

The Journal of Power Institutions in Post-Soviet Societies

Issue 8 (2008)
Military Justice in Russia

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**Iu. Ushakov & A. Stukalov, Front
voennykh prokurorov [*The Military
Procurators' Front*], Moskva, Viatka,
2000, 223 pages.**

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Vanessa Voisin, « Iu. Ushakov & A. Stukalov, Front voennykh prokurorov [*The Military Procurators' Front*], Moskva, Viatka, 2000, 223 pages. », *The Journal of Power Institutions in Post-Soviet Societies* [Online], Issue 8 | 2008, Online since 14 July 2008, connection on 04 February 2012. URL : <http://pipss.revues.org/1613>

Publisher: Centre d'études et de recherche sur les sociétés et les institutions post-soviétiques (CERSIPS)

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Document available online on:

<http://pipss.revues.org/1613>

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Iu. Ushakov & A. Stukalov, *Front voennykh prokurorov [The Military Procurators' Front]*, Moskva, Viatka, 2000, 223 pages.

- 1 *Front voennykh prokurorov* is a collection of essays written by two writers who are not known as specialists of military history, but obviously have access to archives, as proves the reprint, in the middle of the book, of several pages from the personal files of Afanas'ev, former Main Military Prosecutor of Soviet Armed Forces.
- 2 The first part of the book is devoted to Nikolai Porfir'evich Afanas'ev's memoirs, written, according to the editors, after his retirement in 1950. Afanas'ev, though less famous than Rudenko, was a high-ranking justice official. He spent his entire career in the organs of military justice: he was military investigator in 1924 and Main Military Prosecutor from 1946 to 1950. And these organs still lack a solid historiography (see below).
- 3 The memoirs begin with a summary of Khrushchev's 1956 interpretation of Stalin's terror and with the recollection of Afanas'ev's surveillance by the KGB. Therefore, Afanas'ev wrote during the years when it was possible to charge Stalin and Beria with the repressions committed in 1937-1938 against the Party, the army and State officials, but not yet allowed to view the repressive system in its totality. That's why one can read, on page 76, that Solzhenitsyn "is just a collector of slanders and legends. He was and remained an anti-Soviet citizen". Yet Afanas'ev's memories of 1938-1950, as biased as they may be, provide interesting information about facts, decisions and the atmosphere of the judicial system during this period. Moreover, Afanas'ev climbed all the steps of a military magistrate's *cursus honorum*, travelling around the country for his various appointments, constantly sensing the eyes of the military police on his work and on the military judicial system.
- 4 The memoirs start in 1938, when Afanas'ev was appointed as assistant to the North Caucasus Prosecutor's Office, right in the whirl of the repression of the Red Army. The author gives names and examples of this process as it developed in the Caucasus, then in Moscow where he was transferred in May 1938, and at last in Orel. From this point up to 1950, Afanas'ev focuses on the work and constraints – especially from the NKVD-MVD – that weigh on a military prosecutor or a judge. For example, he recalls how the NKVD forbade military prosecutors to visit the accused in jail and talk to them, and the terrible conditions of detention (Rostov, 1938). As a rule, throughout that period, the prosecutor's control over NKVD investigation was non-existent. Afanas'ev allows us to relive the Great Terror from the inside, from 1938 until the shift against the executioners (NKVD purge in 1939-40).
- 5 Afanas'ev gives valuable biographical information about various colleagues or/and the repressed people he dealt with. He evokes little known officials as well as high ranking leaders of the NKVD, the Procuracy and the Judicial system from that era, such as V. V. Ul'rikh or A. Ia. Vyshinski. These biographical insights are highly interesting, as they cast light on the extraordinary fates of Soviet officials before and during the Second World War.
- 6 But probably the most worthy pages are those devoted to the war period. Afanas'ev was then named first deputy of the Main Military Prosecutor. He was in charge of "special cases" (e.g. political). From this point onwards, his testimony gains height: he is able to describe the conditions and reasons surrounding a major decision (for example, the extraordinary measures, including judicial ones, taken on October 19th to protect Moscow from the invaders). Here the memoirs switch to the topic of justice at war, in an exceptional war (materially and psychologically) – the Eastern front. Military prosecutors were witnesses, punishers, but also actors of this conflict. After the war, Afanas'ev remained at the high commands of the military judicial system till 1950 when, in the wake of new repression, he sensed the burden of suspicion on himself and was dismissed for professional mistakes in 1950.

- 7 The next four stories cover the variety of fates met by military investigators and prosecutors in the “Great Patriotic War”. These essays offer a concrete and lively picture of the kind of problems they faced. Implementing justice in the extreme conditions of the front or the occupation was not an easy task, especially with Stalinist priorities demanding that justice play the main role in upholding discipline.
- 8 The book is a great source as well as a disappointing one for the researcher.
- 9 Such essays are invaluable because they cast light on a confidential field of Soviet judicial history and of justice at war. Indeed, one may qualify the historiography of Soviet military justice as sparse: the researcher can only find apologetic books from the Soviet era, praising the courage and efficiency of military magistrates, or more recent studies about certain specific judicial structures. The first kind of works lacks precision, reference to the archival sources and, of course, critical approach. The second appear more scientific and empirically based, but are still rare and, like the academic works of postgraduate students, usually remain unpublished. One can cite A.E. Epifanov, *Otvetsvennost' za voennye prestupleniia, sovershennye na territorii SSSR v period Velikoi Otechestvennoi Voini (istoriko-pravovoi aspekt)*, Moscow, Administrative Academy of the MVD, 2001, 438 pages, or V.V. Obukhov, *Pravovye osnovy organizatsii i deiatel'nosti voennykh tribunalov voisk NKVD SSSR v gody Velikoi Otechestvennoi voiny 1941-1945 gg.*, Moscow, Law Faculty, 2002, 231 pages.
- 10 The main reason for such weak historiography is the inaccessibility of military documents, especially judicial, in the Main Archives of the Defence Ministry of Russia. As far as the FSB archives are concerned, they are probably the most closed archives in the Russian Federation; only Russian researchers from the Institute of military History or from the MVD can hope to access such material.
- 11 In this way, *Front voennykh prokurorov* provides precious insight into the work, principles, methods and concrete problems faced by these magistrates during the war.
- 12 The first essay, presented as Afanas'ev's memories, offers valuable information about the overall decisions and structures of military justice. It sometimes helps to better understand the relationships between Justice, the Prosecutor's Office and great leaders like Stalin. For instance, it confirms the use of extra-legal methods in 1940-1945 despite the November 1938 resolution of the Council of People's Commissars and Central Committee of the VKP(b) “On arrests, Prosecutor's Office control and methods of investigation”¹. Afanas'ev argues that during that period the usual prerogatives of the Prosecutor's Office were whittled down. For example, the liberation of any citizen charged with counter-revolutionary crimes (art. 58 of the RSFSR Penal Code) required the authorisation of the political police in charge of the prosecutions, even when judicial organs dismissed a case for lack of evidence. Such a confirmation by a high-ranking official is very important when archival documents and witness accounts are sorely lacking for this period. One can just find, as indirect proof of the use/existence of such practices in the 1940's, an MVD order dated April 15, 1949, confirming the conditions of liberation of persons detained in the MVD prisons.
- 13 However, owing to the fact that the writers did not prepare critical and historical comments when publishing this essay, the reader will remain doubtful. We do not know where the original material comes from, except for Afanas'ev's memories that were given to the editors by his granddaughter. But it remains unclear whether Ushakov changed some details or just reproduced the authentic text. The nature of the following texts is even more confused. Boris Alekseev's story is told in the third person, with quotations from Alekseev's reports to higher organs, probably found in some archives. But no reference is given. Mikhail Pavlov's memoirs seem to have been re-written by Ushakov and Stukalov on the basis of an earlier publication, “Protsessy i sud'by”, with the authorization of the author. As for the last two essays, their origin is not mentioned at all.
- 14 It would also have been helpful to give the reader some information about Afanas'ev's position and role in the hierarchy, to provide a certain distance from his justification (under the form of denunciation) of Stalin's arbitrary repression against innocent people. Indeed, it was he, as Main Military Prosecutor, who specifically wrote to the Supreme Soviet Presidium in 1949 to prosecute one of his military judges. According to the law and constitution of USSR, presiding

judges in military tribunals could be tried only with an authorization from the Supreme Soviet and their hierarchy. The accused judge was charged with “anti-State activity aimed at covering counter-revolutionary crimes by criticizing the investigative methods of the military counter-espionage organs or the methods of the State Security service” (State Archive of the Russian Federation, fond 7523, opis 65, delo 75, lissty 1-5). This shows that Afanas’ev was not only fully aware of the pressure exerted on magistrates from the political police, but also that he supported it. The fact is not surprising, but some clarification on the behaviour of such high-ranking officials in Stalin’s time, and on the caution one should show regards such testimony, would have been welcome.

15 These “negative aspects” give a general impression of a historic novel rather than original memoirs or diaries, which is all the more sad as these essays could be highly useful to study military justice in the USSR.

Notes

1 The activities of the extra-judicial organs were stopped and the mass operations were formally halted on 17 November 1938 by a joint order of the Politburo and the Council of People’s Commissars. Cf. Arch Getty, “ ‘Excesses are not permitted’: Mass Terror and Stalinist Governance in the Late 1930s”, *Russian Review*, January 2002, Vol. 61, # 1, p. 113 [editors’ note].

References

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