily politicized, with no jury, few defense witnesses, a range of charges that often strayed away from the initial indictment, and a judge already determined on a guilty verdict. In retrospect, Zistler commented that the three death sentences finally pronounced had been “legal murder” in the wake of a trial that lacked due process or objectivity because of the war now raging outside the Sarajevo courtroom.[[71]](#endnote-71)

This treason trial could at least be justified as a reaction to the Sarajevo crime. In contrast, the many other trials that mushroomed across Bosnia in 1915–16 reflected a military leadership deliberately stereotyping part of the population for political ends.[[72]](#endnote-72) Because the military governor of Bosnia, Oskar Potiorek (and then Stjepan Sarkotić), was convinced that the local Serb community was completely disloyal, the Sarajevo trial with its intense inquiry into Serb irredentism gave legitimacy to a wider mission to bring other hidden traitors to justice. The subsequent trials, whose number has never been fully calculated, were not just an offshoot of the Sarajevo proceedings, although they certainly used the same arguments (interpreting the spread of Serb propaganda or culture as akin to “treason” in collusion with the Serbian enemy). For as Milorad Ekmečić has suggested, there was a now a deeper political purpose to this theater, one of justifying the war in the Balkans both domestically and internationally. Those prosecuted were effectively made responsible for Austria-Hungary’s war; they were a network of domestic traitors fully implicated in Serbia’s long-term irredentist plot.[[73]](#endnote-73)

Thus in the famous Banjaluka trial of 156 Serb intellectuals in the winter of 1915, the prosecution typically claimed that the seeds of treason had been planted many years earlier.[[74]](#endnote-74) They had flourished both through espionage and propaganda via societies like *Prosvjeta* (Education) or (what the authorities saw as the main terrorist organization) the *Narodna Odbrana* (National Defense). At the trial the actual evidence was wholly circumstantial.[[75]](#endnote-75) Yet none of the defense arguments had any effect in the face of a highly politicized process to which the regime had deliberately assigned trustworthy magistrates to achieve the desired result. In April 1916, sixteen men were handed the death penalty. It is doubtless a nationalist exaggeration to suggest that the Bosnian authorities were consciously trying to exterminate the Serb intelligentsia or were deliberately using treason trials as a vehicle for radically reorganizing Bosnia’s overall position in the empire.[[76]](#endnote-76) However, they certainly chose to stereotype “as revolutionaries and traitors the entire Serb cultural, educational and national movement.”[[77]](#endnote-77) While this served as a warning to the wider state community about disloyalty in wartime, it also justified why the monarchy was fighting for its survival. Certainly this was a legal process with much deeper prewar roots; already in 1913 the Potiorek regime had instigated trials in Sarajevo and Banjaluka of individuals suspected of revolutionary links to Belgrade. But it needed the dynamic of war for this machine to pick up speed: aided by martial law, treason law was given an even broader interpretation than in peacetime by some enthusiastic magistrates and army officers.

For the military authorities, the other major wartime group to be targeted as traitors was the Czech national leadership.[[78]](#endnote-78) As in the case of Bosnian Serbs, the Army High Command (AOK: *Armeeoberkommando*) had ample evidence of prewar Czech civilian and political disloyalty to justify heightened vigilance during hostilities. Recent research has confirmed how constructed were the army’s charges of treachery against Czech soldiers captured en masseby the Russian forces in 1915.[[79]](#endnote-79) But the case of Václav Klofáč serves as a reminder that some Czech politicians were indeed equivocal about the monarchy, to a degree that matched legal definitions of “treason.”[[80]](#endnote-80) Klofáč, a Czech National Socialist leader, was not just a virulent prewar critic of the empire but also in early 1914 had plotted in Russia to organize an underground Czech resistance should war break out. In September, after returning from an American lecture tour full of subversive speeches, he was arrested and kept in a Prague prison.[[81]](#endnote-81) There he would remain for almost three years, charged eventually under §58c. He never came to trial, but we know that during 1916 he was being earmarked by Markus Preminger, Austria’s chief military attorney, as the linchpin that would tie together all the threads of Czech and Great Serbian treachery against the monarchy. The plan was to organize one monster treason trial in Vienna with Klofáč at the core.[[82]](#endnote-82)

Instead, the treason trial that took place—perhaps the most significant of the whole European war—was that of the Czech National Democrats Karel Kramář and Alois Rašín.[[83]](#endnote-83) Here it needed a special resolution, by the military authorities now overseeing all political crimes in Cisleithania, for a charge of treason to be triggered. In May–June 1915, the AOK suddenly ordered Kramář and Rašín to be arrested. They were taken to Vienna, to remove them from the sympathetic Czech environment, and Preminger carefully constructed an indictment against them.

For the AOK, Kramář’s arrest was a knee-jerk reaction to constant rumors that Czech troop “disloyalty” at the front had strong roots in the hinterland. Kramář was deliberately selected, as the most well-known Czech leader, one who had long been suspected of harboring treasonable ideas and setting a bad example in Bohemia. At the very start of the investigation Preminger rightly noted that Kramář “since the outbreak of war has opposed the principles guiding the fate of the monarchy, and that this friction at best has helped to bring him into a psychological conflict with his duties towards the monarchy”; it remained to be seen how far this had taken a criminal direction.[[84]](#endnote-84) Certainly, the early evidence for a successful prosecution was encouraging, for, apart from Kramář’s lukewarm patriotism, a house-search hinted at his sympathy for the Czech émigré movement under Masaryk. Yet the final indictment grossly exaggerated the logic and consistency of Kramář’s ideals to present him as a typical scheming traitor who for years had been guilty of §58c (i.e., separatism). While his prewar leadership of the “Neo-Slavist” movement had supposedly started his conspiracy with other Serb and Ruthenian traitors, from 1914 his tentacles had spread out to embrace the monarchy’s foes in Russia, France, and Italy. At the trial in 1916 at Vienna’s *Landwehr* court there were ample defense speeches, not least by Kramář, and a range of Habsburg statesmen were allowed to testify to his prewar Habsburg loyalism. But it was to no avail against a mass of circumstantial evidence and a courtroom under military control. Preminger, an otherwise respectable Habsburg-Jewish lawyer, seems after months of intensive investigation to have believed his own indictment. With a moral flourish, he noted there that history would be the judge of this disgraceful example of treacherous seduction.[[85]](#endnote-85)

In June 1916 the military court (with no jury) finally gave its verdict. Both Kramář and Rašín were found guilty under §58c and sentenced to death, pending appeals. Preminger turned to preparing other trials including the comprehensive “Klofáč monster plot.” Yet as historians have noted, after supposedly drawing a line under Kramář, the question was left hanging of how to process his case in public. Should the guilty sentence—stereotyping “disloyal Czechs”—be exploited as the AOK wished, to drive home the message, or should it be played down in case it further antagonized the Czech community?[[86]](#endnote-86) In late 1916, Francis Joseph took the advice of Prime Minister Stürgkh and decided on the latter course; whether the propaganda fiasco over the Battisti case played any part in this decision is unclear.

Only on 5 January 1917 was the verdict published in Austria-Hungary, by which time the new emperor Charles had commuted the sentences on both Kramář and Rašín to life imprisonment. Yet any lingering propaganda value soon backfired on the Habsburg regime anyway. For in July, in his impatience to convert Austria back to constitutional rule, Charles suddenly announced a full amnesty for many Czechs and Germans found guilty in wartime political trials.[[87]](#endnote-87) Since there were no set preconditions on how “traitors” should behave after release, those like Kramář and Klofáč could now pose as national martyrs in the Czech community. Although the empire was already experiencing a kind of regime change, transitioning away from military rule toward new power structures, the Habsburg authorities were left severely tainted by graphic stories of military misrule. As former Czech or South Slav traitors began to emerge from prison, they could claim the moral high ground for their national community and proudly brandished their badge of treachery.[[88]](#endnote-88)

In the last year of the war, therefore, the power balance affecting public perceptions of treason was in flux. With the state abruptly abandoning its previous program of treason trials, there commenced a fierce public discourse over what treason meant and who exactly was responsible for betraying the wartime empire. While German nationalist deputies to the Austrian Reichsrat published a summary of Czech treacherous behavior, most Czech deputies proceeded defiantly to privilege their own national loyalty and their agreement with the views of the arch-traitor Masaryk.[[89]](#endnote-89) The perils of stereotyping whole communities as treacherous were now clear. As the Slovene leader Anton Korošec noted in one speech to the Reichsrat, if the state was interpreting Slovenian national aspirations as treason, then it had insufficient gallows to hang all the Slovenian traitors.[[90]](#endnote-90)

Yet the state pursuit of alleged traitors never quite disappeared. Even in the last days of the monarchy an investigation under §58c had begun against one Czech insurance officer from Brandýs nad Labem in Bohemia. On 16 October 1918, Antonín Pařízek was arrested for prematurely proclaiming a free Czechoslovak republic and picturing Austria as “a beast in agony, resembling an old leaky vessel with rotting sails that can’t be mended.” Only on 6 November, a full week after the creation of Czechoslovakia, did Prague’s state attorney intervene to halt the case.[[91]](#endnote-91)

**Managing Treason in the New Europe**

When Austria-Hungary disintegrated, the natural course for the new successor states was to assert a very public break with the Habsburgs and the recent past of arbitrary justice. In his first major speech as president in Czechoslovakia, Tomáš Masaryk duly stressed that “unhealthy Austrianness [*rakušanství*]must be thoroughly vanquished.”[[92]](#endnote-92) During most watersheds after a period of violent conflict, there is a strong tendency too for the newcomers to pursue retribution against national traitors to set a moral example or affirm their own legitimacy (1849 against the Hungarian rebels, or 1989 against the Ceaușescus).[[93]](#endnote-93) In the wake of the 1918 collapse, however, this was not a common scenario. Certainly there was grassroots revenge against those perceived to have betrayed the nation: on this basis the Hungarian wartime leader István Tisza was murdered in his own home, and the phenomenon of “street justice” seems to have temporarily flared in the Bohemian Lands.[[94]](#endnote-94) In turn, the continuation of mass violence in Slovakia and Hungary in 1919 would throw up new “traitors” who, amidst the lawlessness, would often be dispatched summarily by paramilitary vigilantes.[[95]](#endnote-95)

Yet it appears that in the successor states there were few official trials for alleged treason committed during the Great War. Those that did occur were in established countries where there was a public clamor for prosecuting wartime collaborators—in other words, “national treason” that had been committed during periods of enemy occupation of Italy and Romania. Some trials of Italian traitors took place from the time of Austria’s seizure of Venetia (1917–18), and of Romanian journalists and military officers who had sided with the Germans during their partial occupation of Romania (1916–18).[[96]](#endnote-96) Otherwise, in those states that were completely new creations, and where a range of ex–Austro-Hungarian populations had to be integrated, there was a strong tendency by the new regimes to promote reconciliation with those who might have abused the “nation” in wartime. When in the new Yugoslav parliament, Bosnian deputies called for exposure and action against wartime Habsburg agents, the Belgrade regime did not respond.[[97]](#endnote-97) Rather than delving into the messy business of identifying “traitors” from the past, the new governments concentrated on quickly rehabilitating those whom the old Habsburg regime had convicted. In Czechoslovakia, the first major amnesty was already announced on 5 November 1918, covering all political crimes committed during the war.[[98]](#endnote-98) In affirming Czechoslovak legitimacy and power, it also trumped or at least rebranded Emperor Charles’s premature and misguided amnesty of 1917.

When it came to prosecuting treason in the early years of the New Europe, the focus was on contemporary threats to the regimes stemming chiefly from new forms of separatism or irredentism.[[99]](#endnote-99) Such *Landesverrat* often shaded into other types of treason if the accused was seen to be challenging the legitimacy of the regime in word or action. The security threats were immediately clear in Czechoslovakia, when four German councils seized control around the “Sudetenland” and announced union with Austria. While the Prague regime easily suppressed these *Deutschböhmen* power centers with military force, the revolt sparked some investigations into treason. Already in December 1918, a protestant pastor Walter Reinhard was arrested and escorted to Prague for stirring up armed revolt near Žatec (Saaz) in connection with the *Deutschböhmen* experiment. The state prosecutor ordered an investigation on a charge of §58c, but then appears to have halted the case in April 1919.[[100]](#endnote-100) Probably Czech jurists advised that it would be difficult to use treason law so soon against German irredentists because the new state of Czechoslovakia had not been confirmed by the Paris Peace Conference and the state community was still embryonic. Later in the year, Masaryk confirmed this when he effectively pardoned the German renegades. Even if they were not labeled as traitors, the president’s moral gesture served to underline their inferior position, as a group of outsiders who were now being “welcomed back” into the Czechoslovak state community.[[101]](#endnote-101)

Czechoslovakia’s cautious wielding of the treason weapon, especially in light of its abuse during the war, can be usefully contrasted with its frequent arbitrary use elsewhere. If, in this era of regime change, there was continuity in treason law, the way that the new regimes identified and then processed “treason” reveals not just the relative security threats in each state but also the mind-set of the different power centers: namely, some in authority were quite prepared to push investigations to a public trial, oblivious of the consequences for community stability. In the following, I use the cases of two “treacherous separatists,” Andrej Hlinka in Czechoslovakia and Stjepan Radić in Yugoslavia, to illuminate both the similarities and differences in regime tactics.

In the case of Andrej Hlinka, the voice of Slovak autonomy from late 1919, the notion that he might be a traitor plotting to undermine the new state had some traction. For the Slovak people (unlike the Germans) were officially part of the “state-building Czechoslovak nation,” and any calls for Slovak autonomy or self-determination would certainly be exploited by the state’s chief foreign enemy, revisionist Hungary. Already in his first speech as a deputy to the National Assembly in Prague in early 1919, Hlinka had complained that because of his Slovak patriotism he was being treated like a national traitor despite the thirty-three months he had suffered in Hungarian prisons.[[102]](#endnote-102) However, the treason charge against him mainly crystallized because of his impulsive journey with three other Slovaks to Paris in September 1919. There, through circulating a special memorandum, he wished to draw the Peace Conference’s attention to the 1918 “Pittsburgh Agreement” in which Masaryk had promised Slovakia far-reaching autonomy. On his return to Czechoslovakia on 4 October, Hlinka was arrested on suspicion of betraying the state (Hungarian/Slovak §142), interrogated, and interned without charge or trial for the next six months.[[103]](#endnote-103)

Proving in law that Hlinka was a traitor was very difficult, but certain ingredients helped. He had slipped off to Paris (illegally through Warsaw on a Polish passport) without even informing his fellow Slovak deputies in the National Assembly. He had then allegedly tried to petition a foreign forum with the purpose of weakening state unity. And his activity was particularly dangerous to state security at a time when Hungary’s territorial settlement was not yet finalized. All this immediately stirred up a huge discussion in Prague about Hlinka betraying the republic. As the Czech deputy Františka Zemínová exclaimed in parliament, “It is incompatible for us that a member of the National Assembly should be a traitor!” The parliamentary Slovak Club too, having officially defined “treason” early in 1919 as any attempt to destroy Czech-Slovak fraternity, condemned Hlinka’s unilateral appeal abroad and proceeded to revoke his mandate (and immunity from prosecution).[[104]](#endnote-104)

The real twist, however, came because of Hlinka’s close association with another alleged “apostate,” František Jehlička. It was this fellow Slovak priest who had been the driving force behind Hlinka’s trip to Paris, who accompanied him there, and who sharpened their memorandum into a virulent onslaught on “Czech imperialism.” Although it now seems clear that Jehlička was not yet a paid Hungarian agent, his entrenched Catholic Hungaro-Slavic mind-set (which underlay his own rejection of the Prague regime’s secular and centralist outlook) soon set him on a more radical trajectory than Hlinka’s. On his return from Paris, Jehlička proceeded not to Slovakia but to Hungary, where he found a new Christian conservative regime that matched his own values; with the financial support of Budapest, he started a long career as a Hungarian propagandist for Slovak secession.[[105]](#endnote-105)

Hlinka soon repudiated Jehlička, but he was indelibly tarred by association with such a renegade. Leading centralists like Vavro Šrobár, who was the minister effectively running Slovakia, simply conflated Jehlička’s “poisonous treason” with that of Hlinka, arguing that calls for Slovak autonomy were the same as Hungarian irredentism. An example should be made of Hlinka by trying and convicting him as a traitor.[[106]](#endnote-106) But could such a charge really be upheld? From the start, even while in France, Hlinka had publicly justified his behavior and denied random accusations of treason. He had come to Paris not as a Slovak separatist, but as the true voice of the Slovak people, to correct the errors of 1918 by demanding Slovak autonomy within a Czecho-Slovak republic. It was centralists like Šrobár who, by shedding the “honorable Slovak name” in favor of “Czechoslovak,” were the real traitors. Hlinka consistently maintained that he was obeying his patriotic duty to the homeland while strengthening the base of the common state. And typically, for someone involved in a discourse about treason, he asserted his moral superiority over “Czechoslovaks,” prophesying that “the unbiased historian and the true Slovak” would be his final judge.[[107]](#endnote-107)

For the regime there was now a dilemma on how to proceed. A lengthy discussion ensued between the various legal centers. While the Bratislava state prosecutor had opened a criminal investigation under §142 of the Hungarian code (collusion with a foreign government with the aim of committing a hostile act against the state), the Czechoslovak Ministry of Justice recommended that Hlinka’s trial should take place in the regional court in Olomouc in Moravia because that would prevent the public unrest, which a trial in Slovakia might provoke.[[108]](#endnote-108) The Supreme Court in Brno however rejected this idea, declaring that crimes committed under one penal code (Hungarian) could not be tried under a different legal jurisdiction (Austrian). Only on 4 February 1920 did the Supreme Court reverse this decision and make an exception to preserve public order.[[109]](#endnote-109)

Meanwhile, the Olomouc state prosecutor drew up a draft indictment and passed it on to Brno, Prague, and Bratislava for comment. Already it was clear that the case against Hlinka was problematic. With an imminent general election, Šrobár was hoping that a major treason trial would silence the Slovak autonomists; however, the Czechoslovak Prime Minister, Vlastimil Tusar, had publicly expressed his support for Hlinka.[[110]](#endnote-110) Such political machinations certainly had an impact on Hlinka’s fate, not least through stirring up public support. But ultimately it was the official legal advice that did most to terminate proceedings. Weighing up the charge under §142, the chief state prosecutor in Brno felt it unlikely that Hlinka could be convicted on “objective” grounds, and even if he was probably guilty, subjectively of treason, “conviction is very doubtful.”[[111]](#endnote-111) Because weak indictments tended to damage the state’s reputation at home and abroad, the attorney recommended a magnanimous pardon.[[112]](#endnote-112) Summarizing the legal advice in April, the Ministry of Justice noted there were hints that Hlinka had indeed plotted with Poland to secede Slovakia from the republic (if true, a crime under §127), but that the current indictment contained insufficient proof.[[113]](#endnote-113) Although the Olomouc prosecutor wished to carry on regardless, a consensus was effectively reached, especially because in the spring parliamentary elections Hlinka was permitted to compete *in absentia*. Regaining his Assembly seat, Hlinka then also recovered his immunity from prosecution, and after he returned home in triumph to Slovakia, a new presidential amnesty on 27 May further safeguarded him.[[114]](#endnote-114)

The Hlinka treason case was not devoid of political interference in the legal process. The way that he was interned and publicly accused of treason also ensured that, despite a presidential pardon, he could still pose as a martyr with some moral ascendency over his opponents. At the same time, the case reveals the difficulties faced by the early Czechoslovak regime when invoking treason law, and especially the concern or tendency of many to stay within the parameters of the *Rechtsstaat*. For both legal and political reasons in early 1920, it was felt best not to risk accentuating Slovak-Czech confrontation with a very public treason trial. In contrast, a year later in 1921, the authorities were on much firmer ground when they decided to prosecute for treason those Czech communists who, despite a presidential amnesty, had continued their work to undermine the state.[[115]](#endnote-115)

This relatively measured Czechoslovak stance is a sharp contrast to the ruthless way that Croatian dissidents were managed in the early years of the kingdom of Yugoslavia. In May 1919, speaking on behalf of Belgrade, the Minister of Interior Svetozar Pribićević openly admitted that the country was still in a state of war and revolution, so extraordinary action against internal threats was justified.[[116]](#endnote-116) Because the Serbian treason laws had now been extended across the country, they provided in name at least the legal framework for the arrest of suspected Croatian separatists, and it is clear, as with the Czechs, that lawsuits for treason quickly continued across the watershed of 1918 under new regimes.[[117]](#endnote-117) Yet a basic tension existed in how treason might now be interpreted. The Kingdom of Serbs, Croats, and Slovenes made Croats per se a component of the state-forming nation, with the potential that citizens from Croatia could be traitors to the new state community. But many Croat politicians did not recognize this state, the (Serbian) Karadjordjević dynasty, nor any broader framework for national loyalty.

Apart from the Croatian Party of Right, which had a separatist wing agitating from a base in Vienna, the Belgrade regime identified as most dangerous the Peasant Party leader Stjepan Radić, who from the start was demanding an independent Croatian peasant republic.[[118]](#endnote-118) He refused to recognize the legitimacy of either the dynasty or the state National Assembly, and (like Hlinka) hoped he could appeal abroad to the Paris Peace Conference for justice. It was Radić’s public mobilization of this agenda that led to his arrest in March 1919 even though the (Serbian) treason laws were not yet in place. Yugoslav newspapers attacked him as an “Iscariot” who was in league with foreign enemies, and Radić by the summer was thinking of moving abroad to campaign for Croatian independence.[[119]](#endnote-119) Yet the treason case against him did not stick. On this occasion the judiciary—as in the Sokol treason trial of 1916—felt able to overrule any political pressure, namely Pribićević when he urged that Radić’s “Austrophile” behavior should be unmasked. Viktor Aleksander, who was now Croatia’s chief prosecutor, exhaustively perused the evidence and finally declared it a “political process” with insufficient material for a prosecution. In February 1920, Radić was released. He had served a full eleven months in prison, without charge, and far from the congenial conditions permitted to Hlinka at this time.[[120]](#endnote-120)

Subsequent events, moreover, showed that the rule of law in Yugoslavia could easily be manipulated if the regime was determined to convict a “traitor.” A month after his release, Radić was arrested again for “crimes against the homeland” (zločina proti otečestva). As usual, both sides in this power struggle could argue a moral case. Radić was still uncompromising, rejecting as illegitimate the current Yugoslav state and the monarchy. The regime and its centralist supporters were equally firm; they were determined to silence a man they stereotyped as a revolutionary separatist funded by Italy.[[121]](#endnote-121) Once again Viktor Aleksander felt there was insufficient evidence to prosecute Radić for treason. Although he admitted the legal validity of Serbian treason laws in Croatia, the fact was that Radić’s behavior lacked violence (a legal criterion for “state betrayal”) and he also still had parliamentary immunity from prosecution. A royal amnesty from December 1919 meant too that Radić had been pardoned for any earlier crimes committed. Aleksander duly warned that a treason trial was likely to backfire, for it would open up a discussion of the country’s unstable history since 1918 and endanger its security with neighboring states like Italy and Hungary.[[122]](#endnote-122)

This time, however, Belgrade overruled the legal advice and sent Radić to be tried by a set of judges deliberately selected to ensure a conviction.[[123]](#endnote-123) On 9 July 1920 in the Zagreb courtroom Radić made an eloquent eight-hour defense speech. Denying that he was a separatist or plotting with Italy, he attacked the indictment as politically motivated in a state where opponents of centralized government had no rights. A change of regime in 1918 had meant no change in political methods: the prosecution case was “the child of Magyar legal persecution and Serbian criminal law.” When it was clear that any arguments about his parliamentary immunity would have no impact, Radić and his defense team bowed to the inevitable and refused to participate any further in the trial. They were not present to hear the verdict of guilty and a prison sentence of two and a half years.[[124]](#endnote-124)

One Croat nationalist historian, in her narrative of Belgrade’s “political terror” against Radić and his “political trial,” assumes that any charge of treason in this case was wholly fabricated.[[125]](#endnote-125) Yet, as with the Hlinka case, Radić’s was never devoid of behavior that could in law be interpreted as harmful to the state, most notably his calls for Croatian self-determination, refusal to recognize the dynasty, and open appeals to foreign powers. In assessing how treason was managed in this successor state, however, most striking is the arbitrary application of the law in a manner that tarnished the regime’s moral authority.[[126]](#endnote-126) In the Radić trial, despite the royal pardon of December 1919, pre-amnesty evidence was introduced about his earlier treachery (subversive speeches and a memorandum composed for the Peace Conference). Then, in November 1920, there was again a *volte-face* when the Regent suddenly pardoned Radić at an inopportune moment. He was released from prison exactly when his Peasant Party was winning a huge victory in the first parliamentary elections. There was a clear parallel here with the way that, three years before, the Habsburg emperor from a position of weakness had recklessly pardoned Karel Kramář and other Slav traitors. It simply emboldened individuals who resumed respected positions of power in their community. In contrast, the Czechoslovak regime in 1920 had managed Hlinka’s treason more judiciously. President Masaryk’s clemency had been a deliberate exercise of power, seeking to terminate the discourse about treason but not allowing the suspect too much validation when released into society.[[127]](#endnote-127)

**Conclusion**

Speaking at the Zagreb treason trial of 1909, Hinko Hinković noted that amongst the “enormous arsenal of laws which tighten rather than order our civic life,” there was one law that for a whole generation could pass unnoticed. Only when ominous events occurred was the “catastrophic power” of treason law suddenly revealed.[[128]](#endnote-128) This phenomenon of treason and traitors duly surfaced before, during, and after the demise of the Habsburg monarchy. For historians, the way that this was understood and exploited by different regimes serves as a valuable touchstone for evaluating state security interests but also for weighing up the relative (in)stability of regime-community relations. While most examples in this article have been drawn from the years when a state of emergency officially reigned across East Central Europe (1914–21), it is clear that a penumbra of treason also existed in peacetime. Both before 1914 and well into the post-Habsburg era, the crime of treason was being identified and prosecuted—partly in response to new security threats but partly as something triggered by “illiberal” elements in the state, those who deliberately exploited the law to eliminate *staatsfeindlich* individuals or groupings.[[129]](#endnote-129) This in itself points up the actual fragility of the Habsburg *Rechtsstaat* before 1914. Certainly the *Rechtsstaat* existed, but already before the war its political manipulation, notably in treason cases, was helping to alienate forever a range of lawyers and academics—some of the monarchy’s harshest critics.

 During this long period of regime crisis across Habsburg space, the parameters of treason law were fairly consistent. Successor states like Czechoslovakia and Yugoslavia moved quickly to enumerate and sharpen different facets of the crime (removing especially the vagueness of Austrian law), but at the same time the old bases of treason legislation persisted. There was continuity too in how treason was interpreted mainly as “betrayal of the state,” with domestic traitors mooted to be in league with a foreign enemy; although the state borders shifted in 1918, the dangers of separatism or irredentism remained in a new guise. Many in the wartime and postwar regimes naturally sought to identify *staatsfeindlich* elements and then find the best legal means with which to eliminate them. This inevitably led to much legal “construction” of treason, twisting the law to match the disloyal behavior of the defendant. It occurred against Czech and South Slav “traitors” in the final Habsburg decade and—despite the scandal about Habsburg “tyranny”—it persisted in the successor states.

It might be argued that such political manipulation is integral to the way that any regime prosecutes its traitors.[[130]](#endnote-130) And the era of Habsburg regime change does also show that upholders of a *Rechtsstaat* tradition were not wholly drowned in a sea of lawlessness. Both the Zagreb Sokol trial of 1916 and the investigation into Hlinka in 1919 suggest that an independent judiciary could assert itself and “traitors” could still be acquitted. At the same time, these cases bring into sharp focus the twisted justice meted out to a Kramář or Radić (even if, as we have seen, their treachery was not quite as ill-founded as some historians might claim). While their treason prosecutions did not go as far as the show trials of the Stalinist era, we can perceive a strong tendency in the courtrooms of Vienna or Zagreb to manufacture an “alternative reality,” to manipulate or even fabricate the evidence to ensure a conviction.[[131]](#endnote-131)

Any historical study of how treason is managed reveals the dangers that arise when a government transgresses the law to silence domestic opposition. In the long era of the Great War, most damaging was the reckless use of treason law against high-profile politicians or community leaders to assert state power and extinguish disloyalty. Because those targeted had widespread support at the grassroots, this often evolved into a stereotyping of whole communities as traitors, people whose loyalty—once besmirched—could rarely be recouped. All the major treason trials on “Habsburg soil,” from Adam Pribićević in 1909, through Karel Kramář in 1916, to Stjepan Radić in 1920 had a long-term destabilizing impact on the state community. To many critical observers, the regime was reaching for the most extreme law and was constructing it for purely political purposes, and the resulting injustice badly backfired. Many were left thinking that the real traitor to the national community was not the man in the dock: it was the regime. Thus for the legitimacy of both the Habsburg monarchy and the Yugoslav kingdom, the decision to exploit “treason” as part of a power struggle had fatal consequences.

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1. This article emerges from my current research project titled *Treason in the Age of Francis Joseph*. A draft paper was delivered in spring 2018 at the universities of Jena and Zagreb: my thanks to Joachim von Puttkamer and Iskra Iveljić for these opportunities. I would also like to thank the anonymous *Austrian History Yearbook* reviewers for their very useful recommendations.

Speech by Hinko Hinković on 14 Sept. 1909, published in *Govori branitelja u kaznenoj parnici protiv Adam Pribićevića i petdeset dvojice drugova radi zločinstva veleizdaje* [The speeches for the defense in the lawsuit against Adam Pribićević and fifty-two others for the crime of treason] (Zagreb, 1909), 3. For the Zagreb treason trial, which is surprisingly underresearched, see Mark Cornwall, “Loyalty and Treason in Late Habsburg Croatia: A Violent Political Discourse before the First World War,” in *Exploring Loyalty*,eds. Jana Osterkamp and Martin Schulze-Wessel (Göttingen, 2017), 97–120; and Mislav Gabelica, “Zagrebačka veleizdajnička parnica 1909. godine” [The Zagreb treason trial of 1909], *Časopis za suvremenu povijest* [Journal of Contemporary History], 46 (2014): 131–57. A classic study is to be found in R. W. Seton-Watson, *The Southern Slav Question* (London, 1911), but it is highly subjective and not based on the official transcript of the trial. [↑](#endnote-ref-1)
2. *Govori branitelja*, 4. [↑](#endnote-ref-2)
3. Ibid., 6. [↑](#endnote-ref-3)
4. Vojislav Bogićević, ed., *Sarajevski atentat. Stenogram glavne rasprave protiv Gavrila Principa i drugova* [The Sarajevo assassination. Transcript of the main trial against Gavrilo Princip and others] (Sarajevo, 1954), 368. [↑](#endnote-ref-4)
5. “Šest mjesici tamnice” [Six months of prison], *Hrvatski pokret* [Croatian Movement], 30 May 1911, 1–2; Rudolf Zistler, *Kako sam branio Principa i drugove 1914. godine* [How I defended Princip and others in 1914] (Ljubljana 1937), 15. [↑](#endnote-ref-5)
6. Equally, there have been few attempts to conceptualize modern European treason (and thereby place “Habsburg treason” in context). For some useful theorization of treason, see Nachman Ben-Yehuda, *Betrayal and Treason: Violations of Trust and Loyalty* (Boulder, 2001); Thomas Noetzel, *Die Faszination des Verrats. Eine Studie zur Dekadenz im Ost-West-Konflikt* (Hamburg, 1989); Marcello Flores, *Traditori. Una storia politica e culturale* (Bologna, 2015); and the recent overarching study by André Krischer (ed.), *Verräter. Geschichte eines Deutungsmuster* (Vienna, 2019). Other popular studies are limited by their author’s conservative agenda: Margaret Boveri, *Der Verrat im 20. Jahrhundert*(Reinbek, 1976) or Chapman Pincher, *Traitors: The Labyrinths of Treason* (London, 1987). [↑](#endnote-ref-6)
7. For example, Martin Moll, *Kein Burgfrieden. Der deutsch-slowenische Nationalitätenkonflikt in der Steiermark 1900*–*1918* (Innsbruck, 2007); Richard Lein, *Pflichterfüllung oder Hochverrat? Die tschechischen Soldaten Österreich-Ungarns im Ersten Weltkrieg* (Vienna, 2011); Oswald Überegger, *Der andere Krieg. Die Tiroler Militärgerichtsbarkeit im Ersten Weltkrieg* (Innsbruck, 2002); Frank Wiggermann, *K.u.k. Kriegsmarine und Politik. Ein Beitrag zur Geschichte der italienischen Nationalbewegung in Istrien* (Vienna, 2004); Jonathan E. Gumz, *The Resurrection and Collapse of Empire in Habsburg Serbia, 1914*–*1918* (Cambridge, 2009). A kindred and broader study, though not in fact about *Hochverrat*, is Philip Czech, *Der Kaiser ist ein Lump und Spitzbuben: Majestätsbeleidigung unter Kaiser Franz Joseph* (Vienna, 2010). [↑](#endnote-ref-7)
8. John Bellamy, *The Tudor Law of Treason: An Introduction* (London, 1979); Lisa Steffen, *Defining a British State: Treason and National Identity, 1608*–*1820* (Basingstoke, 2001); Alan Orr, *Treason and the State: Law, Politics and Ideology in the English Civil War* (Cambridge, 2002); John Barrell, *Imagining the King’s Death: Figurative Treason, Fantasies of Regicide* (Oxford, 2000); and most recently, on evolving legal procedure, the excellent work of André Krischer, *Die Macht des Verfahrens: Englische Hochverratsprozesse 1554*–*1848* (Münster, 2017). [↑](#endnote-ref-8)
9. See for example, Daniel Unowsky, *The Pomp and Politics of Patriotism: Imperial Celebrations in Habsburg Austria, 1848*–*1916* (Lafayette, 2005); Laurence Cole and Daniel Unowsky, eds., *The Limits of Loyalty: Imperial Symbolism, Popular Allegiances, and State Patriotism in the Late Habsburg Monarchy* (New York, 2007); Laurence Cole, *Military Culture and Popular Patriotism in Late Imperial Austria* (Oxford, 2014); Jana Osterkamp, ed., *Kooperatives Imperium. Politische Zusammenarbeit in der späten Habsburgermonarchie* (Göttingen, 2018). [↑](#endnote-ref-9)
10. Henry Wickham Steed, *The Hapsburg Monarchy* (London, 1913), ix. The leading overall synthesis of this approach is now Pieter M. Judson, *The Habsburg Empire: A New History* (Cambridge, MA, 2016). [↑](#endnote-ref-10)
11. See most recently Laurence Cole’s incisive and critical review of Judson’s work: “Visions and Revisions of Empire: Reflections on a New History of the Habsburg Monarchy,” *Austrian History Yearbook* 49 (2018): 261–80, esp. 276–79. [↑](#endnote-ref-11)
12. As I indicate in the following text, this focus should not, however, obscure the fact that, well before 1914, there were signs of “regime crisis”: witness the increased sighting of “traitors,” and in turn increasing complaints about a dysfunctional Habsburg *Rechtsstaat* (notably in Croatia). For prewar imperial insecurities, see especially Günther Kronenbitter, *Krieg im Frieden. Die Führung der k.u.k. Armee und die Großmachtpolitik Österreich-Ungarns 1906*–*1914* (Munich, 2003). [↑](#endnote-ref-12)
13. Amidst a growing literature, see Judson, *The Habsburg Monarchy*; Robert Gerwarth, *The Vanquished: Why the First World War Failed to End, 1917*–*23* (London, 2016); Paul Miller and Claire Morelon, eds., *Embers of Empire: Continuity and Rupture in the Habsburg Successor States after 1918* (New York, 2018). [↑](#endnote-ref-13)
14. See Róbert Hermann, *Megtorlás az 1848*–*49-es forradalom és szabadsághharc után* [Revenge after the revolution and war of independence of 1848–49] (Budapest, 1999); and Róbert Hermann, “I. Ferenc József és a megtorlás” [Francis Joseph I and revenge], *Századok* [Centuries] 141 (2007): 635–81. [↑](#endnote-ref-14)
15. Ágnes Deák, *From Habsburg Neo-Absolutism to the Compromise* (New York, 2008), 73–85. For the aspiration of “normal conditions,” see for example, Bach’s comments on 13 Mar. 1853, in *Die Protokolle des Österreichischen Ministerrates 1848*–*1867. III Abteilung. Das Ministerium Buol-Schauenstein. Band 1: 14 April 1852*–*13. März 1853*, ed. Waltraud Heindl (Vienna, 1975), 518. [↑](#endnote-ref-15)
16. Otto Kirchheimer, *Political Justice: The Use of Legal Procedure for Political Ends* (Princeton, 1961), 76. [↑](#endnote-ref-16)
17. Any discourse about treason always has moral dimensions, stereotyping the other (the traitor) as violating the moral universe of the imperial or national collective. See Ben-Yehuda, *Betrayal and Treason*, 125. [↑](#endnote-ref-17)
18. For an overview of wartime treason in the Habsburg monarchy, see Mark Cornwall, “Traitors and the Meaning of Treason in Austria-Hungary’s Great War,” *Transactions of the Royal Historical Society* 25 (2015): 113–34. Generally the subject has not been researched for other European belligerents. But for the most notorious British case in 1916, see *Trial of Roger Casement*, ed. H. Montgomery Hyde (London, 1960). For Russian traitors, see William C. Fuller Jr., *The Foe Within: Fantasies of Treason and the End of Imperial Russia* (Ithaca, 2006); and the useful case studies in Eric Lohr, *Nationalizing the Russian Empire: The Campaign against Enemy Aliens during World War I* (Cambridge MA, 2003). [↑](#endnote-ref-18)
19. See Josip Šilović, *Kazneno pravo* [Criminal law] (Zagreb, 1893), 298–301. Šilović, one of the leading Croatian jurists of his generation, notes here how, from a Croatian law of 1870, an attack on the state union of Hungary, Croatia, and Slavonia was also considered to be “treason.” [↑](#endnote-ref-19)
20. The fact that it occurred, however, is shown by the case of Professor Vaso Stajić, who in late 1915 was convicted of treason by a Szeged court and sentenced to seven years for being a member of *Narodna Odbrana*: see Hrvatski Državni Arhiv [HDA: Croatian State Archives, Zagreb], fond 397, Državno nadodvjetništvo [DNO: Chief state attorney] Zagreb 1875–1945, kutija 81, K81/1916. In Dec. 1915, the Hungarian Minister of the Interior had suggested that the Croat politician Frano Supilo also should be prosecuted for treason *in absentia* under §127 (which covered detaching Hungarian territory by force): HDA, Središnja dojava i defenzivna služba [SDDS: Central intelligence and defense service], kutija 5691(5), 136/1915, Hungarian Ministry of Interior to Ban Skerlecz (6633 szám), 13 Dec. 1915. [↑](#endnote-ref-20)
21. The crime of *fels­égsértés* (Hochverrat) under §126–38 and of *hütlenség* (Staatsverrat) under §142–51. For a German translation, see *Das ungarische Strafgesetzbuch über Verbrechen und Vergehen*, trans. Gustav Steinbach (Budapest, 1878), 30–37. [↑](#endnote-ref-21)
22. The evolution of Austrian treason law is the subject of Wolfgang Pfeifer, *Der Hochverrat im österreichischen Strafrecht vom 18.Jahrhundert bis zur Gegenwart* (PhD diss., University of Graz, 2008), here esp. 120–30. [↑](#endnote-ref-22)
23. For a very useful comparative discussion, see Fritz van Calker, “Hochverrat und Landesverrat,” in *Vergleichende Darstellung des deutschen und ausländischen Strafrechts. Vorarbeiten zur deutschen Strafrechtsreform*, eds. Karl Birkmeyer, Fritz van Calker, Reinhard Frank et al., *Besonderer Teil. I Band* (Berlin, 1906), 2–71. [↑](#endnote-ref-23)
24. By “construction,” I mean the subtle interpretation or manipulation of treason law to achieve the political objective. Very common in treason trials in early modern England, it is also highly applicable to the practices used in late Habsburg treason trials. See for example, the 1869 case of Jindřich Kejval and Josef Hüber who spread leaflets in Prague, vaguely implying death to the emperor; they were tried under §58a but found guilty under the lesser crime of disturbing public order (§65): Státní oblastní archiv v Praze [SOAP: State Regional Archive, Prague], Krajský (zemský) soud trestní Praha [District Criminal Court], karton 551, C-576/69. [↑](#endnote-ref-24)
25. Pfeifer, *Der Hochverrat im österreichischen Strafrecht*, 55–61; Czech, *Der Kaiser ist ein Lump*. [↑](#endnote-ref-25)
26. *Der Wiener Hochverratsprozeß*, ed. Heinrich Scheu (Vienna, 1911). [↑](#endnote-ref-26)
27. According to Fritz van Calker, Austrian law—unlike German or French—did not really know the concept of *Landesverrat*: it was subsumed under *Hochverrat* in §58c. However, other paragraphs in the Austrian penal code effectively dealt with a wide range of threats to the external security of the state: see Van Calker, “Hochverrat und Landesverrat,” 55–65. [↑](#endnote-ref-27)
28. For the most important contemporary commentary, see Anton Hye, *Das österreichische Strafgesetz uber Verbrechen, Vergehen und Uebertretungen, und die Preßordnung vom 27. Mai 1852*, Band 1 (Vienna, 1855), 672–735. [↑](#endnote-ref-28)
29. For one interpretation of the ways that §58c and §67 fused together, see Eduard Herbst, *Handbuch des allgemeinen österreichischen Strafrechts. Mit Rücksicht auf die Bedürfnisse des Studiums und der Anwendung*, Band 1: *Von den Verbrechen*, 7th ed. (Vienna, 1882), 208–9. [↑](#endnote-ref-29)
30. Jaroslav Hašek, *The Good Soldier Švejk*, trans. Cecil Parrott (London, 1974), 13. As one small example, see the case of Adam Dragojlović and Dušan Blagajić, investigated because of the treasonable remarks they made against the monarchy and the army when traveling on a Brod-Zagreb train in Croatia: HDA, SDDS, kutija 5690(4), 936/1914, Militärkommando [military command] Zagreb to SDDS, 30 Dec. 1914. [↑](#endnote-ref-30)
31. For this framework, see most recently John Deak and Jonathan E. Gumz, “How to Break a State: The Habsburg Monarchy’s Internal War, 1914–1918,” *American Historical Review* 122, no. 4 (Oct. 2017): 1105–36. An older but still useful study is Christoph Führ, *Das k.u.k. Armeeoberkommando und die Innenpolitik in Österreich 1914*–*1917* (Graz, 1968). [↑](#endnote-ref-31)
32. For Bosnia, see Gumz, *The Resurrection and Collapse*, 105–6, 112–13. For Galicia (although the figure given of 30,000 Ruthene civilians executed is taken from later propaganda and unbelievable), see Alexander Watson, *Ring of Steel: Germany and Austria-Hungary at War, 1914*–*1918* (London, 2014), 154–56. See also Karl Platzer, *Standrechtliche Todesurteile im Ersten Weltkrieg* (Berlin, 2004), 51–67. [↑](#endnote-ref-32)
33. Platzer, *Standrechtliche Todesurteile*,161. [↑](#endnote-ref-33)
34. Gumz, *The Resurrection and Collapse*,126–28, 140–41. [↑](#endnote-ref-34)
35. See Hermann, *Megtorlás*, 19–23, for General Julius Haynau’s guidelines on reprisals in 1849. [↑](#endnote-ref-35)
36. For the substantial legacy of Austrian law in the successor states, see Helmut Slapnicka, *Österreichs Recht ausserhalb Österreichs. Der Untergang des österreichischen Rechtsraums* (Munich, 1973). [↑](#endnote-ref-36)
37. Martin F. Polaschek, *Die Rechtsentwicklung in der Ersten Republik. Die Gesetzgebung im Verfassungs- und Strafrecht von 1918*–*1933* (PhD diss., University of Graz, 1992), 178–81. Publicly, a legal break with the past was best symbolized by the abolition of the death penalty, judged by the justice committee of the National Assembly to be the “symbol of a system founded on tyranny” (149). See also Pfeifer, *Der Hochverrat*, 194–99. [↑](#endnote-ref-37)
38. Eduard Vlček, Pavel Mates, and Karel Schelle, *Československé dějiny státu a práva (1918*–*1960)* [Czechoslovak history of the state and law (1918–1960)] (Brno, 1988), 16. [↑](#endnote-ref-38)
39. See especially, Václav Šmidrkal, “Fyzické násilí, státní autorita a trestní právo v českých zemích 1918–1923” [Physical violence, state authority and criminal law in the Bohemian Lands 1918–1923], *Český časopis historický* [Czech Historical Journal] 114, no. 1 (2016): 89–114; and Rudolf Kučera, “Exploiting Victory, Sinking into Defeat: Uniformed Violence in the Creation of the New Order in Czechoslovakia and Austria, 1918–1922,” *The Journal of Modern History* 88 (Dec. 2016): 827–55. Most recently, see Ota Konrád and Rudolf Kučera, Cesty z apokalypsy. Fyzické násilí v pádu a obnově střední Evropy 1914–1922 [Paths out of the apocalypse. Physical violence in the fall and renewal of central Europe 1914–1922] (Prague, 2018). [↑](#endnote-ref-39)
40. The early state of the criminal code in the Bohemian Lands was summarized in Jaroslav Kallab and Vílem Herrnritt, eds., *Trestní zákony československé platen v Čechách, na Moravě a ve Slezsku* [Czechoslovak criminal laws valid in Bohemia, Moravia and Silesia] (Prague, 1923). [↑](#endnote-ref-40)
41. A useful article by Giovanni Capoccia is otherwise problematic in theorizing always from a baseline of “democratic Czechoslovakia”: “Legislative Responses against Extremism: The ‘Protection of Democracy’ in the First Czechoslovak Republic (1920–1938),” *East European Politics and Societies* 16, no. 3 (2003): 691–738. Older Czech Marxist interpretations have of course suggested that the 1923 law had a hidden class agenda and was designed to “preserve the external mask of bourgeois democracy”: Vlček, *Československé dějiny státu*, 76. [↑](#endnote-ref-41)
42. Karl Jadrníček, *Die tschechoslowakische Strafgesetzgebung in den Ländern Böhmen und Mähren-Schlesien* (Vienna, 1931), 75–94. [↑](#endnote-ref-42)
43. Paragraph 6 covered military treason during wartime: serving in a foreign army, betraying information to the enemy, or “knowingly endangering the defense of the republic.” Later paragraphs (§22–24) specified other actions that could benefit a foreign power to the detriment of Czechoslovakia. See Jadrníček, *Die tschechoslowakische Strafgesetzgebung,* 77, 82–83. The clause on disturbing public order was now much more precise in criminalizing actions that incited violence against groups of the population because of their nationality, language, race, or religion: ibid., 80. [↑](#endnote-ref-43)
44. The crime of physically damaging the president or members of the government, or seeking by force to take over their powers, was set out in more detail under §8 and §10. The old *Majestätsbeleidigung* against the emperor was duly converted in §11 into “insulting the president” (with a punishment of up to six months), but to this was added (§20) the vague crime of “coarse impertinence” against the president or other institutions of the republic. [↑](#endnote-ref-44)
45. Cf. Capoccia, “Legislative Responses,” 708–9, who is contradictory on this issue. [↑](#endnote-ref-45)
46. Germany’s Law for the Protection of the Republic (July 1922). For the special Yugoslav legislation of Aug. 1921 see below. [↑](#endnote-ref-46)
47. The six codes were Serbian, Montenegrin, Croatian, Bosnian, Hungarian, and Austrian (covering the south Slav regions of former Cisleithania). See Arhiv Jugoslavije Belgrade [AJ: Archive of Yugoslavia], Ministarstvo Pravde Kraljevine Jugoslavije [Ministry of Justice of the Kingdom of Yugoslavia], fasc. 34 (opis 102): *Projekat kaznenog zakonika za Kraljevinu Srba, Hrvata i Slovenaca* [Draft criminal code for the Kingdom of Serbs, Croats and Slovenes](Belgrade, 1922), 81. This is the draft for a new criminal code with a short commentary (*kratsko objašnjenje*). [↑](#endnote-ref-47)
48. Neda Engelsfeld, *Prvi parlament Kraljevstva Srba, Hrvata i Slovenaca* [The first parliament of the Kingdom of Serbs, Croats and Slovenes] (Zagreb, 1989), 123, 125–26. [↑](#endnote-ref-48)
49. Ministarstvo Pravde Kraljevstva Srba, Hrvata i Srba, *Glava IX i X Kriminalnog (kaznitelnog) zakona za Kraljevinu Srbiju* [Chapters IX and X of the criminal (penal) law of the Kingdom of Serbia] (Belgrade, 1919). [↑](#endnote-ref-49)
50. *Projekat kaznenog zakonika*, 82, 96. Further paragraphs dealt with incitement to commit these crimes: thus the proposed §92 covered entering into discussions over such crimes with a foreign government. [↑](#endnote-ref-50)
51. Ibid., 97. [↑](#endnote-ref-51)
52. For the critical reports see AJ, Ministry of Justice, fasc. 34 (opis 103) for 1922. While one leading Croatian expert, Professor Ernest Miler, had few comments to make on the treason clauses, the Croatian chamber of lawyers in Zagreb was mainly vexed about retention of the death penalty in the criminal code and vainly recommended a maximum penalty of life imprisonment (even for killing the king): see Dragutin Katušić to Ministry of Justice, 13 Nov. 1922, enclosing their views. [↑](#endnote-ref-52)
53. AJ, Ministry of Justice, fasc. 34 (opis 103), Predsjednik kr. sudbeni stol [President of the royal court table] (Zagreb) to Ministry of Justice, 26 Dec. 1922, 18. [↑](#endnote-ref-53)
54. Ivan Avakumovic, *History of the Communist Party of Yugoslavia*, vol.1 (Aberdeen, 1964), 49–56. [↑](#endnote-ref-54)
55. Bosiljka Janjatović, *Politički teror u Hrvatskoj 1918.* –*1935.* [Political terror in Croatia 1918–1935](Zagreb 2002), 230–36. It never came to trial, but the charges prepared against Radić were akin to treason: for example, supposedly plotting with Hungary to secede Croatia from the Yugoslav state and allying with “communist” organizations abroad. [↑](#endnote-ref-55)
56. *Stenographisches Protokoll. Herrenhaus. XXI Session. 29 Sitzung*,26 June 1913,Beilage 167, 2, 11. This report, accompanying the debate on the draft law for reforming the penal code, noted how the laws protecting the territory and constitution of the state lacked the precision that alone could confront especially dangerous attacks. A “deep reworking of this chapter of the penal code was particularly necessary.” [↑](#endnote-ref-56)
57. H. Gordon Skilling, *T. G. Masaryk: Against the Current 1882*–*1914* (University Park, 1994), 164–71. [↑](#endnote-ref-57)
58. Hinko Hinković, *Les Persécutions des Yougoslaves: Procès politiques (1906*–*1918)* (Paris, 1916). See also *Le Matin*, 4 May 1915, reporting Hinković’s lecture in Paris where he claimed 19,000 Croats had been executed since the start of the war. [↑](#endnote-ref-58)
59. HDA, SDDS, kutija 5712 (26), Ad 1244/17, “Verzeichnis der in der hochverräterischen Bewegung der Südslaven beteiligten und im Auslande tätigen Personen” [compiled by Gericht des k.u.k. Militärkommandos Graz, Landwehrgruppe], dated end of Jan. 1917. [↑](#endnote-ref-59)
60. For Masaryk, see Milada Paulová, *Dějiny Maffie: Odboj Čechů a Jihoslovanů za světové války 1914*–*1918* [History of the Maffie: The resistance of the Czechs and Yugoslavs in the world war 1914–1918], 2 vols. (Prague, 1937), 1:623–28; and for a full analysis of how he was investigated, see Eduard Kubů and Jiří Šouša, *T. G. Masaryk a jeho c.k. protivníci. Československá zahraniční akce ženevského období v zápase s rakousko-uherskou diplomacií, zpravodajskými službami a propagandou (1915*–*1916)* [T. G. Masaryk and his imperial adversaries. The Czechoslovak foreign campaign in the Geneva phase of the struggle with Austro-Hungarian diplomacy, intelligence services and propaganda (1915–1916)](Prague, 2015). For Vošnjak: HDA, SDDS, kutija 5697 (11), file on Vošnjak: 5134/16—16 Dec. 1916, Odjel za bogoštovlje i nastavu [Department for religious affairs and education] to Dekant pravo- i državnoslovnoga fakulteta kr.sveučilišta Franje Josipa I [Dean’s office of the faculty of law and government of the royal university of Francis Joseph I] (Zagreb), 16 Dec. 1916. [↑](#endnote-ref-60)
61. Državni Arhiv u Zagrebu [DAZG: State Archives of Zagreb], Alfred Makanec MSS, kutija 22, 22/28/11, Viktor Aleksander to sudbeni stol, 2 June 1915. [↑](#endnote-ref-61)
62. The Graz Landwehr court’s documentation on individuals like Vošnjak, Ante Trumbić, and other Yugoslav emigres has not yet been located and was probably destroyed. However, much can be deduced about the court’s methodical investigations using material in the Makanec papers at the DAZG. [↑](#endnote-ref-62)
63. Überegger, *Der andere Krieg*, 384–86. [↑](#endnote-ref-63)
64. Deak and Gumz, “How to Break a State,” 1126. [↑](#endnote-ref-64)
65. Cornwall, “Traitors and the Meaning of Treason in Austria-Hungary’s Great War,” 123–24. [↑](#endnote-ref-65)
66. Most decisive in its impact was the Zagreb trial, not the subsequent Friedjung trial; cf. Cole, “Visions and Revisions of Empire,” 278. R. W. Seton-Watson called it “one of the grossest travesties of justice in modern times”, rivaling France’s Dreyfus affair: Seton-Watson, *The Southern Slav Question*, 184, 208. [↑](#endnote-ref-66)
67. See the exaggerated underlying claims in Deak and Gumz, “How to Break a State”: “the empire’s deep attachment to the rule of law, within a relatively well-functioning political system” (1117); the prewar empire as “plodding but inherently calm and predictable” (1118); and “the orderly Habsburg *Rechtsstaat*” (1125). Cf. also Judson, *The Habsburg Empire*, 106–7 and 393: that wartime was “a radical departure from the normal functioning of the *Rechtsstaat*.” [↑](#endnote-ref-67)
68. For the hysteria and mass arrests, see Moll, *Kein Burgfrieden*, 172ff; Wiggermann, *K.u.k. Kriegsmarine*, 315ff; and for a small case study, see Martin Moll, “Hochverrat und ‘serbophile Umtriebe’: Der Kriminalfall Maria-Rast als Beispiel der Verfolgung slowenischer Steirer zu Beginn des Ersten Weltkrieges,” *Blätter für Heimatkunde* 74, nos. 1–2 (2000): 39–73. [↑](#endnote-ref-68)
69. See HDA, fond 397, DNO Zagreb 1875–1945, kutija 74, K174/1914. Details of the trial were published later as *Sokolski Veleizdajnički proces iz 1915.* –*1916. god.* [The Sokol treason trial of 1915–1916](Zagreb, 1927). For good context—notably the links to the Sarajevo investigation—see Arnold Suppan, “Zur Verfolgung der grossserbischen Propaganda in Kroatien-Slawonien während des Ersten Weltrkrieges,” in *Veleizdajnički proces u Banjaluci. Zbornik radova s Medjunarodnog naučnog skupa ‘Veleizdajnički proces u Banjaluci 1915*–*16’* [The Banjaluka treason trial. Proceedings of the international conference about the ‘treason trial in Banjaluka 1915–16’],ed. Galib Šljivo (Banjaluka, 1987), 357–68. [↑](#endnote-ref-69)
70. This, therefore, encompassed all twenty-five of the accused who could all receive the death penalty. For the Sarajevo trial, the best source is the critical edition of Vojislav Bogićević, recently republished: *Sarajevski atentat. Izvorne stenogramske bilješke sa glavne rasprave protiv Gavrila Principa i drugove, održane u Sarajevu 1914. godine* [The Sarajevo assassination. Original transcript notes from the main trial of Gavrilo Princip and others, held in Sarajevo in 1914] (Banja Luka, 2015). For further analysis, see Cornwall, “Traitors and the Meaning of Treason,” 125–27; and Vladimir Dedijer, *The Road to Sarajevo* (London, 1966), 328–46. For recent Serbian legal assessments, praising Zistler’s heroism and condemning the “unfair” trial, see Srdjan Djordjević and Srdjan Vladetić, “Rudolf Cistler—viva vox Serbiae! Sudski proces i odbrana učesnika Sarajevskog atentata 1914. godine [Rudolf Zistler—Serbia’s mouthpiece! The trial and defense of the participants in the Sarajevo assassination of 1914],” *Srpska politička misao* [Serbian Political Thought]2 (2014): 93–110; and Veljko Turanjanin and Dragana Čvorović, “Sarajevo 1914: Trial Process against Young Bosnia—Illusion of the Fair Process,” *Zbornik radova* *Pravnog Fakulteta* [Proceedings of the Law Faculty] 50, no. 1 (Novi Sad, 2016): 183–99. [↑](#endnote-ref-70)
71. Zistler, *Kako sam branio Principa*, 15–17. [↑](#endnote-ref-71)
72. See Milorad Ekmečić, “‘Žalosna baština iz godine 1914’ (Političke namjene sudskih procesa u Bosni i Hercegovini za vrijeme prvog svjetskog rata)” [‘The pitiful inheritance of 1914’ (The political aims of the court trials in Bosnia and Hercegovina during the First World War)] in *Veleizdajnički proces u Banjaluci*,ed. Galib Šljivo (Banjaluka, 1987), 13–41. This volume of essays is the best introduction to the wartime treason trials across Bosnia-Hercegovina. [↑](#endnote-ref-72)
73. Ibid., 28–29, 31. [↑](#endnote-ref-73)
74. This was a common trope in treason trials through the ages, for example, in the speech of Edward Coke at the trial of the English Gunpowder plotters in 1606. [↑](#endnote-ref-74)
75. The evidence is based particularly on captured Serbian documents that supposedly proved a network of treacherous agents of *Narodna Odbrana* around Bosnia: see Horst Haselsteiner, “Prozess Banja Luka 1916: Das Militärgutachen,” in *Veleizdajnički proces u Banjaluci,* ed. Galib Šljivo (Banjaluka, 1987), 145–54. [↑](#endnote-ref-75)
76. Ekmečić, “Žalosna baština iz godine 1914,” 35, 40. [↑](#endnote-ref-76)
77. Ibid., 35. [↑](#endnote-ref-77)
78. For the military, Ruthenes/Ukrainians and later Italians were also, of course, stereotypical traitors and suffered mass internment (or execution in the war zone of Galicia). However, there were no major political trials to equate with those of leading Czech or Serbs. The exception perhaps was the case of the Ukrainian politician Dimitrij Markov, arrested in July 1914. In Aug. 1915 he was convicted of treason at a trial in Vienna, the prosecution attempting to link his case to that of Karel Kramář. See Milada Paulová, *Dějiny Maffie: Odboj Čechů a Jihoslovanů za světové války 1914*–*1918*, 2 vols. (Prague, 1939), 1:154–55. It has not yet been possible to locate the papers of this trial and there was no press reporting, but Markov was interned in Vienna for three years. [↑](#endnote-ref-78)
79. See Lein, *Pflichterfüllung oder Hochverrat?* And the early analysis by Richard Plaschka, “Zur Vorgeschichte des Übergang von Einheiten des Infanterieregiment Nr.28,” *Österreich und Europa. Festgabe für Hugo Hantsch* (Vienna, 1965), 455–64. [↑](#endnote-ref-79)
80. Cf. the claim by Deak and Gumz (“How to Break a State,” 1107, note 8) that the standard narrative about Czech wartime treason has been completely overturned by recent findings. [↑](#endnote-ref-80)
81. In Cleveland and New York, he had given lectures attacking Habsburg behavior during the Balkan Wars and claiming that the monarchy’s peoples were now opposing a government that was leading them to destruction. See Archiv Narodního Muzea, Prague [ANM: Archive of the National Museum], HN, karton 77, Václav Klofáč papers: Dst 119/14 42, Ministry of Foreign Affairs to Landwehrdivisionsgericht, 20 Oct. 1914; and for the background to his arrest: Paulová, *Dějiny Maffie*, 1:27ff, 113–15. [↑](#endnote-ref-81)
82. For the draft indictment with a useful introduction: Zdeněk Tobolka, ed., *Obžalovací spis proti Václav Klofáčovi a Rudolfu Giuniovi* *pro zločin [velezrády] dle §58c tr. z* [Indictment against Václav Klofáč and Rudolf Giunio for the crime of treason according to §58c of the penal code] (Prague, 1919). Also the material in ANM, karton 77, Klofáč papers. For example, Preminger informed the Army High Command [Armeeoberkommando: AOK] on 11 July 1916 that the investigation into Klofáč’s links to Great Serb leaders had thrown up numerous examples of espionage, “staatsfeindliche Wühlarbeiten und hochverräterrischen Unternehmungen” (A 1473/16 180). [↑](#endnote-ref-82)
83. For more detail on the following, see Cornwall, “Traitors and the Meaning of Treason,” 128–32; Gustav Müller, *Der Hochverratsprozeß gegen Dr. Karel Kramar* (PhD diss, University of Vienna, 1971). [↑](#endnote-ref-83)
84. Archiv Ústavu TGM [Archive of the TGM Institute] (Prague), fond Maffie, karton 44, Militäranwalt des Militärkommandanten in Wien (Preminger) to AOK via Evidenzbüro, A 2162/15, 31 May 1915. [↑](#endnote-ref-84)
85. Militäranwalt des Militärkommandanten in Wien (A 2162/15 / 960), *Anklageschrift* (Vienna, 1915), 111. [↑](#endnote-ref-85)
86. Kubů and Šouša, *T.G. Masaryk a jeho c.k. protivníci*, 288. [↑](#endnote-ref-86)
87. Charles later justified his move, for it included both Czechs and Germans: Erich Feigl, ed., *Kaiser Karl. Persönliche Aufzeichnungen, Zeugnisse und Dokumente* (Vienna, 1984), 206–7. Although it did not include those convicted in the Banjaluka trial, seventy of them were subsequently pardoned by imperial decree in September 1917: Dženana Čaušević, “‘Veleizdajnici’ na sudskom procesu u Banjaluci i u zatvorima” [‘Traitors’ at the Banjaluka trial and in prison], in *Veleizdajnički proces u Banjaluci,* ed. Galib Šljivo (Banjaluka, 1987), 383–85. [↑](#endnote-ref-87)
88. Cornwall, “Traitors and the Meaning of Treason,” 133. [↑](#endnote-ref-88)
89. For the German deputies’ protest of Dec. 1917, see Zdeněk Tobolka, ed., *Dotaz německých poslanců o chování se českého národa za války* [Inquiry of German deputies into the behavior of the Czech nation during the war], 2 vols (Prague, 1918). Czech deputies especially reacted in Apr. 1918 to the tactless warning by the Habsburg Foreign Minister, Count Czernin, that there might be traitors like Masaryk concealed among the Czechs at home, see the coverage in *Národní listy* [National Pages], 4 Apr. 1918, p. 1. [↑](#endnote-ref-89)
90. Felix J. Bister, *“Majestät, es ist zu spat…”. Anton Korošec und die slovenische Politik im Wiener Reichsrat bis 1918* (Vienna, 1995), 233. In June 1918, in an alternative Slovenian discourse on treason, the newspaper of the pro-Habsburg politician Ivan Šušteršič publicly lambasted those Yugoslavs agitating abroad as “traitors who bear the guilt for so much spilt blood”: see Mark Cornwall, *The Undermining of Austria-Hungary: The Battle for Hearts and Minds* (New York, 2018), 265–66. [↑](#endnote-ref-90)
91. SOAP, Krajský (zemský) soud trestní Praha, Vr-XV 7873/18—case of Antonín Pařízek. [↑](#endnote-ref-91)
92. Speech to national parliament on 22 Dec. 1918: T. G. Masaryk, *Cesta demokracie. Soubor projevů za republiky. Svazek první, 1918*–*1920* [The course of democracy. Collected speeches in the republic. First volume, 1918–1920] (Prague, 1939), 24. [↑](#endnote-ref-92)
93. In the case of the court-martial of Nicolae and Elena Ceauşescu, both they and their prosecutors attacked each other as traitors to the nation. [↑](#endnote-ref-93)
94. Šmidrkal, “Fyzické násilí autorita,” 96ff. [↑](#endnote-ref-94)
95. For example, the moral crusade of Pál Prónay amidst the turmoil in Hungary: see Béla Bodó, *Pál Prónay: Paramilitary Violence and Anti-Semitism in Hungary, 1919*–*1921* (Pittsburgh, 2011). For Czech soldiers’ behavior in Slovakia, see Kučera, “Exploiting Victory,” 847–48. [↑](#endnote-ref-95)
96. On postwar Italian trials, see Giuliano Casagrande, “Resistenza e resilienza di una città invasa: il caso Troyer, Vittorio 1917–18,” *Venetica* 24 (2016): 79–105. Many thanks to the author for sending me this article. In Romania, for the 1919 trial of journalists, see Dimitrie Vatamaniuc, *Ioan Slavici și lumea prin care a trecut* [Ioan Slavici and the world he passed through] (Bucharest, 1968), 472–82. And for the 1920 trial of sixty soldiers, see Mihai Chiper, “‘Onoarea trădătorilor’: Cazurile General Alexandru Văitoianu și Al. Tzigara-Samurcaș” [The traitors’ honor: The cases of General Alexandru Văitoianu and Al. Tzigara-Samurcaș], *Anuarul Institutului de Istorie “A. D. Xenopol”* [Yearbook of the “A.D. Xenopol” Institute of History] (Iași, 2013): 329–30. I am most grateful to Vlad Popovici of the University of Cluj for sending me information about these trials. For the most recent general study, see Gheorghe Vlad, *O istorie a trădării la români* [A history of treason among the Romanians], vol. 2 (Bucharest, 2010). [↑](#endnote-ref-96)
97. Interpellation of Mehmed Spaho in the 22nd session, 16 May 1919: *Stenografske beleške privremenog narodnog predstavništva Kraljevine Srba, Hrvata i Slovenaca od 20.*–*40. sastanka. II sveska* [Stenographic transcript of the provisional national assembly of the Kingdom of Serbs, Croat and Slovenes, 20th–40th meetings. Second volume] (Zagreb, 1920), 517. Similarly in postwar Romania, there was no official retribution against supporters of the pro-Hungarian Metropolitan of Transylvania, Vasile Mangra, who in 1916 had “treacherously” spoken out against Romania and had died in office just as the war ended. See Marius Eppel, *Un mitropolit şi epoca sa* [A Metropolitian and his times] (Cluj-Napoca, 2006); and for Mangra’s “exposure” as a traitor in wartime Allied propaganda: Cornwall, *The Undermining of Austria-Hungary*, 357. [↑](#endnote-ref-97)
98. Šmidrkal, “Fyzické násilí autorita,” 109–10. [↑](#endnote-ref-98)
99. Hungary may be the exception. The chaotic regime changes of 1919 resulted in some treason trials of those previously in power; in 1921 the former president Mihály Károlyi was tried for high treason *in absentia*: Pál Schönwald, *A Károlyi-per* [The Károlyi trial] (Budapest 1985). [↑](#endnote-ref-99)
100. SOAP, Krajský (zemský) soud trestní Praha, Vr-XXIV 9573/18—case of Walter Reinhard and Josef Heinz. Most of the substantial evidence about this case has not survived. [↑](#endnote-ref-100)
101. Ferdinand Peroutka, *Budování státu. Československá politika v letech popřevratových: rok 1919* [Building a state. Czechoslovak politics in the post-revolutionary years: The year 1919], 2 vols. (Prague, 1934), 2:1295–96; Masaryk, *Cesta demokracie*, 1:243: conversation with *Prager Tagblatt*, 20 Dec. 1919. [↑](#endnote-ref-101)
102. Peroutka, *Budování státu*, 2:1243. [↑](#endnote-ref-102)
103. Hlinka’s behavior in 1919 has been studied in detail. See for example, Ladislav Deák, “Cesta A. Hlinku do Paríža roku 1919” [The journey of A. Hlinka to Paris in 1919], in *Andrej Hlinka a jeho miesto v slovenských dejinách* [Andrej Hlinka and his place in Slovak history] *,* eds. František Bielik and Štefan Borovský(Bratislava, 1991), 68–83; Martin Holák, “Cesta Andreja Hlinku do Paríža a jej vplyv na slovenskú politiku v rokoch 1919–20” [Andrej Hlinka’s journey to Paris and his impact on Slovak politics in 1919–20], *Historický zborník* [Historical Journal] 17, no. 1 (Martin, 2007): 52–69. [↑](#endnote-ref-103)
104. Peroutka, *Budování státu*, 2:1241, 1251–53. [↑](#endnote-ref-104)
105. For a good critical assessment, see Thomas Lorman, “For God and which Nation? The Ideology of František Jehlička, Priest, Politician and Pariah of the Slovak National Movement,” *The Slavonic & East European Review* 96, no. 3 (2018): 507–40. An interview with Jehlička, which particularly attracted Prague’s attention, appeared already in *Uj Nemzedék* [New Generation] on 20 Nov. 1919, pp. 1–2: “A tótok el akarnak szakadni a csehektől” [The Slovaks want to be free from the Czechs]. [↑](#endnote-ref-105)
106. Deák, “Cesta A. Hlinku do Paríža,” 79–80. See Šrobár’s assessment of Jehlička in his memoirs: Vavro Šrobár, *Z môjho života* [From my life] (Prague, 1946), 403: “something constantly compelled him towards treason.” [↑](#endnote-ref-106)
107. Národní archiv [NA: Czech National Archives, Prague], Ministerstvo spravedlnosti [Ministry of Justice] 1918–1945, karton 903: typed copy of Hlinka’s declaration of 29 Sept., “Hlinka vlastizrádca? [Hlinka a traitor?],” 8. This was published in the Prague newspaper *Čech* [Czech], č.281 (přiloha), 1 Oct. 1919, 1–3; and is reproduced in Róbert Letz, ed., *Andrej Hlinka vo svetle dokumentov* [Andrej Hlinka in the light of documents] (Bratislava, 2014), 122–29. A month later Hlinka again predicted that history or an impartial court would exonerate him: Holák, “Cesta Andreja Hlinku,” 67. [↑](#endnote-ref-107)
108. NA, karton 903, 24784/19, Ministry of Justice to Generální prokurator [general prosecutor] Prague, 13 Oct. 1919. [↑](#endnote-ref-108)
109. Ibid., 25051/19, Generální prokurator Prague to Ministry of Justice, 16 Oct. 1919; 4343/20, Generální prokurator Brno to Ministry of Justice, 4 Feb. 1920. [↑](#endnote-ref-109)
110. Peroutka, *Budování státu*, 2:1255–57. Peroutka highlights political considerations as the reason that proceedings were halted. [↑](#endnote-ref-110)
111. For it could be argued that Hlinka had not approached a foreign power but had sought to influence a conglomerate of powers charged (in Paris) with agreeing the formation of new states in Europe. [↑](#endnote-ref-111)
112. NA, karton 903, 10401/20, Chief state prosecutor Brno to Ministry of Justice, 28 Mar. 1920. See also Deák, “Cesta A. Hlinku,” 80–82. [↑](#endnote-ref-112)
113. NA, karton 903, 10401/20: Ministry of Justice comments of 19 Apr. 1920, sent to Ministry of Interior and the chief state prosecutor in Brno. These emphasized the problems with §142, but also queried any chance of convicting Hlinka on charges of inciting civil disobedience or attacking the constitution of the state (§171–73). Using §173 was problematic because a permanent Czechoslovak constitution had not been passed into law when Hlinka went to Paris in 1919. [↑](#endnote-ref-113)
114. Ibid., 18437/20, Chief state prosecutor Brno to Ministry of Justice, 1 June 1920. [↑](#endnote-ref-114)
115. See the documents in NA, Ministerstvo spravedlnosti 1918–1945, karton 908 on the trial of Alois Muna, Antonín Zápotocký and others (charged under §58b and c). For an account of the trial, 31 Mar. to 13 Apr. 1921: *Velezrádný proces Kladenský* [The Kladno treason trial] (Kladno, 1921). Muna had already long been publicly branded a traitor by Czechoslovak legionnaires because of his Bolshevik credentials: Paul E. Zinner, *Communist Strategy and Tactics in Czechoslovakia, 1918*–*1948* (London, 1963), 26–27. [↑](#endnote-ref-115)
116. Engelsfeld, *Prvi parlament Kraljestva*, 140. [↑](#endnote-ref-116)
117. See for example, the activity of the Croatian lawyer Radivoj Walter, who defended clients charged with different types of treason in pre- and post-1918 Croatia: HDA, fond 417, Odvjetnička kancelarija Walter Radivoje [The lawyer’s office of Radivoj Walter]. These included cases of “treason” and espionage, but also many vaguely interpreted as being against “the war power of the state.” [↑](#endnote-ref-117)
118. Ivo Banac, *The National Question in Yugoslavia: Origins, History, Politics* (Ithaca, 1984), 226–48. [↑](#endnote-ref-118)
119. Mark Biondich, *Stjepan Radić, The Croat Peasant Party and the Politics of Mass Mobilization 1904*–*1928* (Toronto, 2000), 155, 164–68. [↑](#endnote-ref-119)
120. Janjatović, *Politički teror u Hrvatskoj*,139–44. [↑](#endnote-ref-120)
121. For example, the deputy ban (governor) of Croatia, Franko Potočnjak, was at odds with the ban Matko Laginja. Potočnjak was intent on uncovering Radić’s state betrayal because for him Yugoslav loyalty was the priority: see Franko Potočnjak, *Malo istine iz naše nedavne prošlosti* [Small truths from our recent past] (Zagreb, 1921). Earlier in his (legal) career, Potočnjak in 1895 had stood up for Croatian students when they were prosecuted for national demonstrations against Hungarian rule. [↑](#endnote-ref-121)
122. Janjatović, *Politički teror u Hrvatskoj*, 159–60. Interestingly, it was Hinko Hinković who, as one of Radić’s lawyers in the early stages of the investigation, questioned the “legal force” of Serbia’s penal code in Croatia. [↑](#endnote-ref-122)
123. Vladko Maček, *In the Struggle for Freedom* (University Park, 1957), 88. [↑](#endnote-ref-123)
124. Janjatović, *Politički teror*, 166–72. For material from the defense case, see HDA, fond 417, Odvjetnička kancelarija Walter Radivoje, kutija 179; and Walter’s article in *Jutarnji list* [Morning Paper], 24 June 1920, p. 3. [↑](#endnote-ref-124)
125. Janjatović, *Politički teror*, 177. [↑](#endnote-ref-125)
126. Maček, *In the Struggle for Freedom*, 104: “It is interesting to note the special manner in which legality was mixed with obvious breaking of the law in Yugoslavia in those days.” [↑](#endnote-ref-126)
127. On regime dilemmas over granting political amnesties, see Kirchheimer, *Political Justice*, 389–419. [↑](#endnote-ref-127)
128. *Govori branitelja*, 3. [↑](#endnote-ref-128)
129. See Cole, “Visions and Revisions of Empire,” 279: “the wartime ‘dictatorship’ in Austria did not come out of nowhere.” [↑](#endnote-ref-129)
130. A comparative example is the trial of Sir Roger Casement, which took place in a charged political atmosphere in London in June 1916. Although Casement’s treason against Great Britain seemed fairly obvious in law (his collusion with the German enemy), the prosecution deliberately massaged the evidence to obscure Casement’s Irish idealism and foreground his depravity. A guilty verdict was then never in doubt, for the prosecutor, Attorney General F. E. Smith, was notoriously hostile to any notion of Irish home rule or independence. Casement in turn was resigned to martyrdom, stating in his final speech to the courtroom: “If it be treason to fight against such an unnatural fate as this, then I am proud to be a rebel” (*Trial of Roger Casement*, 204). [↑](#endnote-ref-130)
131. On this subject, see the incisive discussion in Kirchheimer, *Political Justice*, 46, 105–14. [↑](#endnote-ref-131)