# *Justice in uniform. Profiles of military law in Albania during the Italian occupation (1939-1943)*

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## Abstract

*The essay aims to present the outline of military justice in Albania during the Italian occupation (1939-1943). It dwells in particular on the analysis of criminal legislation - shaped entirely on the Italian Codes – and addresses the problem of political trials before the Albanian War Courts, through the examination of a series of striking trials, preserved in the General Directorate of Archives. The historical problem of the establishment of Italian military courts in Albania and, especially, that of their practice has never been adequately studied. On the contrary, the archival fonds of Rome and Tirana can provide important indicators about the role and action of military justice. In this article, also on the basis of documents from the Tirana State Archives, are presented the essential institutional and normative coordinates, together with some surveys of the rulings of the Italian Military Courts in Albania.*

***Keywords***: *military justice – Albania – courts – fascism – occupation - archives*

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## Fascistization of 'the Bohemia of the Balkans'

Unlike the Military Tribunals of Greece (Santarelli, 2002), the former Yugoslavia (Rovatti, 2018; Saini Fasanotti, 2010; Dominioni, 2009), and Italian East Africa (Dominoni, 2009; Rochat, 2002), those of Albania have not yet experienced the in-depth study that their centrality - within the framework of the Fascist regime's control strategies towards so-called 'colonies' - and the wealth of surviving archival documents certainly deserve. The prominence which the neighboring nation held in the context of the regime's expansionist policies, emerges sharply from the 'sculptural' words uttered by Benito Mussolini at the meeting of 13 April 1939 before the Grand Council of Fascism:

> Albania is the Bohemia of the Balkans, he who holds Albania holds the Balkan region. Albania is a geographical constant of Italy. It assures us the control of the Adriatic [...] in the Adriatic no one enters anymore [... ] we have widened the bars of the Mediterranean prison (Gayda, 1940).

This was how the Duce commented on the very recent conquest of Albania, which was to be the launching pad toward Greece for the transformation of the Mediterranean into the 'Mare Nostrum' in a vague re-edition of the Roman Empire coveted by the regime. The theme of Italy's natural interests over Albania was expressed as early as at the end of the Great War, with an anti-Austrian function, by Sir David Lloyd George, who was the head of two governments (1916-1919; 1919-1922) and among the leading figures of the Versailles Peace Conference. On 28 May 1919 he argued that «There was no other country that could well take the mandate for Albania. Greece and Serbia were too closely involved in the politics of Albania. Neither France, Great Britain, nor the United States would care for it, and in his own view, Italy would certainly have the first claim». The occupation was necessary, according to the Duce, to repair the shame of the renunciatory policy in the Albanian question, after the defeat suffered in Vlora in 1920. In the last of four articles devoted to the retreat, titled "Addio Valona", Mussolini expressed all his anger against the Italian government for the disgrace suffered, calling it a «second Caporetto», because «a few thousand Albanian insurgents have thrown a so-called great Power like Italy» into the sea (Mussolini, 1920; De Felice, 1965; Borgogni, 2007).

The Duce aimed at the construction of what Davide Radogno has called the «new Mediterranean order», a project founded on the central role of Mussolini, the charismatic head of a totalitarian regime, but also on the acquiescence

and connivance of the occupied territories' governments (Rodogno, 2003). In the Balkans, more than anywhere else, the aspirations of Germany and Italy intersected, and the 'conflict of interest' between the two nations - not yet allies[2] - manifested itself in all its embarrassing evidence in the ambiguous attempt to share the space of conquest, characterized by the wealth of natural resources, but at the same time economically and politically weak due to the many fragmentations that connoted its fabric. Already since 1925 Italy exercised a kind of monopoly in the field of Albanian oil concessions, as a result of two conventions (March 12 and July 15) between the Government of Tirana and the Italian state (Dal Praz-De Toni, 1915; Moschetti, 1930; Jacobini, 1939). The turning point that determined Italy's desire to further strengthen its influence over Albania occurred following Austria's annexation by Nazi Germany in 1938. The *Anschluss* was perceived by the Fascist government as a first step toward a possible Nazi conquest of the entire Balkan peninsula. In this perspective, the occupation of Albania was intended to counterbalance any possible German expansionist drive. So too, the small Balkan country was destined to become one of the battlefields with which military justice had to contend.

Institutionally, Italy did not treat Albania as an occupied territory, maintaining the simulacra of autonomous governing bodies in Tirana, with the cooperation of part of the local ruling class (Trani, 2007; Eichberg, 1997). Not bombastic proclamations, not brazen displays of interventionism, but simply the astute policy of Galeazzo Ciano, the Duce's son-in-law, helped to ensure that an obligatory course was taken in order to force King Ahmet Zogu – as in fact happened – to make a useful misstep to justify the invasion of the Duce's troops. The crown of Zog, the Albanian ruler who fled upon the arrival of Italian troops in the early hours of April 7, was offered on April 12 to Victor Emmanuel III, as a symbol of 'personal union', by the self-proclaimed Constituent Assembly, in order to foster through a fictitious parity, the communion between the two countries. The Constituent Assembly declared itself «representative of the Albanian people and interpreter of its will» and, by acclamation, presented the following motion:

1°. The existing regime in Albania is lapsed; the Constitution, an emanation of this regime, is abrogated; 2°. A government is nominated by the Assembly and invested with full powers; 3°. The Assembly declares that all Albanians, mindful and grateful for the reconstructive work given by the Duce and Fascist Italy for the development and prosperity of Albania, resolve to associate more intimately the life and destinies of Albania with those of Italy, establishing with it bonds of ever closer solidarity. Agreements inspired by this solidarity will subsequently be concluded between Italy and Albania; 4°. The National Constituent Assembly,

[2] The *Stahlpakt*, which sealed the alliance between the two countries, was signed a month later, on May 22, 1939.

interpreter of the unanimous will of the Albanian people for national renewal and as a solemn pledge for its realization, decides to offer, in the form of a personal union, the crown of Albania to H. M. Victor Emmanuel III King of Italy and Emperor of Ethiopia, for his Majesty and his Royal Descendants» (Annuario del Regno d'Albania: amministrativo, corporativo, sindacale, agricolo, industriale, commerciale, 1940).

> The Albanian text of the Assembly's resolution was not included in Albanian legislation nor ever officially published, but can be found in the Italian language in *Fletorja Zyrtare,* 1939 (Official Gazette of Kingdom of Albania,1939: 10).

While formally the union between the two countries appeared to be an agreement between sovereign states, since Albania retained formally retained its territory, population and sovereignty, however, its total subordination to Italy emerged from the first moment. The definition of the legal nature of the Italo-Albanian union ignited a wide debate in the scholarship of the time between proponents of the royal nature of the monarchical union, who emphasized the perpetual and stable communality of the sovereign, and the proponents of the personal nature, for whom the communality of the sovereign was characterized as accidental and transitory. The prevailing thesis was that advocated by the Paduan jurist and former parliamentarian Guido Lucatello, who called the Italo-Albanian case not «a union of states, but rather a unitary formation and precisely a state, in which the Italian state organization is the holder of the sovereignty of both the Kingdom of Italy and the Kingdom of Albania», the latter exercising autonomously only the executive power, while the legislative power was in fact exercised by Italian bodies. What Lucatello configured was, in essence, a kind of «decentralized state, constituted of a sovereign entity - the Kingdom of Italy - and of an entity subordinate to it - the Kingdom of Albania [...], which is autarkic and semi-autonomous with respect to the Kingdom of Italy, its sovereign entity [...]», because although it enjoys its own territory and its own people it lacked sovereignty (Lucatello, 1943; Arena, 1939, Bassani, 1939; Rizzo, 1939; Cansacchi, 1940).

On April 13, the Grand Council of Fascism, at an extraordinary meeting in Rome, sanctioned the association of the destinies of the two countries «in a deeper and more definitive union» and promised «order, respect for all religious faiths, civil progress, social justice and, with the defense of the common frontiers, peace» (Ambrosini, 1940; Giannini, 1940). The new institutional framework was made official on June 3, 1939, with the solemn granting to Albania by Victor Emmanuel III of a statute, the contents of which were derived from the merger of the 1848 *Statuto Albertino* with the Albanian equivalent of 1928. While the reference to Salic law regulating succession is inherited from the charter of Carlo Alberto, direct

influence of Zog's statute is found instead in the minute provisions concerning royal prerogatives, as well as in the choice - in art. 4 of the 1939 Statute - not to provide for a religion of State, entirely in keeping with the ever-secular tradition of the emerging Albanian state.

The new constitution "octrayèe", consisting of 54 articles as opposed to the 234 of the previous one, was entirely drafted by Italian jurists, a choice that caused quite a bit of discontent on the other side of the Adriatic. Francesco Jacomoni of San Savino (1965) wrote:

> The adoption of the form of handout of a Statute by the Sovereign was part of the custom of the ruling house, but it was the subject of some discussion by a few Albanian leaders, who would have preferred that the Statute come out of the deliberation of a Constituent Assembly, in keeping with local tradition, as had been the case with the union of the crowns.

The text was drafted not only by the advisor to the lieutenancy, Corradino Berardi, but also by two distinguished university professors: Claudio Baldoni, professor of international law at Bologna (Annuario della Regia Università di Bologna, 1939- 1940), and Tomaso Perassi, jurist, professor and politician (Salerno, 2013).

It reconfirmed the central points expressed by the deliberation of the Albanian Constituent Assembly which, with the decision to offer the crown to the king of Italy, had in fact already outlined both the monarchical-constitutional form and the order of succession to the throne of Albania[3], which was preparing to gradually transform itself into a «geographical constant of Italy». The king, holder of executive power, held the legislative power as well, with the cooperation of the corporatist Fascist High Council, and was head of the judiciary, exercised in his name by magistrates appointed by him. Concretely, after the granting of the statute, Victor Emmanuel III, as King of Albania, directly exercised his royal power only for such minor matters as, for example, the granting of amnesties or the conforming to the Fascist iconography of the coat of arms and seal of the state, as well as the national flag (Trani, 2007). Differently from the Albertine Statute and following the monocratic tradition of the Albanian Parliament already traced by the Statute of Zog, there was no royal-appointed senate. The Fascist Higher Council fully mirrored the Italian *Camera dei Fasci e delle Corporazioni* and its members were chosen by virtue of the hierarchical positions they held in the regime.

[3] Art. 1 «The Albanian state is governed by a constitutional monarchical government. The throne is hereditary according to Salic law in the dynasty of His Majesty Victor Emmanuel III, King of Italy and 'Albania, Imperator of Ethiopia.»

It also gave effect to what was formulated in Article 2 of the Italian law of April 16, 1939 regarding the acceptance of the throne («The King of Italy and Albania, Emperor of Ethiopia, shall be represented in Albania by a Lieutenant General, who shall reside in Tirana»). Even the creation of a body of such primary importance was an expression of a completely Italian decision, as the lieutenancy was established by a special royal law (July 13, 1939, No. 1103), which referred the creation and regulation of its central and peripheral offices to the Minister of Foreign Affairs, without any similar Albanian laws ever being promulgated. The only trace in the Albanian legal system is found in Article 12 of the new Statute. The legal nature of the "Luogotenenza" also aroused great perplexity in scholarship on account of its obvious legal ambiguity, since it was a body belonging both to the Albanian executive power and the Italian executive, dependent on the Ministry of Foreign Affairs. Although, therefore, Jacomoni was politically responsible to the Italian foreign minister, he had total control over Albanian political life, being able, among other functions, to nominate the permanent councilors, appoint and dismiss the Secretary of the PFSH (Albanian Fascist Party), and recognize the membership of two hierarchical bodies of leadership such as the Higher Fascist Corporative Council and the Central Council of the Corporative Economy (Villari, 2010).

The possibility of offering the crown of Albania to Galeazzo Ciano was initially envisaged. But it was subsequently decided to opt for the form of a lieutenancy, and the choice fell on Francesco Jacomoni di San Savino, who was well acquainted with the Albanian environment having worked there, in 1926, as first secretary at the Italian Legation in Tirana and, in 1936, as minister plenipotentiary. In March 1943, Jacomoni was replaced by General Alberto Pariani, also a profound connoisseur of Albania where he had previously been posted, from 1927 to 1933, as military attaché and head of the Italian military mission set up for the reorganization of the Albanian Army and the establishment of the ENGA (National Albanian Youth Authority). This resulted in the appointment of Francesco Jacomoni di San Savino, former Minister of Italy in Tirana, as lieutenant general for the exercise of royal powers in Albania. At the same time, the management of diplomatic relations between the two countries was unified and centralized at the Italian Foreign Ministry headed by Galeazzo Ciano. This was a further step toward the elimination of Albanian autonomy: on June 3, 1939, the management of international affairs for the two countries was unified in the Italian Ministry of Foreign Affairs, resulting in the abolition of the Albanian Ministry of Foreign Affairs (Decreto Luogotenenziale 18 settembre 1939-XVII, n. 94 [«Fletorja Zyrtare», 86 (25 settembre 1939-XVII)], Raccolta di provvedimenti di carattere legislativo riguardanti l'Albania, a cura di R. Bertuccioli, Roma 1941). A State Undersecretariat (SSAA) for 'Albanian affairs' was established within this ministry and entrusted to Zenone Benini, former president of the Italian Steel Corporation and, in fact, Ciano's right-hand man.

The Royal Decree No. 624 of April 18, 1939, establishing the SSAA, which was headquartered in Rome, did not see the participation, during its drafting, of any member of the Albanian government and was not included in local legislation. Benini was responsible for Albania's foreign relations, but also for directing and coordinating the work of the Lieutenant Governor. Despite its fundamental liaison role, this body was dissolved in August 1941 by Royal Decree No. 1048, and its political functions were reabsorbed into the powers of the General Lieutenancy and into those of the Italian Ministry of Foreign Affairs. The institution had a temporary character, in that it was to be replaced by the Italian-Albanian General Body, which, in fact, remained a dead letter. It was again an ambiguous choice, as it evoked to the Albanians the Undersecretariat of the Italian Ministry of Africa: The Italian government guided policy in Tirana through Jacomoni, who was directly accountable to the foreign minister. The complexity and intensity of the relations that were established and welded between Italy and Albania during the years of their Union is evidenced by the richness of the political, diplomatic, judicial and military documentation preserved in the archival fonds of both countries, of which these notes intend to offer a first account, with regard to the fonds in the State Archives Directorate of Tirana.

## Military war courts in Albania (1939-1943): structure, trials, proceedings

Once the institutional architecture that was to rule the country according to Rome's wishes had been built, Italy began the process of integrating Albania into the Empire, an integration that could not fail to also run the path of military homologation. The Italian presence in the Albanian military hierarchies was characterized even earlier by progressive control, including through the creation of fascist youth associations - led by General Alberto Pariani - that promoted the teaching of Italian, and the creation of paramilitary groups that would be used during the occupation. The publication of the manual *Lezioni di codice penale per i corsi dei sottufficiali e appuntati albanesi*, Firenze 1939 shoud be read along the same lines. The first act was precisely the merger of the Albanian armed forces with those of Italy, sanctioned by Law 13 July 1939, no. 1115 and which had an eminently propagandistic character. The merger of the armed forces of the two countries and the rules for its implementation, issued by Royal Decree No. 144 of Feb. 22, 1940, resulted in the incorporation of Albanian officers and non-commissioned officers into the institutions and roles of the Italian armed forces (Crociani, 2001). On July 22, pending the definition of the functions of the military command that was to manage also the other armed forces of the 'occupied' country, the *Comando*

*superiore truppe Albania* was established in Tirana, a provisional body that was to be suppressed on December 1, 1939. There remained, on Albanian territory, only *Comando Corpo d'Armata d'Albania*, which took the name *Comando XXVI Corpo d'armata* (Pirrone, 1979). Substantial changes began to materialize in September 1940, in view of the opening of the Balkan front. The start of hostilities with Greece (Montanari, 1980; Cervi, 1969; Iuso, 2008; Dini 2016), in implementation of the so-called 'Emergency G' plan, determined from October 1940 the second phase of the Albanian occupation, which necessarily required a rearrangement of commands: *Comando Gruppo di armate in Albania* - named a few months later *Comando superiore forze armate Albania* - to which answered the 9A Army, made up of elements of the Po Army, and the 11A, which operated on the border with Greece and, at the end of the conflict, occupied its territories. When Italy declared war and attacked Greece on October 28, 1940, the Italian military presence on the Greek-Albanian border saw a total of about 150,000 men, in eight divisions, under the command of General Sebastiano Visconti Prasca.

Law No. 863 of June 14, 1940, four days after Italy's entry into the war, concluded the process of conforming the Albanian military judicial system to that of Italy. A territorial military court, based in Tirana, was added to the three new territorial military courts in Milan, Verona, and Cagliari, while the Bologna Military Court Section based in Verona was abolished. As had been the case in Libya (Del Boca, 1996; Labanca, 2007), this tribunal was also structured with criteria of stability, to administer the military justice machine over a long period of time and not in an emergency perspective. Destined to replace the Special Military Tribunal of 1925, based in Shkodra, this new judiciary body was competent to hear: «a) crimes provided for by military criminal law, committed in Albanian territory by members of the Armed Forces of the State, deployed there, except those within the jurisdiction of war councils or summary navy councils; b) any crime provided for by Italian or Albanian criminal law committed in the territory of Albania by the persons indicated in the preceding letter» («Gazzetta Ufficiale», n.169, 20 luglio 1940).

In the latter case, if the offense was punishable by both Italian and Albanian law, Italian law prevailed, meanwhile, in case of concurrence in the same offense of military and civilian elements, the jurisdiction belonged to the Military Court.

The composition included a president with the rank of brigadier general, two judge rapporteurs, fifteen judges, officers of the State Armed Forces, including at least four senior officers and the remaining captains. The chairman and judges were identified from among the officers of the Armed Forces serving in the territory and on stationary ships of Albania and appointed yearly from October 28. The panel of judges consisted of a chairman, a judge rapporteur designated by him, and three judge officers, one of whom was at least a senior officer, designated by

the chairman from among the fifteen stationed at the Tribunal (Art. 6). The judge officers of the Royal Army had to belong to the combatant arms and at least two to the same military corps as that of the accused (art. 7). If there were several defendants from different Armed Forces, the corps to which the highest-ranking defendant belonged to or, in case of parity, that of the majority of the defendants was preferred. If the trial was against military personnel of Albanian nationality, at least one of the judges of the Military Court of Albania had to be Albanian. An exception was when a person of Italian nationality was also a defendant (Art. 8).

> Under this military jurisdiction were troop soldiers, non-commissioned officers, and members of the prison guard corps, while officers of both nationalities were to be subject to the judgment of a *collegium* composed of higher-ranking military personnel.

Composition of the College in relation to the rank of the accused. In judgments against officers, the president shall be superior to the accused by at least two ranks; the judges by at least one rank. If the members of the Tribunal do not include officers of the ranks required by the preceding paragraph, provision shall be made by drawing lots from among the officers of the Armed Forces of the State residing in the place where the Tribunal has its seat and, failing that, throughout the territory of Albania, subject, in any case, to the provisions of Articles 7 and 8. The draw shall be held at the superior command of the troops of Albania, in the presence of a representative of the prosecutor and the chief of the General Staff. An officer of the command shall draw up the minutes. Since defendants of different ranks are to be tried, the Tribunal shall be formed in relation to the highest-ranking defendant (art. 9)

If the accused was ordered to be recalled for trial, the superior commander of the military force to which he belongs, deployed in Albania, could request the transfer of the trial to Italy. The Supreme Military Court would decide in chambers, by unreasoned judgment (Art. 10). Unless the law provided otherwise, the provisions in force for the territorial military courts of the Kingdom of Italy applied to the organization and procedure of the Territorial Military Tribunal of Albania (Art. 15). These dated back to the Military Penal Code for the Army of 1869, which, in many respects, had inevitably aged (By Royal Decree No. 5378 of Nov. 28, 1869, and Royal Decree No. 5366 of Nov. 28, 1869), the Military Penal Codes for the Army and Navy were approved, and amended by later regulations (Royal Decree No. 22 die. 1872, n. 1210, r.d. Oct. 19, 1923, no. 2316, r.d. 30 die. 1923, no. 2903 and decree of the same date no. 2948, r.d. Jan. 26, 1931, No. 122, r.d. Sept. 9, 1941, No. 1022).

The military courts retained that name until 1941, when, by Report and Royal Decree No. 1022 of September 9, 1941 on the Military Judiciary, territorial military courts were established at the Army Corps Commands or at the corresponding Commands of the remaining State armed forces. Military justice, following the adoption of the C.P.M.G., was articulated as follows: 1. Territorial Military War Tribunals (art. 252 C.P.M.G.); 2. Military Navy Courts of War (art. 286 C.P.M.G.); 3. Army Military Courts of War; 4 Army Corps Military War Tribunals; 5. Military Courts of War of Stronghold (art. 251 C.P.M.G.). Article 283 C.P.M.G. regulated the infamous Extraordinary Military War Tribunals, which were competent to hear crimes for which the law established the death penalty, when the accused had been arrested *in flagrante delicto* and the commander of the Department where the events took place deemed it necessary to summon him «on account of the necessity of an immediate trial, for the purpose of exemplarity». Such tribunals could not be convened in places where military war tribunals operated, and their judgments were not appealable. But already by October 22 of the preceding year, in correspondence with the opening of hostilities with Greece, the transformation of military courts into military war courts had taken place, as well as the change of territorial constituencies to suit the occupation. As a result, the Military War Tribunal of the 9th Army had been established, as well as the Military War Tribunal of Albania, Rhodes, Greek Armed Forces, later to become the Military War Tribunal of the 11th Army. Both were engaged as a matter of priority in the combat phases and thus had to deal with problems more specifically related to actual war actions (e.g. straggling and desertion in the presence of the enemy). The trial files of the Military War Tribunal of the 11th Army are kept not only in the respective Central State Archives in Rome and Tirana, but also in the Archives of the Historical Office of the Army General Staff (henceforth AUSSME) (Giustizia militare Sentenze 1901-1946, b. 1: 2).

From the archival documentation found so far – awaiting further and more specific investigations - it is possible to infer that precisely the Military Tribunal of the Unified Albanian Armed Forces was destined to be converted in the last months of 1942 into a Special State Tribunal - headquartered in the capital - competent to hear «a) crimes provided for by Decree Law No. 204 of December 31, 1939, converted into Law No. 12 October 1940. 475, committed by outsiders against the Armed Forces; b) other crimes committed by outsiders against the Armed Forces devolved to its specific jurisdiction» (*Arkivi Qendror i Shtetit (AQSH), Ministria e Drejtesise*, [1940], Dosje III-1133). It was given full jurisdiction over political crimes and over those against state security, operating according to wartime criminal procedure, with an inquisitorial process and fewer defensive guarantees: a secret pre-trial phase without attorney support, a pre-trial phase with possible 'secrecy' of court documents, the exclusion of the possibility of bail and means of appeal

with the exception of review. But the real novelty was the provision of privileged access to the ranks for members of the judiciary and law graduates, an aspect that contributed to marking the traits of technical and professional preparation with which the Italian government intended to characterize the emerging Albanian judicial institutions.

## Military, civilians, partisans before the Albanian War Courts

Military wartime jurisdiction was governed from the outset of the conflict by the Duce's proclamation of 20 June 1940 concerning the order and procedure of military war tribunals, as well as the subsequent proclamation of 24 July 1940. The aforementioned normative acts assigned to the military courts the cognizance of military offenses committed by anyone in the territories in a state of war or considered as such and that of military offenses committed by anyone and anywhere if they compromised war operations. Under that jurisdiction fell not only the Italian and enemy military personnel, but also Italian civilians and those in occupied territories. German soldiers were excluded from the jurisdiction of Italian military tribunals, for the duration of the 1940-1943 war, by virtue of timely bilateral agreements that respected the principle of 'flag jurisdiction', which is now to be considered acquired in customary international law (Dini, 2016).

The applied legislation operated on a dual track: one criminal-civilian, the other criminal-military. As for the former, it continued the era of the Zogu Penal Code of 1928 - built entirely on the Zanardelli Code (Hoxha, 2012). While the Rocco Code of 1930 was not introduced in the Balkan country - four years of occupation were judged insufficient for such a decision – Italy made a different choice for the Military Penal Codes of War (henceforth C.P.M.G.) and Peace (C.P.M.P.) which came into force on 1 October 1941 and consisted of 300 and 433 articles respectively. They were extended to Albania from December of that year and meant to remain in force there until 1943. Although Albania had been endowed since 1932 with a military criminal code based on the Italian model, there is no doubt that the forced extension of the new military penal codes of peace and war was best suited to the aforementioned criticalities associated with warfare. The peacetime military criminal code - shaped on the Italian model - came into force on 19 June 1932 and consisted of two books. The first contained the general principles and institutions of military criminal law, while the second book provided for the different types of crimes, such as high treason, espionage, disclosure of military secret, disobedience to a superior order and other military offenses. The second part of the second book governed military criminal procedure, consisting of three titles, respectively devoted to the constitution of military courts and their composition, military

jurisdiction and competence, and, finally, military procedural law (Leskoviku, 2007).

Alongside these codes operated an emergency and extraordinary regulatory set, falling under military law of war, based mostly on decrees signed by Lieutenant Francesco Jacomoni (Latini, 2010). Already in December 1939 the Royal Decree No. 288 «On Crimes against the Personhood of the State», published in the Official Gazette No. 14 of January 29, 1940, was issued, under which all crimes it provided for were to be tried by the military courts of the armed forces. Articles 40-43 imposed the death penalty against those who had made an attempt on the life, integrity or personal liberty of the King, the Duce and the Lieutenant General. Law No. 1774 of Nov. 28, 1940, «On the punitive system for military offenses committed by taking advantage of the state of war» - enacted by Royal Decree No. 41 of Feb. 10, 1941 - is imbued with the same normative logic, exacerbating the already heavy penalties (Elezi, 1998; Elezi, 2009). Both were characterized by the severity of punishments, acting as the regime's extreme bulwark against subversive patriotic movements and episodes of dissidence.

The military penal legislation was considered among the most advanced of the time. The CPMG provided, unlike the former Army Penal Code, an entire title devoted to «offenses against the laws and customs of war,» which, in application of the 1908 Hague Conventions on Land Warfare, aimed to protect vulnerable subjects of wars (wounded, prisoners, civilians) from the abuses of belligerents. It was gradually also supplemented by additional regulatory measures adopted in the form of military proclamations to meet the contingent and unforeseen needs of the conflict (Manassero, 1916; Venditti, 1985; Brunelli-Mazzi, 2002). Articles 17-20 of the C.P.M.G. and the so-called 'law of war' gave the power of *bando*, i.e. that of emitting executive legal commands, to the supreme commander, as well as to commanders of large units and commanders of Italian forces occupying foreign territories [Royal Decree No. 1415, July 8, 1938 (Approval of the texts of the Law of War and the Law of Neutrality) published in OJ No. 211, Sept. 15, 1938, and entered into force Sept. 30, where the rules to be followed in the event of armed conflict and the regulation of relations with enemy states, belligerent or neutral are precisely defined]. Italian commands made extensive use of such powers in Albania, with respect to both the military and the civilian population. For example, General Mario Robotti, commander of the 11$^{th}$ Army Corps, ordered the summary execution by firing squad, with the order of May 16, 1942, of «valid males found during combat actions in open country from the front to the line of artillery deployment», as they were to be considered «as rebels or their accomplices». To the same fate were also destined «those found in isolated dwellings, groups of houses or settlements who are not locals» (Conti, 2014).

All Albanian Military War Courts had to deal with the emergence of partisan actions and attitudes that, while they may not have resulted directly in violent actions, were rooted in a widespread feeling of hostility toward the occupier. Those who took part in partisan dissidence represented a *tertium genus*, as they could not be considered military – and afforded the protection of 'legitimate belligerents' - nor civilians, i.e., strangers to the fighting and as such protected from the often-arbitrary violence of troops (Ago, 1953). They were among those who «commit[ted] crimes to the detriment of the Italian Armed Forces or individuals belonging to them, or who [held] other conduct contrary to the orders issued by the occupying military authority». Following the partisan insurrectionary uprisings - predominantly of communist conviction - there was a resurgence of sanctions, which imposed on troops the harshest reaction in the event of armed attack up to the destruction of entire villages. The repression of partisan actions was one of the major engagements of the Military Tribunals: it spared no pains to use death penalties to weaken the poorly organized Albanian resistance, which took a variety of forms: from attacks on patrols of soldiers, to sabotage of telephone lines and military depots, to espionage or defeatist attitudes. For example, General Giuseppe Pafundi, complained - in a note dated 3 July 1941 - that in the face of gunfire by a group of young men who were later arrested, there had been the lack of «that immediate and violent reaction which I have repeatedly prescribed and which is imposed in such cases [... ]». He further added that « the fact that there were only arrests indicates that the use of firearms was belated, or shots were fired without attempting to land them, which is deplorable» (AUSSME, L-15 [Comando superiore FF.AA. Albania], b. 18). Also calling for a massive use of weapons was the superior commander General Carlo Geloso, who, in a directive of 1941, extended the legitimacy of armed reaction to cases of vilification of the Armed Forces, the Italian flag or Italian posters (Conti, 2014). In these years many trials were brought against Albanian civilians for conduct of minor dangerousness, such as violating the curfew or stealing Italian military materials. The mere possession of firearms, although unrelated to armed struggle, was in itself sufficient to issue death sentences without the defendants being found responsible for any fighting.

The constant use of summary sentences and hasty judgments responded to directives mandating speed in military justice. Summary shootings of rebels or suspected rebels, public executions, round-ups, and bloody repressions became recurrent practices. A proclamation was adopted on 24 April, which allowed the authorities to exercise hostage reprisals whenever crimes occurred for which the alleged perpetrators had not been arrested. Among the most tragic operations was the one of July 1943 near Mallakastra, in which hundreds of civilians were massacred and which gave rise to charges against high-ranking Italian military personnel and politicians (Archivio della Fondazione dell'Istituto di Storia dell'Età

contemporanea, Fondo Gasparotto: 38). This crackdown was not unrelated with the assassination attempt on Victor Emmanuel III in Tirana on 17 May 1941 by the young Albanian worker Vasil Laci, destined to become a national hero in the decades following World War II. The dossier of the related trial is kept at the State Archives of Albania in Tirana. It was held in a single and, moreover, expeditious hearing on 26 May of the same year. In particular, Laci was charged with «a) attempted premeditated murder of a member of Parliament and Public Official on account of his duties (Articles 403, 404 no. 2 and 405 no. 2 in connection with Art. 62 Alb. Penal Code; b) the crime referred to in Article 36 of Legislative decree 31.12.1939 XVIII no. 228, because on May 17, 1941 shortly before 2 p.m., in Tirana, by firing five shots from a pistol, obtained a few days earlier to carry out such an act, he made an attempt on the life of His Excellency Shefqet Verlaci, Senator of the Kingdom of Italy and member of the Albanian Fascist Corporative Chamber, on account of his duties as President of the Council of Ministers of the Kingdom of Albania, not achieving his objective due to circumstances beyond his control; but thereby consciously endangering the personal safety of the Majesty of King Emperor Vittorio Emanuele III, alongside whom Excellency Verlaci sat in the royal car at that moment; c) unlawful possession of weapons (art. 1 of the order of the Superior Commander FF.AA. Albania Jan. 24, 1941 No. 25, in connection with Art. 1 of the order of the Superior Commander Troops Albania Oct. 28, 1940 No. 3) because he came into possession of the pistol a few days earlier, he still kept it with him on May 17, 1941 in Tirana, without permission of any kind; d) unlawful carrying of a weapon (Art. 515 No. 1 Alb. Penal Code) for carrying the pistol in the aforementioned circumstances of time and place outside his home» (AQSH, Ministria e Drejtesise, [1941], Dosje 60). The judging panel, composed only of Italian nationals, was chaired by General Ferruccio Paganuzzi, president of the Unified Armed Forces Court of Albania in 1940-1942 and then charged with war crimes by the Albanian government in 1945 (AUSSME, N 1-11 [Com missione d'inchiesta per i criminali di guerra italiani secondo alcuni Stati esteri (Gasparotto: 164)] The only Albanian citizen present was sat next to the attacker, namely his public defender, Captain Pjeter Basha: a striking violation of Article 8 of Law No. 863 of June 14, 1940, which requires the presence of at least one Albanian officer, if the accused party was an Albanian national.

The prosecution was entrusted to Major General Umberto Meranghini, Head of the Prosecutor General's Office, a military magistrate, competent and experienced career academic, who shrewdly argued that the target of the attack was not the king of Italy but the Albanian prime minister Shefqet Verlaci (a member of the Italian senate), thereby blandishing the patriotic love of Albanians sympathetic to the regime. Meranghini further emphasized that the offender was indeed an Albanian citizen, but of Greek nationality who «harbored hatred and resentment

against the Albanian government because in May of last year the same had rejected his repeated requests for aid and for the publication of his poems against the past King Zog and the men of his kingdom as well as one extolling the Duce of Fascism». Born in Rome to a wealthy family, Maranghini graduated in law in Urbino (1910) and immediately embarked on a military career. He participated in the Italian-Turkish war campaign (1911-1912) and during World War I held the post of Deputy Secretary of Military Justice in Verona, Udine, and Parma. From 1940 to 1943 he was in Tirana as Advocate and Head of the General Prosecution Office of the Territorial Military War Tribunal in Tirana (later Military Tribunal for the Unified Armed Forces in Albania). Between the wars he devoted himself to teaching, taking up the chair of Military Criminal Law at the University of Trieste (1931-34). His interest in jurisprudence continued long after his early retirement from the military (1945). However, Vasil Laci's fate was sealed. Sentenced to capital punishment, he was hanged - as stipulated in Article 12 of the Albanian Criminal Code after the 1940 reform - in the early hours of 27 May 1941. Article 12 of the Penal Code was amended by Law No. 358 of July 12, 1940, and provided as follows: «the death penalty shall be carried out by hanging in the place designated by the Minister of the Interior without the presence of the public unless the same Minister orders that the execution be public. If the execution is to be carried out against a woman who is pregnant or has given birth less than two months ago, the execution shall be deferred until the woman has given birth or miscarried and the said period has elapsed. If the persons sentenced to the death penalty are more than one, the execution shall be carried out in such a way that one does not see the execution of the other. The execution of death sentences shall take place on the day and time determined by the Minister of the Interior after the sentence has become irrevocable and the possible application for pardon has been provided for. For this purpose, the prosecutor shall urgently provide to the Ministry of the Interior a copy of the judgment and the order rejecting the application for pardon or a statement that no application for pardon has been made» (AQSH, Ministria e Drejtësisë, [1942], Dosje III-1216).

Judgments against Albanian partisans or civilians, even for violations of undoubtedly minor importance, do not exhaust the typology of military tribunal pronouncements, because numerous are the trials for «treason» or for «desertion with passage to the enemy» against Albanian soldiers enlisted in the Italian army, which were followed by multiple death sentences that, being against fugitives, remained largely on paper. The statistical data offered by Sergio Dini is also of interest: he noted that «for the period October 1940-April 1941 alone, as many as 3116 Albanian soldiers were reported for desertion compared to only 201 Italian soldiers» (Dini, 2016). Careful investigations were made regarding the problem of Albanian desertion, so much so that the military prosecutor general, Umberto

Meranghini commissioned the jurist Anselmo Crisafulli and the anthropologist Benigno di Tullio -«both officers at the Military War tribunal of Tirana» - to carry out in-depth investigations «into the particular military psychology of the Albanian people» in order to «better orient the conscience of the judges of the war court on how to consider the military crimes that had been committed in Albania» (Jacomoni, 1965). In the resulting printed report – *Aspetti della criminalità militare nel settore Albanese* - the two intellectuals believed that the phenomenon of desertions of Albanian soldiers had been caused «either by the pain and anger of being disarmed or by the desire to go and fight in the area closest to one's home» (Crisafulli, Di Tullio; 1942). There could be no other explanation according to Crisafulli and Di Tullio, because of the well-known «attachment that Albanians have for arms in general, to which is especially entrusted the defense of that particular feeling of honor whose influence in their intimate and social activity is absolutely preeminent». In conclusion, from the analysis of the evolution of military justice in Albania during the fascist regime, it is clear that the Albanian military courts share a crucial peculiarity with some other military courts of World War II: born as ordinary territorial courts, they would later become war courts, operating before and after the Italian code amendment of 1941. They represented a perfect venue for answering to some of the questions investigated by recent legal historiography: how were the new 1941 military penal codes applied outside Italy? And again, how wartime justice operated in an occupied territory?

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