

**Uroš Stanković**

Универзитет у Новом Саду (University in Novi Sad, Serbia)  
e-mail: [ustankovic@pf.uns.ac.rs](mailto:ustankovic@pf.uns.ac.rs)

ORCID: 0000-0002-6416-8465

DOI: 10.15290/mhi.2021.20.02.11

## **Summary Criminal Court Formed on the Occasion of The Hussar Rebellion (1844) – A Short Outline**

### **ABSTRACT**

The paper sheds light on the summary criminal court formed on the occasion of the Hussar Rebellion ('Katanska buna', 1844), an unsuccessful rebellious attempt to overthrow the regime of the Defenders of the Constitution in Serbia. The author shall firstly provide a short introductory account of the rebellion, after which the formation and work of the summary criminal court shall be analyzed. Some sort of 'pre-investigation', conducted by Toma Vučić Perišić, the most distinguished personality within the regime of the Defenders of the Constitution, was provided with an unlimited mandate to quell the rebellion. The appointment and personalities of the judges will also be the subject of scrutiny, since it is an indication of the (im)partiality of a trial. The exposition will then continue with the lines having an inquiry carried out by the summary criminal court for the topic; the author shall put forward the presentation of evidence (the statements of the suspects, confrontations between the suspects, witness' statements, confrontations between suspects and witnesses, documentary evidence and guarantors). The next part of the paper shall be judgment-passing; among the questions belonging to that matter, punishments, the mental element, mitigating/aggravating circumstances, and illegalities committed by the court in that stage of the proceedings will all be presented to the readers.

**Key words:** The Hussar Rebellion, summary criminal courts, Toma Vučić Perišić, Defenders of the Constitution

## The Hussar Rebellion (1844)

The Hussar Rebellion is the revolt launched by a group of partisans of the Obrenović dynasty, émigrés in Austria, against the Serbian government in 1844. It owes its name to the uniforms of Austrian hussars worn as a disguise by around 30 initial rebels when they crossed into Serbia. The preparations for the rebellion in all likelihood commenced in mid-summer of 1844, when young and courageous Stojan Jovanović, an ardent adherent of the Obrenovići, started gathering future participants of the rebellious enterprise among Serbian immigrants in Austria. The plan was most probably financed by ex-prince Miloš Obrenović (1815–1839), unreconciled with not sitting on the throne. The false hussars crossed the Sava River near the Island of Drenovac in the night between 21 and 22 September 1844,<sup>1</sup> unobstructed by the Austrian border guard, by some indications previously bribed not to make them obstacles.<sup>2</sup>

The rebels came to Šabac, to the surprise of the town's inhabitants, ignorant of who they really were, and killed two government officials – the president of Šabac District Court Marko Lazarević and the aide of Šabac District's head office,<sup>3</sup> Nikola Ninić. They falsely informed the people gathered on the spot that the ruling prince Aleksandar Karađorđević (1842–1858) and Toma Vučić Perišić, the most prominent figure of the regime of the Defenders of the Constitution had been murdered and continued their path to Loznica, accompanied by a large amount of people who joined them. That town surrendered without a fight, thanks to three renegade government officials (Petar Jovanović, the treasurer of Podrinje District, Jovan Štitarčević, the scribe of Podrinje District head office and Bojo Katić, the scribe of Jadar County head office), who even made a welcome feast to the rebels. The route of the rebels further led to Valjevo.<sup>4</sup>

Having obtained information on the rebellion, the government took measures to prevent its further sparking. On 24 September, Prince Aleksandar Karađorđević issued a decree providing Vučić with unlimited authority to quell the revolt. However, the rebels did not face Vučić, but the army under

<sup>1</sup> The dates in the paper are given by the Julian calendar, then in use in Serbia.

<sup>2</sup> J. Milićević, *Istorija Katanske bune (1844 g)* [The History of the Hussar Rebellion (1844)], „Zbornik Filozofskog fakulteta” 1960, vol. 5/1, 284–288.

<sup>3</sup> Head offices (‘načelstva’) were local branches of Serbian government in districts and counties tasked with the internal affairs of the area that they operated in.

<sup>4</sup> L. Lazarević, *Katanska buna – Katane u Loznici* [The Hussar Rebellion – Hussars in Loznica], „Volja” 1927, vol. 6, p. 415; D. Stranjaković, *Vlada ustavobranitelja 1842–1853: unutrašnja i spoljašnja politika* [The Reign of the Defenders of the Constitution 1842–1853: home and foreign policy], Beograd 1932, p. 66.

the command of the legendary hero of the First Serbian Uprising (1804–1813), parish priest Mateja Nenadović, who ambushed them near the village of Donja Bukovica in the vicinity of Valjevo on 25 September. The rebellious army was heavily defeated; some of the hussars were killed on the battleground or in further pursuit, as others were apprehended.<sup>5</sup>

### The formation and work of the summary criminal court

In order to restore peace and order and punish the rebels, Prince Aleksandar on 25 September issued a decree on the formation of a summary criminal court ('preki sud').<sup>6</sup> The court should try every criminal sent by Vučić within 24 hours<sup>7</sup> and consisted of five judges – Grigorije Filipović, the president of Smederevo District Court, was appointed president of the summary criminal court. Marko Dabić, a major of the standing army; Mihajlo Lalović, a merchant from Valjevo; Živan Marinković, a merchant from Palež (nowadays Obrenovac); and Jovan Resavac, the head of Belgrade District were to act as ordinary judges.<sup>8</sup>

Some of the suspects (to their luck unavailable to the Serbian authorities), as well as some supporters of the Obrenovići, claimed that the foundation of the summary criminal court was unconstitutional, since the defendants were deprived of the right to a lawful judge (art. 48 of the Constitution), the right to appeal (art. 35 of the Constitution), and for the reason that it violated the prohibition on military officials and civil servants acting as judges (art. 44 and 56 of the Constitution), which indeed had a stronghold in the constitutional text.<sup>9</sup> This is, however, a convenient spot to observe that up to 1844 one summary

<sup>5</sup> J. Milićević, op. cit., pp. 296-298.

<sup>6</sup> According to some sources, the establishment of a summary criminal court was Vučić's idea and the condition under which he was willing to accept to lead the action against the rebels. See *Rašid-beja istorija čudnovatih događaja u Beogradu i Srbiji* [The History of Marvellous Events in Belgrade and Serbia by Rašid-bej], „Spomenik Srpske kraljevske akademije” 1894, vol. 23, p. 70.

<sup>7</sup> The stipulation that the procedure before a summary criminal court should last for 24 hours (but counting from different moments) was a commonplace in European criminal legislations of the time. See *Gesetzbuch über Verbrechen und schwere Policey Uebertretungen*, Wien 1803, pp. 291-292 (art. 502); *Strafgesetzbuch für das Königreich Baiern*, München 1813, p. 367 (art. 443); G.L. von Maurer, *Das griechische Volk in öffentlicher, kirchlicher und privat-rechtlicher Beziehung or und nach dem Freiheitskampfe bis zum 31 juli 1834* III, Heildelberg 1835, 605 (art. 512 for the Criminal Code for Greece of 1834).

<sup>8</sup> *Srbske novine* [The Serbian Gazette], N° 78, 27 September 1844, p. 310.

<sup>9</sup> See *Sbornik zakonâ i uredbâ i uredbeni' ukaza izdani' u Knjažestvu srbskom* [The Collection of Laws and Regulations and the Decrees With the Force of Regulation Issued in the Principality of Serbia] (henceforth: *Zbornik*) I, Belgrade 1840. pp. 9-12; D. Tirol, *Historische Uibersicht Serbiens unserer Zeit* [The Historical Overview of Serbia of Our Time], Neusatz 1851, p. 14 in the appendix of the book; Archives of Serbia (henceforth: AS), Preki sud za učesnike u Katanskoj buni [Summary Criminal Court for the Hussar Rebellion] (henceforth: KB), AS, KB, 65/23-24, Života Smiljić to Serbian Government, Novi Sad, 14 November 1844.

criminal court had been already proclaimed (in 1840), due to riots in the Mačva District (an area around Šabac) but its establishment was not disputed, very likely due to not being motivated by political reasons.<sup>10</sup>

In the memoir submitted to the Russian czar in 1854, Đorđe Protić, the foreign minister during Prince Mihailo's reign, claimed that the judges of the summary criminal court owed their appointments to being yes-men of the Government and Vučić.<sup>11</sup> Dabić was indeed notorious for his inclination towards the duke, while Resavac was a part of Vučić's army intended to face the rebels. The political preferences of the other judges should be the subject of further research, although there are hints that some of them were supportive of the Defenders of the Constitution.<sup>12</sup>

The subject-matter jurisdiction of the summary criminal court was not determined by law. Nonetheless, the acts originating from the summary criminal court reveal enough data to establish what crimes that institution would be trying. Those crimes could be divided into two groups.

The first group was made up of gross felonies concerning the rebellion itself, enumerated in the Law on Treason and Rebellion ('Zakon o izdaji i buntu', 1843), on the grounds of which the court based some of its verdicts: the conspiracy to raise a rebellion, omitting to report such conspiracy to the authorities, participation in the rebellion, the instigation of rebellion, and other crimes that rebels committed during the a rebellion (for instance, thefts and brigandage).<sup>13</sup>

The offences belonging to the second group were mainly lighter and committed on the occasion of the rebellion: aid delivered to the rebels (such as forming a patrol to search for government partisans), self-administration of justice, negligent acting in service, the denial of assistance to put down the rebellion, spreading the news of constituting the new authority in Šabac, rejoicing over the rebellion, praises on behalf of the Obrenovići, and insults at the Government, overly disrespectful behavior in general, expressing pity towards the defeated rebels, and roaming.

There is even a clue that one commercial settlement, involving the brothers of two suspects (the merchants Pantelija Ćuković and Kosan Ašković), also took place in the summary criminal court.<sup>14</sup>

The prince's decree from 25 September was apparently applied literally, as various sources prove that Vučić had a big role in determining who would stand

<sup>10</sup> For the information on that court see S. Milutinović, *Buna u Mačvi* [The Rebellion in Mačva], „Museum – Godišnjak Narodnog muzeja u Šapcu” 2000, vol. 3, pp. 57-82.

<sup>11</sup> R. Popović, *Memoar Đorđa Protića iz 1854. godine* [The Memoir of Đorđe Protić from 1854], „Mešovita građa”, 2005, vol. 24, p. 107.

<sup>12</sup> See AS, KB, 16/30, the second hearing of Pantelija Ćuković; AS, KB, 8/39, the witness statement of Mirko Nedeljkić.

<sup>13</sup> *Zbornik II*, pp. 272-276.

<sup>14</sup> AS, KB, 74/1, summary criminal court to Valjevo District head office, Belgrade, 5 November 1844.

trial before the summary criminal court. Despite the doubtful fact that there had been enough evidence that Marija (Maca) Cukić, the sister of the leader of the rebellion, was one of the co-conspirators to launch the rebellion, the summary criminal court addressed to Vučić asking for permission to charge her.<sup>15</sup> According to Nikola Hristić, the clerk of the summary criminal court, Vučić obtained a list with 400-500 people and the crimes they were accused of and brought it to the judges of the criminal court in order to hear what punishments would be delivered to the suspects if they were condemned. The harshness of possible punishments averted Vučić from sending suspects to the summary criminal court and opting for cane strokes and reproaches instead.<sup>16</sup>

The criminal procedure before the summary criminal court contained two or three phases, depending on whether a suspect had undergone Vučić's 'pre-investigation' or not. Two authors of the memoirs relating to the Hussar Rebellion (Jovan Milinković Alavantić, the apprentice of Šabac District Court when the rebellion broke out, and Jovan Dimitrijević, the nephew of Konstantin Bogdanović, one of the alleged organizers of the rebellion in Austria) stated that the duke was interrogating suspects of higher importance, as those whose role in the rebellion was minor had gone through Vučić's hands only in cases where they had made accusations against more serious perpetrators.<sup>17</sup>

Part of the statement of the two memoirists is certainly true. That is to say, Vučić informed the prince on 28 September that he had started interrogating the captured 'hussars'.<sup>18</sup> On the other hand, in his hearing before the summary criminal court, Dimitrije Šešić from the village of Nakučani, stated that himself and eight other suspects (Jančo Džangulić, Paun Nastić, Jovan Pavlović, Stevan Nikolić, Manojlo Krstić, Ranko the slipper-maker, Lazo 'Beli' ('The White') from Kamičak (a neighbourhood in Šabac) and Vasa Trifunović 'Beli') had passed through Vučić's interrogation.<sup>19</sup> None of the nine mentioned suspects accused any of the major rebels in their statements in the summary criminal court, which, of course, does not necessarily imply there was no reasonable doubt that they would do so.

Even the acquittal of a suspect by the summary criminal court did not guarantee that he would not be taken to Vučić, proof of which is pro-Obrenović

<sup>15</sup> AS, KB, 28/33, summary criminal court to Vučić, Belgrade, 25 October 1844.

<sup>16</sup> N. Hristić, *Memoari 1840–1862* [The Memoirs 1840-1862], Belgrade 2006, 100.

<sup>17</sup> J. Dimitrijević, *Katanska buna u Šapcu 22. septembra 1844* [The Hussar Rebellion in Šabac on 22 September 1844], Novi Sad 1886. J. Milinković Alavantić, *Književna krađa: Katanska buna u Šapcu 22. septembra 1844. godine* [Literary Plagiarism: the Hussar Rebellion in Šabac on 22 September 1844], Novi Sad 1889, p. 98.

<sup>18</sup> AS, Ministarstvo inostranih dela - Vnutreno odeljenje [Ministry of Foreign Affairs – Department of the Interior] (henceforth: MID-V), 1844, folder III, row 270, Vučić to the prince, Valjevo, 28 September 1844.

<sup>19</sup> AS, KB, 5/32, the hearing of Dimitrije Šešić.

secretary of Šabac District Court Stojan Obradović, who experienced the duke's reprimands and menaces towards his 'filthy rebellious kind'.<sup>20</sup>

Information on the form of the hearings conducted by Vučić are scarce. It is, however, to a great extent probable that threats and torture were not alien to the duke. Mita Milosavljević, Miloš Bogičević's servant suspected to have knowledge of his boss's arrangements with prince Miloš and Stojan Jovanović, denied any acquaintance with Bogičević's actions, and thus had to endure beating with a 'čorbalta' (a short axe on a short handle). In his memoirs of the Hussar Rebellion and the summary criminal court, Stojan Obradović alleged that Vučić frequently threatened suspects and swore at them.<sup>21</sup>

If Milinković Alavantić is to be believed to, Vučić also used witness testimonies to obtain information on suspects. Đorđe Pavlović, suspected to have torn up a copy of the Serbian Constitution and prince Aleksandar's portrait, was saved by the testimony of Milinković Alavantić, who was of the opinion that Vučić had not been quite convinced of the truth of the witness's statement, but nonetheless considered it to be of high value, since it had come from the son of his follower.<sup>22</sup>

Criminal procedure would then go on (or start, if a suspect was not the subject of Vučić's preliminary investigation), with the investigation of the summary criminal court.

Most of the suspects awaited trial in custody. The regime of detention differed depending on the personality of the suspect.

Some of the suspects, for the most part grandees, were detained in small cone-shaped cottages being a part of the complex of Vučić's camp in Šabac. A twofold fence was placed around the cottages, and the subjects were monitored by guard. Several among them had the privilege to be served better food or even dine with Vučić!<sup>23</sup> Notwithstanding such benefits, this type of detention was not always easy to bear, because some of the detainees, such as Miloš Bogičević and Matija Simić, were shackled.<sup>24</sup>

The other group of suspects were in custody under the open sky, in a vast room resembling a cattle-pen, for which reason it got the name of 'obor' (cattle-pen in Serbian). Several authors with pro-Obrenović's political beliefs claim that detainees were tortured with thirst, hunger, and beatings, as Hristić puts forward

<sup>20</sup> D.I. Jovičić, *Katanska buna prema memoarima Stojana Obradovića koji su predati Državnoj arhivi* [The Hussar Rebellion According to the Memoirs of Stojan Obradović Handed Over to the State Archives], „Politika” 1929 (25 September), p. 19.

<sup>21</sup> J. Milinković Alavantić, op. cit., 99; D.I. Jovičić, op. cit., p. 10.

<sup>22</sup> J. Milinković Alavantić, op. cit., p. 97.

<sup>23</sup> J. Dimitrijević, op. cit., p. 68; J. Milinković Alavantić, op. cit., pp. 90, 106; *Dnevnik Ignjata Vasića prote lozničkog* [The Diary of Ignjat Vasić, the parish priest from Loznica], Šabac 1889, p. 8.

<sup>24</sup> *Serbske narodne novine* [Serbian National Gazette], N° 85, 26 October 1844, p. 340; Hristić, op. cit., p. 103.

the case of Vučić punishing a guard for stealing a silver watch from a suspect. Three suspects likely to be in detention in *obor* were asked by the court whether they had known wherefore they had been restrained by shackles, and hussar Risto Jevtić at one point of his statement mentioned that himself and another member of Stojan Jovanović's squad Manojlo Đonlić were shackled. Visits to detainees were allowed.<sup>25</sup>

It is somewhat uncertain who acted as an investigator in a particular case. Hristić and Alavantić are in accord that the summary criminal court was divided into departments made up of a judge and scribes, whereas the first-mentioned adds that the less significant suspects were investigated by the court's department, and the major investigations were conducted by three judges (Filipović, Resavac, and Dabić)<sup>26</sup>. Some records of the hearings before the summary criminal court, signed by two judges, and Obradović, who claims to have been interrogated by the same number of members of the summary criminal court, bring into question the allegations of Hristić and Alavantić.<sup>27</sup>

The investigations practically comprised the presentation of evidence. The summary criminal court was getting acquainted with the events related to the rebellion by means of hearings of suspects, confrontations between suspects, witness testimonies, confrontations between suspects and witnesses, documentary evidence, and guarantors.<sup>28</sup>

The hearings of the suspects were, naturally, aimed to get confessions, the key evidence in the criminal procedure of the time. As stated in the records of the hearings, the interviews generally commenced with the interrogator's warning to a suspect to tell the truth. Nonetheless, bearing in mind that the large mass of people had been apprehended for the sake of the rebellion, the judges did not always know what the accusations were against the defendant to be interviewed and hence requested the government official who had charged the suspect for assistance. Smiljko Stanković from Lazarica stated that he had no awareness of what he was accused of and proposed the judges to address Đoka Obretković, a customs officer, who had sent the suspect to Šabac.<sup>29</sup>

<sup>25</sup> M. Alimpić, *Život i rad generala Ranka Alimpića* [Life and Work of General Ranko Alimpić], Beograd 1892, pp. 84-85; *Beleške Mladena Žujovića državnog savetnika* [The Records of Mladen Žujović, the state counsellor], Beograd 1902, pp. 96-97; G.J. Gašić, *Katanska buna 1844 god* [the Hussar Rebellion 1844], „Šabački glasnik”, N° 1, 7 January 1929; AS, KB 4/25, the hearing of Risto Jevtić; AS, KB, 15/5, the hearing of Petar Nalbantić; AS, KB, 17/3, the hearing of Pantelija Pančo Nikolić; AS, KB, 20/19, the hearing of Nikola Petrović.

<sup>26</sup> J. Milinković Alavantić, op. cit., p. 103; Hristić, op. cit., p. 103.

<sup>27</sup> D.I. Jovičić, op. cit., p. 10; AS, KB, 28/26, the hearing of Marija (Maca) Cukić.

<sup>28</sup> Guarantors were fellow-villagers of a suspect vouching for his/her moral quality. This sort of evidence, jogging the memory of conjurators, was not uncommon in criminal procedure in Serbia in the first half of the 19<sup>th</sup> century. See A.S. Jovanović, *Prinosci za istoriju starog srpskog prava* [The Contributions for the History of Old Serbian Law] II, Belgrade 1900, pp. 48-50.

<sup>29</sup> AS, KB, 11/29, the hearing of Smiljko Stanković.

Many suspects confessed to their crime, some of them without putting forward any alleged mitigating circumstances, while on the contrary, others were pointing out facts hoping to lessen the degree of their guilt.

Nikola Rašević and Aleksa Mitrović from Lešnica, prisoners liberated from Šabac prison upon the hussars' arrival in that town, admitted to speaking in favor of the Obrenovići and the violence that they had inflicted on several persons without making any excuse for their criminal actions.<sup>30</sup>

Suspects were defending themselves from charges by pointing to error in fact, duress, fear, drunkenness, voluntary withdrawal from a crime, the elimination of consequences caused by criminal actions, and the authority's command on their part.

Error in fact was, for instance, used as a defense by Dimitrije Šešić who joined the hussars in Šabac. The suspect stated that not until the people gathered around Stojan Jovanović came to Lešnica had he realized that the hussars were rebels.<sup>31</sup>

The alleged duress under which the suspects engaged in their crimes manifested in two forms – as a threat or as force exerted upon a person to make him involve himself in crime. Ranko Ilić from Jelovik near Šabac told the court that the priest Gaja (a suspect by the name of Gavriilo Stojadinović) ordered him to tie up a certain Arsa Neimarović, a teacher, menacing him 'not to joke with his head'. The inhabitant of Šabac Simo Jovanović, in his own words, declined to follow the hussars on their further route, but a person dressed in hussar uniform hit him with the handle of a sabre to make Jovanović change his mind.<sup>32</sup>

When interviewed by the court, Petar Jovanović, one of the aforementioned government officials from Loznica, stated that fear of the hussars was the motive for adhering to them.<sup>33</sup>

Numerous people following the hussars in their path from Šabac onwards stated that they defected from the rebellious army and went back home. One of those was Petar Nalbantić, a blacksmith from Šabac, who used a moment of the hussars' inattention in Loznica to flee from them.<sup>34</sup>

A multitude of Šabac's citizens seized the disorder subsequent to the appearance of the hussars as an opportunity to plunder the Konak, the building in which both the Šabac District Head Office and Šabac District Court were placed. Before the court, they would regularly excuse themselves by stating that the stolen goods had been returned; as an example of which may serve the statement of Obrad Đorđević from Miličinica, who claimed to have brought

<sup>30</sup> AS, KB 34/3–5, the hearings of Nikola Rašević and Aleksa Mitrović.

<sup>31</sup> AS, KB 5/31, the hearing of Dimitrije Šešić.

<sup>32</sup> AS, KB 24/3, the hearing of Ranko Ilić; AS, KB 27/11, the hearing of Simo Jovanović.

<sup>33</sup> AS, KB 23/12, the hearing of Petar Jovanović.

<sup>34</sup> AS, KB 15/5, the hearing of Petar Nalbantić.



back four shirts, one anterija (a dress having a deep neckline on the chest), three books, a belt and three pairs of socks the day after he had stolen them from the Konak.<sup>35</sup>

Drunkenness as a state of diminished mental capacity was cited by Jakov Rosić from Badovinci as the reason for which he had said that he had known that the rebellion would break out, which he was charged for.<sup>36</sup>

Answering the court's question as to why he ordered 50-60 people to join the hussars on their further route, Bojo Katić said that he had done so to execute the order of the Podrinje District Head Office.<sup>37</sup>

Some of the suspects refuted having a role in the rebellion or other punishable behavior in relation to it. They in some cases claimed that the accusations came as the result of hatred towards them or called on some of the other suspects who could prove their innocence.

In a statement given to the court, Nikola Tanasković, a tailor from Belgrade, rejected the accusations that Stojiljko Stojanović had made him familiar with the rebellious plans and that he pursuing that information, had promised to raise people in the Belgrade District against the government, claiming that he was in dispute with Stojanović.<sup>38</sup>

The court applied considerable pressure on Stevan Stanković, the scribe of Podrinje District Court, to confess to making an illumination with the letters M and O (a reference to Miloš and Mihailo Obrenović) with candles during the welcome feast in Loznica, but the suspect was resistant and called on Maksim Krstić, a judge of the Podrinje District Court, to confirm his version of the story. However, to the surprise of a reader of the court's records, Krstić corroborated the charge against Stanković!<sup>39</sup>

In some cases, the suspects claimed that they could swear to their statements, surely holding that it would make their statements sound more convincing. Firmly sticking to the story contradicted by the court that five of the hussars came twice to his house to compel him to join the rebels, Matija Simić said he could swear an oath that his words were true.<sup>40</sup>

The summary criminal court put pressure on the unconfessing suspects in several ways: by promising more severe/milder punishment depending on the content of a suspect's statement, by threatening the suspect with the use of torture, by drawing attention to the inconsistencies in their statements, by presenting the evidence contrary to their claims, by posing captious and suggestive questions.

<sup>35</sup> AS, KB, 14/3, the hearing of Obrad Đorđević.

<sup>36</sup> AS, KB, 21/19, the hearing of Jakov Rosić.

<sup>37</sup> AS, KB, 23/28, the hearing of Bojo Katić.

<sup>38</sup> AS, KB, 28/19, the hearing of Nikola Tanasković.

<sup>39</sup> AS, KB, 31/6, the hearing of Stevan Stanković.

<sup>40</sup> AS, KB, 41/8, the first hearing of Matija Simić.

Simeon Teodorović, a priest from Krupanj, was pressured by the court to admit that he had made a festive reception to the hussars when they had come to his town, or otherwise he would accredit to himself all the possible consequences of further denial<sup>41</sup>. On the other hand, in the beginning of the interview with Gajo Trifunović Crni ('The Black'), the judges told the suspect that he would 'alleviate his faith' if his statement turned out to be true.<sup>42</sup>

In his first interview before the court, Mićo Belčić from Loznica, accused of plundering the house of Ilija Čvorić, the Podrinje District Head, rejected the accusation. Therefore, the second interrogation began with the court's notice to Belčić that Čvorić had said otherwise and the warning to the suspect to admit to his crime if he wished to avoid 'to experience the harshness of the court's interrogation.'<sup>43</sup>

It appears that the threatening allusions to torture were not a bare feint aimed to extract confessions. A short record of the court testifies that Mile Pušonjić, a reveler from Sjenica, was subdued to 'severe court interrogation', a phrase which may suggest that the suspect was subject to torture. Some other sources, such as Milinković Alavantić, Stojan Obradović and Đorđe Protić, also give witness that the application of torture was the practice of the court; however, when judging the credibility of their writings, one should take into account the pro-Obrenović political attitude of the last two authors.<sup>44</sup>

In the second of his four interviews before the judges, Miloš Bogićević mentioned that he could not recollect the period of time when he had handed over a letter calling the county heads from Šabac District to raise people on behalf of the rebels to Nenad Despotović, an inn-owner. The court did not fail to notice that Bogićević's statement contradicted his claim from a previous interview that he had given the letter to Despotović in front of Stojan Jovanović, which would suggest that the discussed action took place while the hussars were in Šabac.<sup>45</sup>

Ivko Lazarević from Bukovica was presented by the court that there was an accusation that he said that he had known that the rebellion would break out three days before it had started. After the suspect denied the charge, the court informed him that another suspect, Spasoje Skulić, had claimed the opposite in his interview.<sup>46</sup>

Captious questions, one of the distinctions of the interrogations of the time in general, can be found in almost every record of the hearings. For instance,

<sup>41</sup> AS, KB, 20/16, the hearing of Simeon Teodorović.

<sup>42</sup> AS, KB, 27/9, the hearing of Gajo Trifunović Crni.

<sup>43</sup> AS, KB, 5/54, the second hearing of Mićo Belčić.

<sup>44</sup> AS, KB 8/36, the record on the hearing of Mile Pušonjić; J. Milinković Alavantić, op. cit., p. 100; D.I. Jovičić, op. cit., p. 10; J. Popović, op. cit., p. 108.

<sup>45</sup> AS, KB, 48/23, the second hearing of Miloš Bogićević.

<sup>46</sup> AS, KB, 20/3, the hearing of Ivko Lazarević.

some of the captured hussars were required to respond as to who incited them to join the rebellious flock, without previously being requested to answer whether anyone had encouraged them to participate in the rebellion.<sup>47</sup> For the purpose of the investigation conducted in Austria against the border guards suspected of intentionally doing nothing to prevent the hussars from crossing the Sava<sup>48</sup>, the court asked one of Stojan Jovanović's soldiers, Nastas Logofet, the question looking as follows: 'Didn't you pass through the border guard by force and get into a boat?'<sup>49</sup>

It is unclear in what manner Miloš Danilović, a deaf-mute suspect by his own confession being part of the mob involved in stealing from the Konak, gave his statement; it may be supposed that he provided the information on his participation in the crime in writing, providing that the suspect was literate.<sup>50</sup>

Some of the hearings were stopped for various reasons. Two of the suspects refused to answer the court's questions. One of them, Rajko Popović from Glušci, did so at the very beginning of his interview. Asked by the court whether he was aware what the reason for the investigation against him was, Popović replied that he had no acquaintance with the subject and added that it was up to the authorities to find out what he was culpable of. Contrary to Popović, the suspect Spasoje Škulić started answering the questions he was being asked, but at one moment demanded the proof of his alleged guilt and the interview ceased.<sup>51</sup> The interrogation of Dimitrije Šešić came to a halt because the suspect was weak, and the judges decided to stop interviewing Miloš Bogičević when night fell.<sup>52</sup>

Some of the records of the hearings contain a brief note that the record was read to the suspect who gave the statement. There is no proof that any of the suspects objected to the content of the records. Only Aksentije Stefanović, a young teacher from Bogovađa, altered his statement upon reading the record of his hearing. At first, the suspect told the court that his information that Vučić had said to some unnamed notabilities at a feast that they had to bring prince Mihailo back to the throne because it was the will of the emperors, stemmed from Stevan Popović from Kikojevac, but then cited Sava Davidović from Uzveće as the source of that news.<sup>53</sup>

47 AS, KB, 4/17, the hearing of Filip Vojinović.

48 The investigations were launched as the result of a protest addressed to the Austrian consul in Belgrade by the Serbian Government. See A. Ivić, *Iz doba Karađorđa i sina mu kneza Aleksandra* [From the Time of Karađorđe and His Son Prince Aleksandar], Beograd 1984, p. 134.

49 AS, KB, 4/165, the hearing of Nastas Logofet.

50 AS, KB, 6/17, the hearing of Miloš Danilović.

51 AS, KB, 5/61-62, the hearing of Rajko Popović; AS, KB 5/60, the hearing of Spasoje Škulić.

52 AS, KB, 5/32, the hearing of Dimitrije Šešić

53 AS, KB, 61/10, the hearing of Sima Stanisavljević; AS, KB, 32/3-4, the hearing of Aksentije Stefanović.

Confrontations between the suspects were held either at the initiative of the summary criminal court or at the proposal of a suspect. The summary criminal court would decide to confront two suspects if their statements on the same matter diverged. There are many examples of such practice; Jovan Milić from Mačvanska Mitrovica gave a negative answer to the court's question whether he had agreed with Nestor Simić and Dimitrije Baničić with whom he had been going from Mačvanska Mitrovica to Šabac when the rebellion had broken out, that one of them should go back to their village and spread the news from Šabac. As Nestor Simić had claimed the contrary, the two suspects were confronted.<sup>54</sup>

Suspects, on the other hand, asked for a confrontation if they were presented with the declaration of another suspect containing accusations against them. Miloš Bogičević told the judges that he had been unable to release Šabac district head Đuka Stojićević while he had been detained in his (Bogićević's) house<sup>55</sup>, on which the court reacted by informing the suspect that his words contradicted the statement of another defendant, Sava Aksentić Kalpagdžija. Thus Bogičević requested a confrontation with Kalpagdžija.<sup>56</sup>

There were two outcomes of suspects facing each other: either one of them withdrew his original statement and corroborated the words of his opponent or both of them remained persistent in their version of the event in question.

The confrontations could make each of the confronted parties change their genuine statement, equally the suspect whose claim was challenged or the suspect brought to challenge the utterance.

As Gajo Trifunović from Mačvanski Prnjavor dismissed the accusation that he had been shouting 'Hooray!' before the Konak when the hussars had appeared in Šabac, Risto Jevtić, one of the members of Stojan Jovanović's squad, was taken from custody to confront him, but the hussar told that he had not in fact heard Jovanović yelling, but concluded that he must have been doing so by reason that all people joining the rebels had been screaming 'Hooray! Long live the Obrenovići!'<sup>57</sup>

Bogićević refuted the allegation that he had commanded Marko Rakić to form the guard in Kamičak with the goal of fending off Mačva County head Jovan Mostić to penetrate into Šabac with the military, so the court decided to face Bogičević with Rakić. The first retreated and admitted that it was possible

<sup>54</sup> AS, KB, 7/18, the hearing of Jovan Milić.

<sup>55</sup> Having seen the killings of Ninić and Lazarević, Đuka Stojićević initially escaped to the ceiling of the Konak, from where he offered armed resistance to the rebels. At a later time, he surrendered under the written guarantee of the new authority that he would be inflicted no harm. See J. Milićević, *op. cit.*, p. 299.

<sup>56</sup> AS, KB, 48/40, the second hearing of Miloš Bogičević.

<sup>57</sup> AS, KB, 27/10, the second hearing of Gajo Trifunović Crni.

that the accusation was true, pointing out in his defense that he had to issue the command because of Stojan Jovanović.<sup>58</sup>

Petar Zlatković Bugarin, a follower of Obrenovićs from Šabac, claimed that the charge that he had attended the opening of the treasury of Šabac district head office with Stojan Jovanović and several other partisans of the ex-dynasty was untrue, whilst Sava Kalpagdžija, one of the participants in that act, pointed to Zlatković as part of their company. The contradiction between their statements provoked a confrontation, yet both suspects stayed unwavering.<sup>59</sup>

Some records of the interrogations depict how the confrontations looked. A suspect brought to confront a defendant denying an accusation would be instructed by the court what to tell to his adversary. The accusing suspect would then bring out the charge, addressing directly to his opponent, who would answer in the same fashion.<sup>60</sup>

The rebellion-related events were very public, which by the nature of things made use of witness testimonies before the court as a consequence. The court would call witnesses to the stand if it found out (by a suspect or in another way) that a particular person could provide relevant information regarding the suspect's actions or at the request of a suspect.

Seeing that Sava Tomić, Aksentije Ivanović, Arsenije Ivanović, and Petar Pantelić mentioned some people being a part of the situations that occasioned the accusations against them (Ivan Čarkiće, Jovan Rekalice, Vučeta Petrović, and Luka Stojićević), those persons were heard by the court in the capacity of witnesses.<sup>61</sup>

One of the overnumerous charges against Miloš Bogićević was that he had had a meeting relative to politics with Aleksa Dželatović, the undestined hussar who had come late for the rebellious undertaking and crossed into Serbia only on 23 September. Bogićević responded that the accusation did not correspond to the truth, claiming that two Šabac inhabitants – merchant Kuzman Lazarević and the member of a peace court Jovan Stanišić (Kapidžić) – could authenticate his defense. Stanišić and Lazarević were indeed interviewed; albeit there is no mention that they were called to the court at Bogićević's proposal, one of the subjects of their hearings – the alleged meeting between the suspect and Dželatović – is a very strong clue that Bogićević is to be thanked for their appearance before the judges.<sup>62</sup>

<sup>58</sup> AS, KB, 48/27, the second hearing of Miloš Bogićević.

<sup>59</sup> AS, KB, 13/22, the fourth hearing of Petar Zlatković Bugarin.

<sup>60</sup> AS, KB, 41/13, the second hearing of Matija Simić.

<sup>61</sup> AS, KB, 5/13-14, the hearings of Ivan Čarkiće, Jovan Rekalice, Vučeta Petrović and Luka Stojićević.

<sup>62</sup> AS, KB, 48/36, the second hearing of Miloš Bogićević; AS, KB, 48/94, the hearings of Jovan Stanišić, Kuzman Lazarević and Luka Stojićević.

It is worth mentioning that the court was not always willing to grant a suspect's appeal for hearing a certain witness. To ease up his position in the case against him, Petar Popović, a merchant from Šabac, stated that he had put out the rocket with which the hussars had reportedly meant to burn the Konak, and that Mićo Đenić and Đoko Đuro could give testimonies proving that he was sincere with the court. Neither of the two proposed witnesses were interrogated.<sup>63</sup>

The people who testified before the court can be divided into three groups – 'ordinary' witnesses, persons simply possessing information of relevance with no personal interest in the case; witnesses from aggrieved parties, believed to be materially affected by the acts of suspects; and witnesses guarantors, who simultaneously exposed their knowledge of the case and guaranteed the good character of a suspect.

An example of the first type of witness is Maksim Ristić, who testified in the proceedings against Živko Trifunović, who confessed to taking a tarabolos<sup>64</sup> by force from a released prisoner and taking a belt off the dead body of Marko Lazarević. Jovan Mićanović, a man whose horse was stolen by Alimpije Radosavljević, a carrier from Šabac, when the rebels came, is an example of a witness who is at the same time an aggrieved party.<sup>65</sup> The community of Mačvanska Mitrovica, which appeared as witness as in a case against their fellow-villager Dimitrije Baničić and testified to his good behavior during the rebellion and guaranteed his good character could be exemplified as a witness-guarantor<sup>66</sup>.

Just like the suspects, some of the witnesses were given notice to tell the truth or to testify by their 'pure consciousness', an instance of which is Proka Bajić and Nikola Stamenković, both witnesses in the case against Miloš Bogičević.<sup>67</sup>

By the letter of the Circular on the Legal Force of Evidence in Criminal Matters (1842), the act regulating the conditions for the validity of evidence, a witness was obliged to take an oath on his statement. Only Todosije Bošković, a witness in the case against Vićentije Brajković, suspected of sending the gardener Petko to the village of Orašac to tell a certain Miško to say to his county chief not to gather an army on behalf of the authorities, can be said to have sworn for certain.<sup>68</sup> Some of the witnesses, such as Proka Bajić, were given warning that they would have to swear to their statements, however there is no record; that they indeed took an oath. Ninko Matić, one of the witnesses charging Miloš

<sup>63</sup> AS, KB, 13/3, the hearing of Petar Popović.

<sup>64</sup> A silk belt with aglets and patterns.

<sup>65</sup> AS, KB, 14/4, the hearing of Živko Trifunović; AS, KB, 19/7, the hearing of Alimpije Radosavljević.

<sup>66</sup> AS, KB, 11/40, the short record of the statement of Mačvanska Mitrovica community.

<sup>67</sup> AS, KB, 48/60, 68, the witness statement of Proka Bajić.

<sup>68</sup> AS, KB, 18/10, the brief record of the witness statement of Todosije Bošković.

Bogićević, ended his statement by saying that he could swear on his words, but a formal record of the witness doing so does not exist.<sup>69</sup>

In some cases the court began the hearings by asking witnesses questions intended to check their credibility. Ivko Pantelić, Filip Milutinović, and Proka Bajić, all testifying against Miloš Bogićević, were requested to say whether they were related to the suspect, whether they were in a particularly friendly or enemy relationship with him, whether they had been bribed or instructed how to testify, and whether they expected a reward or harm for their testimony.<sup>70</sup> It shall be said that the Circular stipulated that the witness testimony must be impartial in order to have force before the court.<sup>71</sup>

There were witnesses with questionable credibility. Some of them had a problematic personality in general, as testimony of the others could be regarded disputable if it concerned the suspect they were charging. Filip Milutinović was sentenced 'for some girl' in 1832, as Ivko Pantelić had the conviction for obstructing a road with the piece of land he had purchased, dating from 1841. Ivan Čarkiće from Šabac was an unreliable witness in the case against his fellow-citizen Arsenije Ivanović, on account of being in enmity with the suspect, which he openly acknowledged. Referring to the regime of the Defenders of the Constitution, in a lightly mocking entry of his 'Political Dictionary' named 'Vidinlije and Carigradlije'<sup>72</sup>, Vladimir Jovanović, the father of the renowned Serbian constitutionalist Slobodan Jovanović, claimed that there were false witnesses before the court, yet without revealing the identity of those witnesses.<sup>73</sup>

Witnesses gave their statements orally, with the exception of Milinko Đorđević, the president of the Rudnik District Court, who exposed the facts that he had been familiar with in the case against Pavle Mirković from the village of Brusnica, accused of spreading disturbing political rumor, in writing.<sup>74</sup>

<sup>69</sup> AS, KB, 48/68, the witness statement of Proka Bajić; 48/78, the witness statement of Ninko Matić.

<sup>70</sup> AS, KB, 48/68, 70, 72, the witness statements of Proka Bajić, Filip Milutinović and Ivko Pantelić.

<sup>71</sup> Đ. Petrović, *Rečnik zakona, uredba, uredbeni propisa i pr. pr. izdani u Knjažestvu Srbiji od 1827. do polovine 1854. god* [The Dictionary of Laws, Regulations, Legal Acts with the Character of Regulation and Others Introduced in the Principality of Serbia from 1827 to the mid 1854], Beograd 1856, pp. 420-421.

<sup>72</sup> The inhabitants of Vidin (Bulgaria) and Istanbul; the derogatory terms for the Defenders of the Constitution used among the followers of the Obrenovića, since some of the most prominent adversaries of Prince Mihailo's government escaped from Serbia and moved to Vidin and Istanbul due to the prosecution against them launched in 1840.

<sup>73</sup> AS, KB, 48/70, 72, the hearings of Filip Milutinović and Ivko Pantelić; AS, KB, 5/13, the record on the confrontation between Arsenije Ivanović and Ivan Čarkiće; V. Jovanović, *Politični rečnik* [Political Dictionary], Beograd 1870, p. 505.

<sup>74</sup> AS, KB, 36/15, the witness statement of Milinko Đorđević.

Captious questions did not appear only in the hearings of the suspects. The witnesses were also posed some questions implying that they had hitherto stated something which they in fact had not been asked at all. Jovan Gavrić, a witness against Miloš Bogičević, was informed by the court that the judges had knowledge that the suspect ordered him to go to Mačva County chief Jovan Mostić and tell him not to summon the army against the rebels but to come to Šabac and subjugate himself to the new authorities instead, and subsequently demanded the witness to reveal when he had received Bogičević's order and in what fashion it had been issued.<sup>75</sup>

The witnesses were in some cases presented with the statement of a suspect and then requested to declare on its verity. Đuka Stojićević was told that Miloš Bogičević had stated that every move of the new authority had been made in agreement with the Šabac District chief, upon which the witness was called to say if that statement matched the truth.<sup>76</sup>

On some occasions, witness statements were not limited to exposing the facts related with a case; some witnesses were demanded by the court to give their estimations about a hypothetical outcome of a situation. Kuzman Lazarević could be instanced as such a witness, taking into consideration that he was asked to judge whether Đuka Stojićević could have passed through the mob of people gathered in front of Miloš Bogičević's house if he had been liberated from detention.<sup>77</sup>

The record made at the end of the record of Jovan Gavrić's witness statement ('I testify that everything happened in this way and I put a cross alongside my name') makes probable that the witnesses had their statements written for the sake of verification.<sup>78</sup>

The authorities apparently had great expectations from this piece of evidence, since Vučić on 7 October had ordered the Šabac District head office not to issue passports to the witnesses needed for the confrontations with the suspects.<sup>79</sup> However, in his letter to the court from 30 October 1844, Vučić, understandably, insisted that 'the persons of secret police', by whom some evidence against the supposed co-plotters among the émigrés in Austria had been obtained, could not be called for confrontation with the suspects.<sup>80</sup>

The court would decide to confront a suspect and a witness in the case of diverging statements. When hearing some of the witnesses (for example, Vučko

<sup>75</sup> AS, KB, 48/63, the witness statement of Jovan Gavrić.

<sup>76</sup> AS, KB, 48/104, the witness statement of Đuka Stojićević.

<sup>77</sup> AS, KB, 48/95, the witness statement of Kuzman Lazarević.

<sup>78</sup> AS, KB, 48/64, the witness statement of Jovan Gavrić.

<sup>79</sup> AS, Načelstvo Okruga šabačkog [Šabac District head office], f. X, r. 1311, Vučić to Šabac District head office, the camp alongside Šabac, 7 October 1844.

<sup>80</sup> AS, KB, 65/8, Vučić to summary criminal court, Belgrade, 31 October 1844.



Topalđorđević, the post clerk of the Šabac District head office) the court would request them to say whether they could tell their accusations to a suspect face to face.<sup>81</sup> The court obviously showed well in estimating what witness to confront with a suspect, seeing that none of the witnesses withdrew their original statements. The result of the confrontations was either both parties remaining by their versions of the facts or a suspect's confession.

Petar Popović was under suspicion that he had been grabbing money from the Šabac district treasury when the rebels took control over Šabac. The suspect denied the accusation; hence Vasilije Grujović, a clerk in the Ministry of Finances who had been reportedly counting the money taken by Popović, was brought in for confrontation. Both the suspect and the witness held by what they had originally stated. After being confronted with the witness, Stevan Jovanović, Ranko Novaković admitted that he had not taken Andreja Nešić's horse following the order of Đorđe Cincarević, as he had first declared, but on his own.<sup>82</sup>

The confrontations between suspects and witnesses took the same form as the confrontations between suspects, which can be proved by the record of Miloš Bogičević and Vučko Topalđorđević facing each other on the occasion of allegations that the first-mentioned had sent for Petar Bugarin, Petar Popović, and Sava Kalpagdžija, when the Šabac district treasury was being opened, and that Stojan Jovanović had left him 950 ducats.<sup>83</sup>

Both public and private acts were presented as documentary evidence before the court. The record of the police interview with Arsenije Vasilijević from Požega, suspected of spreading rumors that the government had weakened and that Serbia would fall under fines conducted by the Užice District head office, was read to this suspect while he was being heard by the court, in order to confirm the identity of the letter from 23 September 1844 written by Nenad Vasić, a judge of the Podrinje district court, to his brother Atanasije, serving as a warehouse-keeper in the Ljubovija<sup>84</sup> quarantine, informing the latter on the rebels' arrival in Loznica over which he first rejoiced.<sup>85</sup>

Besides the acts in Serbian, one foreign document served as evidence before the court as well. It was the record of an interview with Dimitrije Zagla, charged for being among the conspirators to launch the rebellion, carried out by the criminal court of the Petrovaradin Border Regiment<sup>86</sup>, containing the allegation that Miloš Bogičević had paid a visit to Zagla a few days previous to the rebellion

<sup>81</sup> AS, KB, 13/41, the witness statement of Vučko Topalđorđević.

<sup>82</sup> AS, KB, 13/9, the brief record of the confrontation between Vasilije Grujović and Petar Popović; AS, KB, 21/29, the brief record of the confrontation between Stevan Jovanović and Ranko Novaković.

<sup>83</sup> AS, KB, 48/22, the second hearing of Miloš Bogičević.

<sup>84</sup> A small town in western Serbia, near the border to Bosnia and Herzegovina (Republic of Srpska).

<sup>85</sup> AS, KB, 8/23, a brief record of the hearing of Arsenije Vasilijević; AS, KB, 12/10, the second hearing of Nenad Vasić.

<sup>86</sup> Austrian military unit established in 1750 and seated in Sremska Mitrovica.

and assessed the cases of weapons for the hussars. The act was attributed to Bogičević.<sup>87</sup>

The guarantors were people who vouched for the personality of a suspect. They always appeared in groups and testified on the traits of a suspect or his political behavior. The members of the Šabac municipality guaranteed that Lazo Mitrović Beli's distinctions were fairness and honesty and that the suspect had always distinguished himself in loyalty to the government.<sup>88</sup>

Upon the presentation of evidence, the court would move to deliberation.<sup>89</sup> For deciding on the destinies of the defendants, the judges considered the records of suspects' interrogations and other acts (for example, the correspondence between Stojan Jovanović, Rajović brothers,<sup>90</sup> and Kosta Marković<sup>91</sup>). Not much information speaks of the process of deliberation. It is visible that some of the court's judgments have crossed-out parts containing mitigating or aggravating circumstances of a crime; therefore it might be supposed that the crossings-out were the fruit of judging over a fact. Hristić provided that the judges had not been in consent regarding the punishment for Sima Stanisavljević, who neglected to report the preparations for the rebellion; three of them proposed the death penalty, while two advocated life imprisonment, so the court asked Vučić to resolve the dilemma.<sup>92</sup>

In reading the court's judgment carefully, a sharp eye shall notice obvious regularities as for punishments delivered for specific crimes. The apprehended hussars and the people who joined them with weapons in their hands were sentenced to death. The émigrés involved in the organization of the rebellion were proclaimed as outlaws and, by the letter of the verdicts against them, every Serbian citizen was entitled to kill them,<sup>93</sup> while another member of the

<sup>87</sup> AS, KB, 48/38, the third hearing of Miloš Bogičević.

<sup>88</sup> AS, KB, 20/11, a brief record on the statement of the members of the Šabac municipality.

<sup>89</sup> One might wonder whether the court's remarks that a particular suspect is 'incapable of receiving corporal punishment' or 'exceedingly feeble' (see, for instance, KB 20/18, a brief note on the hearing of Maksim Grubić), noticeable in the records of the hearings were actually some sort of pre-deliberation consisting in excluding one type of punishment as a potential sanction in a verdict to be?

<sup>90</sup> Božidar and Cvetko Rajović, the nephews of Cvetko Rajović, a former finance minister, and ex-civil servants in Serbia, the organizers of the Hussar Rebellion in Austria.

<sup>91</sup> A pro-Obrenović former civil servant in Serbia, one of the organizers of the Hussar Rebellion.

<sup>92</sup> AS, KB, 61/26, the judgment in the case against Sima Stanisavljević; AS, KB, 65/57, the unique judgment for the cases against Mića Veselinović Trkić, Tanasije Ljočić, Panta Petaković, Luka Pejić Crni, Todor N., the policeman, Života Smiljić, Aleksa Atanasijević, Smiljana Ognjanović Bećirka (henceforth: the judgment to Veselinović and others); Hristić, 105.

<sup>93</sup> The verdicts were enriched with the following detail: poles with the names of the émigrés condemned to death were to be posted in public places. That was a bizarre surrogate for nailing their bodies to poles after execution for the purpose of general prevention, which was common practice in Serbia in this period. See Z. S. Mirković, *Smrtna kazna i kazna trčanja kroz šibe u Srbiji 1804–1860* [Death Penalty and Running the Gauntlet in Serbia 1804–1860], Beograd 2013, p. 76.

pro-Obrenović emigration who participated in the actions against the Serbian government to a lesser degree, received the prohibition of return to Serbia for a certain period of time (two or five years or for life). The defendants who were proved to have failed to inform the authorities on the organization of the rebellion to come were convicted to life in prison. The people who followed the hussars to the very point of their defeat were sentenced to a ten-year prison term, as those being company to the rebels to Loznica received a five-year prison sentence. The mass of the suspects taking advantage of the rebellion to loot the Konak were to spend two years in prison. The defendants established to have committed various petty crimes, such as lighting candles during the welcome feast for the hussars in Loznica or blabbering against the representatives of the authorities were given corporal punishment of 50 cane strokes. For lighter offences, government officials would be meted out disciplinary penalties (such as dismissal from service, suspension of salary, or reprimand). If there was no sufficient evidence for conviction, but the court judged a suspect as an intriguer or suspicious, he would be sentenced to banishment either to the interior of Serbia (if he was born in Serbia or had lived in it for a longer period), far from the border, or to his land of origin (if he had inhabited Serbia a short time ago).<sup>94</sup>

The confiscation of property, caning, and banishment would be regularly given as collateral sanctions besides the principal punishment to all defendants sentenced to a two-year prison or a more severe penalty, whereby according to some verdicts, all of the collateral sanctions were to be imposed, while conforming to other judgments a convict would receive only some of them. Pursuant to the verdicts, actual or former government officials would suffer deprivation of decorations, titles, degrees and diplomas, either as the principal or a collateral penalty.<sup>95</sup>

94 *Živeti u Beogradu* [Living in Belgrade] II (eds. Miroslav Jovanović et al.), Beograd 2004, p. 205; AS, KB, 4/131, the unique judgment for the cases against Radovan Pantelić, Krsta Ristić, Gruja Stanković, Uroš Jovanović, Trivun Simić, Manojlo Đonlić, Jovan Jovčetić, Petar Mitrović, Đorđe Stojanović and Aleksa Stojimirović; AS, KB, 30/14, the unique judgment for the cases against Miloš Živanović and Milisav Piperović; AS, KB, 65/45, the unique judgment for the cases against Jovica Milutinović, Stokica Spasić, Živko Jevtić Brkić, Stevan Avramović, Marinko Vidosavljević, Ilija Ivanović and Miloš Spasojević; AS, KB, 65/59, the judgment to Veselinović and others; AS, KB, 44/12, the judgment in the case against Nenad Despotović; AS, KB, 17/12, the unique judgment for the cases against Pantelija Nikolić Pančo, Avram Stefanović, Stevan Kuletić and Stevan Marković; AS, KB, 63/7, the judgment in the case against Ilija Sarić; AS, KB, 14/8, the unique judgment for the cases against Mijat Nikolić, Obrad Đorđević, Živko Trifunović, Ivan Ivantić, Radivoje Radovanović, Filip Mitrović, Mejo Bećirović, Milan Božić, Simo Ćirić, Marko Simić and Luka Ilić; AS, KB, 59/11, the unique judgment for the cases against Panta Popović and Stevan Radojičić; AS, KB, 62/4, the judgment in the case against Petko Jezdić.

95 AS, KB, 10/12, the unique judgment for the cases against Božin Đorđević, Manojlo Krstić, Ranko Đorđević and Mijailo Aćimović; AS, KB, 41/27, the judgment in the case against Matija Simić; AS, KB, 12/30, the unique judgment for the cases against Nenad Vasić, Atanasije Vasić, Aćim Molović and Risto Simić.

The court was taking into account the degree of *mens rea* of a crime. If a perpetrator acted criminally without intention, it would alleviate the punishment, which is visible in the example of the case against Matija Popović, who was sentenced to three years prison for accompanying the hussars to the spot of their execution.<sup>96</sup>

The motives of the court's judgments reveal what the grounds were for the exclusion of criminal liability and what circumstances were considered mitigating/aggravating by the judges.

There was no criminal liability if a defendant acted by command of an authority or under duress, or withdrew from a crime voluntarily. Nikola Đuričić, who went to tell the kmet of Vlasanica to take care to catch teacher Arsa Neimarović, a partisan of Vučić, was liberated by the court because he had acted at the order of the head of his village, Ranko Madžarević.<sup>97</sup> Džangulić, being a part of the hussars' suite to Loznica, fled from the rebels and came back to Šabac, which caused the judgment of acquittal in the case against him.<sup>98</sup> Lazo Mitrović Beli was, by his own declaration, coerced to join the rebels by the threat that everyone who did not go to the Konak with a weapon and a horse would pay with his life and assets. The court gave credit to Mitrović's statement and the outcome of the case against him was the acquittal of the defendant.<sup>99</sup>

Mitigating circumstances on the part of defendants accepted by the court were youth, extreme necessity, the elimination of consequences caused by a criminal action, acting by the example of a senior official, error in fact, and drunkenness.

Dimitrije Čivutperić, an ex police scribe, was proved to have committed several felonies: inclination towards the Obrenovića, singing songs dedicated to prince Mihailo in taverns, omitting to report Ilija N. from Veliko Selo for threatening the people willing to combat with the rebels, and stealing and counterfeiting passports in order to ease the movement of people engaged in the rebel plans between Serbia and Austria. The court took into account the 'youth

<sup>96</sup> AS, KB, 27/17, 18, the unique judgment in the case against Živan Antonijević, Matija Popović, Gaja Trifunović Crni, Sima Jovanović and Živojin Radovanović.

<sup>97</sup> AS, KB, 24/27, the unique judgment for the cases against Gavriilo Stojadinović, Milija Đurđević, Jovan Stanković, Živan Živković, Ranko Ilić, Stevan Filipović, Nikola Đuričić and Petar Dimitrijević.

<sup>98</sup> AS, KB, 35/6, the judgment in the case against Jančo Džangulić. The courts' practice with respect to voluntary withdrawal was inconsistent: Ivan Jović, Stanoje Nikolić, and Jeremija Popović, who also at one point left the hussars were only 'awarded' with seven-year prison sentences, so one could draw the conclusion that in this case withdrawing from the crime was only a mitigating circumstance. See AS, KB, 5/82, the unique judgment for the cases against Ivan Jović, Stanoje Nikolić and Jeremija Popović.

<sup>99</sup> AS, KB, 20/11, the hearing of Lazo Mitrović Beli; AS, KB, 20/28, 29, the unique judgment for the cases against Ivko Lazarević, Boža Kuzmanović, Ilija Lukić, Đurađ Tankosić, Luka Gajić, Pajica Tankosić, Lazo Mitrović Beli, Sima Todorović, Maksim Đurđević Drpić, Nikola Petrović, Jovan Cvetinović and Stevan Nikolić.

and immaturity' of the defendant, due to which he was probably spared from capital punishment and sentenced to life in prison.<sup>100</sup>

The court came to the conclusion that Petar Jovanović from Bosnia had taken some goods from the Konak so as to save them from burning and therefore the defendant was convicted to a mild sentence of 25 cane strokes.<sup>101</sup>

As stated in the motives of the judgment concerning Marko Nastić, the defendant had taken weapons away from Petar Rista, but later on returned them willingly to the owner, which practically monly 50 cane strokes.<sup>102</sup>

Panta Miličanac, an apprentice of the Podrinje District head office, and Milovan Pantelić, an apprentice of the Podrinje district court, were found guilty of welcoming the rebels in Loznica, but the court was of the opinion that the fact that they were provided the example to do so by their senior colleagues diminished their culpability.<sup>103</sup>

Reckless execution of duty by Jovan Mostić, who had vague information that the activity of pro-Obrenović émigrés alongside the Sava in Austria was being intensified but nevertheless stayed passive, was the reason for which the neglectful county chief was tried by the court. However, the judges acknowledged the error of fact on Mostić's part, since on the basis of the information that he had possessed, he could not have known that the rebellion would break out.<sup>104</sup>

When Stojan Jovanović's rebels took over Šabac, Petar Stojanović, an inhabitant of the town, was cruising around neighboring villages and spreading the news of the overturn, asking for a prize. The court ruled that the degree of guilt of the defendant could be reduced by the drunkenness with which he had been clouded, and Stojanović was sentenced to 30 cane strokes.<sup>105</sup>

Aggravating factors in the court's rulings were the position of authority, lighter offences committed alongside a heavy crime, and relapse.

In the reasoning of the judgment on Miloš Bogičević, the court emphasized that the actions of the defendant encouraged other people seeing him as a role

<sup>100</sup> AS, KB, 8/41, 42, 44, The unique judgment for the cases against Dimitrije Petrović-Čivutperić, Milovan Radovanović, Đorđe Crnomarić, Arsenije Vasiljević, Radovan Stefanović Đak, Gaja Jovanović and Mile Pušonjić (henceforth: the judgment to Čivutperić and others).

<sup>101</sup> AS, KB, 21/41, the unique judgment for the cases against Marinko Tršić, Milenko Ivanović, Damjan Stepanović, Đoko Petrović, Damjan Milutinović, Marinko Petrović, Matija Uščanin, Gliša Milosavljević, Mitar Božić, Teša Stevanović, Makevija Ninković, Jakov Rosić, Branko Radojčić, Nikola Popović, Mateja Stanić, Todor Šestarović, Ranko Crni, Jovan Milošević, Petar Stojanović, Petar Jovanović and Nikola Maštrafović (henceforth: the judgment to Tršić and others).

<sup>102</sup> AS, KB, 5/95, the unique judgment for the cases against Arsen Ivanović, Sava Tomić, Trifko Janković, Aksentije Ivanović, Mića Belić, Rajko Popović, Milinko Trajković, Marko Nastić, Radovan Grujić, Gliša Tanasić, Đoka Milinković, Lazar Petrović, Filip Janković, Damjan Stefanović, Stevan Isailović, Jefrem Popović (henceforth: the judgment to Arsen Ivanović and others).

<sup>103</sup> AS, KB, 56/5, the unique judgment for the cases against Panta Miličanac and Milovan Pantelić.

<sup>104</sup> AS, KB, 38/11, the judgment in the case of against Jovan Mostić.

<sup>105</sup> AS, KB, 21/41, the judgment to Tršić and others.

model to join the rebellion. Života Smiljić, one of the charged émigrés, not unexpectedly, did not show before the court to put up his defence, but opted to address the Serbian State Council and protest against the summary criminal court, pointing to its unconstitutionality and unlawfulness. The court qualified Smiljić's submission as an insult to the Serbian government, which increased the guilt of the defendant. Relapse was the aggravating factor in the crime of Alimpije Popović, the parish priest in Stupnica, whose involvement in rebellion-related events was not, as stated by the court, his first political crime.<sup>106</sup>

There are many cases of the court acting illegally in regard to the quality of the proof on which its rulings were founded and pronounced punishments.

Among other provisions, the Organization (art. 28) set that a judgment should include the proofs serving as foundation to the condemnation. Nonetheless, the court's judgments disobeying this rule were not a rarity. One of the relatively numerous examples of such illegal practice is the unique judgment for the cases against Jovan Ilić or Milić, Jovan Petrović, Nikola Subasać, Aleksa Isailović, Kosta Stefanović, Mijailo Hristović, Jeremija Mirjanić, Pavle Tešić, Dimitrije Mraović, Sava Ružičić, Marko Ostojić and Pavle Jovanović Šećer.<sup>107</sup>

The Circular prescribed that the confession of a defendant should appear as to leave no doubt about the content of his/her statement. The grounds of the verdict to Bogićević, however, contain the formulation that he '**does not deny**' (bolded by the author) telling Jovan Gavrić to say to his county chief to dissolve the army and come to Šabac on his own, otherwise doom would occur because the street had risen up, which does not necessarily mean that the defendant confessed to the crime.<sup>108</sup>

A much grosser breach of the Circular by the court was basing a condemnation on the confession of, at least as reported by the record of an interview with a suspect, a non-existent crime. Nikola Stanković gave a statement with no mention of his involvement in ransacking the Konak, but in the motives of the verdict to the defendant, the court stated that he had admitted to that crime.<sup>109</sup>

<sup>106</sup> AS, KB, 65/23–24, Života Smiljić to the State Council, AS, KB, 65/58, the judgment to Veselinović and others; AS, KB, 49/10, the judgment in the case against Alimpije Popović.

<sup>107</sup> *Zbornik I*, 187; AS, KB, 7/57, the unique judgment for the cases against Jovan Ilić or Milić, Jovan Petrović, Nikola Subasać, Aleksa Isailović, Kosta Stefanović, Mijailo Hristović, Jeremija Mirjanić, Pavle Tešić, Dimitrije Mraović, Sava Ružičić, Marko Ostojić and Pavle Jovanović Šećer.

<sup>108</sup> Đ. Petrović, op. cit., p. 420; AS, KB, 48/30, 31, the second hearing of Miloš Bogićević; AS, KB, 48/116, the judgment in the case against Miloš Bogićević.

<sup>109</sup> Đ. Petrović, op. cit., 419–420; AS, KB, 11/11, the hearing of Nikola Stanković; AS, KB, 11/45, the unique judgment for the cases Mijat Janković, Živojin Stojanović, Mičo Đenić, Milutin Radovanović, Kosta Stojanović, Nikola Stanković, Đuka Đukić, Neša Marković, Ivan Jovčetić, Trifun Janjetović, Janko Jovanović, Petar Stevanović, Ilija Jakovljević, Cvetko Kojić, Pavle Milovanović, Smiljko Stojanović, Milovan Bogdanović, Jovan Milićević, Manojlo Petrović, Jovan Mitrović and Nikola the servant, Dimitrije Baničić, Pavle Purić and Aćim Simić.

One witness, Đoko Đuro, was sufficient proof for the court to pronounce Trivko Janković guilty of smashing the gate to the house of, at that moment, the already late Nikola Ninić in order to rob it. By acting so, the court violated the stipulation of the Circulary requiring two consistent witness statements for condemnation.<sup>110</sup>

The confiscation of assets was a sanction prohibited by the Constitution (art. 28). The number of cane strokes (150) that was to be administered to defendant Gaja Jovanović exceeded the maximum amount of 100, determined by the Organization of District Courts (1840), the act regulating not only the matter from its title, but also some questions of criminal law and court procedure. Srećko Tadić from Slatina, a defendant whose guilt, in the words of the court, 'could not be completely proved', was obviously absolved for lack of evidence, in the case of which conforming to the Circulary, he could have been condemned solely to compensate the costs of the judicial procedure. However, Tadić was sentenced to prison for the duration of his pre-trial custody. The ruling of the court by which Marko Lazarević Markezan and Todor Minović Mandradžija, who accompanied the hussars to the end of their route and were killed on the battleground, were to be posthumously punished with the confiscation of assets, was beyond competition for its absurdity.<sup>111</sup>

The summary criminal court ended its work on 9 December 1844, when it was formally abolished.<sup>112</sup>

## Conclusion

The summary criminal court was an unconstitutional institution, formed predominantly of ad hoc judges, not serving in regular courts. *Differentia specifica* of this court was the preliminary investigation carried out by Vučić. The data regarding Vučić's pre-investigation are scarce. The suspects of higher social status had better treatment in custody. The court had broad subject-matter jurisdiction, which is no surprise for an ad hoc judicial institution founded on the occasion of exceptional circumstances. The court was acquiring information of relevance by means of evidence commonly used in criminal procedure. There were regularities in respect to punishments for specific crimes. The sanctions were considerably heavy and proportional to the seriousness of crimes. Delivering punishments was the point where the court committed the most violations of law, of course to the detriment of convicts. Excluding drunkenness to a degree,

<sup>110</sup> AS, KB, 5/94, the judgment to Arsen Ivanović and others.

<sup>111</sup> AS, KB, 8/44, the judgment to Čivutperić and others; AS, KB, 40/9, the unique judgment for the cases against Damjan Josić and Srećko Tadić; AS, KB, 71/4, the ruling of the summary criminal court from 1 November 1844.

<sup>112</sup> R.J. Popović, *Toma Vučić Perišić*, Beograd 2003, p. 179.

all factors quoted by the court are usual as mitigating/aggravating circumstances. The most paradoxical breaches of law by the court occurred in the process of judgment-passing. Sentencing for an uncommitted crime doubtlessly stands out among them.

## Bibliography

### Primary sources

#### Archives of Serbia:

Ministarstvo inostranih dela – Vnutreno odeljenje.

Načelstvo Okruga šabačkog.

Preki sud za učesnike u Katanskoj buni.

#### Other primary sources:

*Beleške Mladena Žujovića državnog savetnika*, Beograd 1902.

Dimitrijević J., *Katanska buna u Šapcu 22. septembra 1844*, Novi Sad 1886.

*Dnevnik Ignjata Vasića prote lozničkog*, Šabac 1889.

*Gesetzbuch über Verbrechen und schwere Policey Uebertretungen*, Wien 1803.

Hristić N., *Memoari 1840-1862*, Belgrade 2006.

Jovičić D.I., *Katanska buna prema memoarima Stojana Obradovića koji su predati Državnoj arhivi*, „Politika” 1939 (25 September).

von Maurer G.L., *Das griechische Volk in öffentlicher, kirchlicher und privat-rechtlicher Beziehung vor und nach dem Freiheitskampfe bis zum 31 juli 1834 III*, Heildelberg 1835.

Milinković Alavantić J., *Književna krađa: Katanska buna u Šapcu 22. septembra 1844. godine*, Novi Sad 1889.

Petrović Đ., *Rečnik zakona, uredba, uredbeni propisa i pr. pr. izdani u Knjažestvu Srbiji od 1827. do polovine 1854. god*, Beograd 1856.

Popović R., *Memoar Đorđa Protića iz 1854. godine*, „Mešovita građa” 2005, vol. 24.

*Rašid-beja istorija čudnovatih događaja u Beogradu i Srbiji*, „Spomenik Srpske kraljevske akademije” 1894, vol. 23.

*Sbornik zakonâ i uredbâ i uredbeni ukaza izdani u Knjažestvu srbskom I-II.*

*Serbske narodne novine.*

*Srbske novine.*

*Strafgesetzbuch für das Königreich Baiern*, München 1813.

*Živeti u Beogradu II* (eds. Miroslav Jovanović et al.), Beograd 2004.



## Literature

- Alimpić M., *Život i rad generala Ranka Alimpića*, Beograd 1892.
- Gašić G.J., *Katanska buna 1844 god*, „Šabački glasnik”, N° 1, 7 January 1929.
- Ivić A., *Iz doba Karađorđa i sina mu kneza Aleksandra* [From the Time of Karađorđe and His Son Prince Aleksandar], Beograd 1984.
- Jovanović A. S., *Prinosci za istoriju starog srpskog prava* [The Contributions for the History of Old Serbian Law] II, Belgrade 1900.
- Jovanović V., *Politični rečnik* [Political Dictionary], Beograd 1870.
- Lazarević L., *Katanska buna – Katane u Loznici*, „Volja” 1927, vol. 6.
- Milićević J., *Istorija Katanske bune (1844 g)* [The History of the Hussar Rebellion (1844)], „Zbornik Filozofskog fakulteta” 1960, vol. 5/1.
- Milutinović S., *Buna u Mačvi* [The Rebellion in Mačva], „Museum – Godišnjak Narodnog muzeja u Šapcu” 2000, vol. 3.
- Mirković Z.S., *Smrtna kazna i kazna trčanja kroz šibe u Srbiji 1804–1860* [Death Penalty and Running the Gauntlet in Serbia 1804-1860], Beograd 2013.
- Popović R.J., *Toma Vučić Perišić*, Beograd 2003.
- Stanković U., *Sremci pred prekim sudom formiranim povodom Katanske bune*, „Spomenica Istorijskog arhiva Srem” 2017, vol. 16.
- Stranjaković D., *Vlada ustavobranitelja 1842-1853: unutrašnja i spoljašnja politika* [The Reign of the Defenders of the Constitution 1842-1853: home and foreign policy], Beograd 1932.
- Tirol D., *Historische Ubersicht Serbiens unserer Zeit* [The Historical Overview of Serbia of Our Time], Neusatz 1851.

## SUMMARY

### Summary Criminal Court Formed on the Occasion of The Hussar Rebellion (1844) – A Short Outline

The Hussar Rebellion, launched by adherents of the Obrenović dynasty in September 1844, was put down by government forces. So as to punish conspirators, rebels and other perpetrators taking advantage of the revolt to engage in criminal activities, a summary criminal court with five judges was formed. Some of the suspects underwent the preliminary investigation of Toma Vučić Perišić, the most distinguished personality of the regime of the Defenders of the Constitution, empowered to decide who would be a subject of criminal procedure before the summary criminal court. Most of the suspects were certainly remanded in custody, either in small cottages in Vučić's camp, or in a cattle-pen-like room under the open sky. After conducting an investigation consisting of the presentation of evidence (interrogations of suspects, confrontations between suspects, witness statements, confrontations between

suspects and witnesses, and guarantors), the passing of judgments ensued. Information on the deliberations is very rare and the court grounded its judgments mainly on the records of suspects' statements. The defendants whose crimes were related to the rebellion itself were to suffer the most severe punishments (death penalty or life imprisonment), and those who were pronounced guilty for light misconducts were to be meted out the mildest sanction (50 canestrokes). Sometimes, the court verdicts did not have the valid foundation demanded by law. In addition to that, the court was seriously breaking the law in terms of condemnations by sentencing defendants to prohibited sanctions and to an amount beyond the legal limits for a specific sort of punishment.