

'Dual State' and Legal Impunity: Institutional Culture and the *Modi Operandi* of the Romanian Gendarmerie during the Mass Shootings of Jews in Bessarabia (July–August 1941)

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Abstract: This article examines the impact of the Romanian gendarmerie's institutional culture on its involvement in the Holocaust in Romania by focusing on the case study of the mass shootings of Jews and the so-called 'political suspects' in Bessarabia during the summer of 1941. In interwar Romania, this region was a space for experimenting with what the official discourse labelled 'exceptional measures' to counter 'threats' to state security. Some of these measures were integrated into the legal framework (mainly by using the state of siege), while other more expeditious ones, such as summary executions, were carried out outside the legal framework. By drawing on the concept of 'dual state' coined by Ernst Fraenkel, I argue that the *modi operandi* of the Romanian gendarmes during the mass shootings of July–August 1941 were influenced by their interwar experiences, which made them more inclined to follow illegal verbal orders to perpetrate mass shootings. Many Romanian gendarmes who were used to legal impunity during the interwar period expected the same to happen with the murderous orders of the summer of 1941. Moreover, the verticalization of power, promoted by the Antonescu regime and boosted by the state of siege, led to a transfer of sovereign power to mid-level and local echelons of the gendarmerie. This encouraged abusive behaviour and fuelled corruption networks within the institution.

Keywords: Holocaust, mass shootings, state of siege, Bessarabia, Romanian gendarmerie

Introduction

During the months of July and August 1941, a wave of atrocious mass killings of Jews took place in northern Bukovina and Bessarabia. Following the post-First World War treaties, both provinces became part of what was called in the interwar period Greater Romania. The northern parts of Bukovina and Bessarabia were seized by the Soviet Union at the end of June 1940, following Moscow's ultimatums to the Romanian government. The mass killings took place during the two months following the launch of the joint Romanian–German military operations on 2 July 1941, which

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aimed to defeat the Soviet Armies of the Odessa Military District and retake the two territories ceded by Romania in June 1940. Although it was part of the larger 'Operation Barbarossa', this particular campaign was called 'Operation München' by the Romanian and German armies involved.¹ Units of the Romanian army, gendarmerie and police – accompanied in some cases by German troops – carried out a vast massacre, by way of mass shootings, of a significant part of the Jewish population living in northern Bukovina and Bessarabia. Local Gentile perpetrators also played an important role in these events, both by assisting the soldiers and gendarmes, and – in some cases – by taking murderous initiatives themselves. The numbers of victims are difficult to determine precisely. Most contributions estimate a number of Jews murdered in these events ranging from 45,000 to 60,000.² Besides Jews, thousands of what the Romanian coercive institutions at that time labelled as 'political suspects' were also killed.³ Most of the latter were local Gentiles who had been accused of collaborating with and supporting the Soviet regime.

These events are some of the bloodiest episodes of the genocide of Jews and Roma that took place in the territories under Romanian rule during the Second World War.⁴ At that time Romania was led by Gen-

1 See Robert Kirchubel, *Operation Barbarossa 1941: Army Group South* (Oxford, UK; New York, N.Y.: Osprey Publishing, 2003), pp. 41–42.

2 Vladimir Solonari, 'Patterns of Violence: The Local Population and the Mass Murder of Jews in Bessarabia and Northern Bukovina, July–August 1941', *Kritika: Explorations in Russian and Eurasian History*, 8.4 (2007), 755; Simon Geissbühler, '“He Spoke Yiddish Like a Jew”: Neighbours' Contribution to the Mass Killings of Jews in Northern Bukovina and Bessarabia, July 1941', *Holocaust and Genocide Studies*, 28.3 (2014), 430; Radu Ioanid, *The Holocaust in Romania: The Destruction of Jews and Gypsies under the Antonescu Regime, 1940–1944* (Chicago: Ivan R. Dee, 2000), pp. 172–173.

3 Unfortunately, there is no available estimation of the number of the so-called 'political suspects' murdered in Bessarabia. However, the post-war investigations of war criminals provided estimations of victims of several gendarmerie legions. For example, the Chilia gendarmerie legion in southern Bessarabia executed approximately 250 'political suspects' in 1941. Ioanid, *The Holocaust in Romania*, p. 107.

4 Following the release of the report of the International Commission for the Study of the Holocaust in Romania in 2004, an increasing number of valuable contributions were published, shedding light on what was up to that moment one of the neglected parts of the Holocaust. Among the most influential contributions on the Antonescu regime and Holocaust in Romania are: Ioanid, *The Holocaust in Romania*; Jean Ancel, *Transnistria, 1941–1942: the Romanian mass murder campaigns*, 3 Vols. (Tel Aviv: Goldstein-Goren Diaspora Research Center, 2003); International Commission on the Holocaust in Romania: Final Report, ed. by Tuvia Friling, Radu Ioanid, and Mihail E. Ionescu (Iași: Polirom, 2004); Dennis Deletant, *Hitler's Forgotten Ally: Ion Antonescu and His Regime, Romania 1940–44* (Basingstoke and New York: Palgrave Macmillan, 2006); Armin Heinen, *Rumänien, der Holocaust und die Logik der Gewalt* (Munich: Oldenbourg, 2007); Jean Ancel, *The History of the Holocaust in Romania* (Lincoln: University

eral Ion Antonescu: a close ally of Hitler and a staunch antisemite. Antonescu had established a military dictatorship in January 1941, after a failed 'experiment' of joint rule with the Fascist movement of the Iron Guard (also known as the Legion of Archangel Michael) from September 1940 to January 1941.⁵ The genocidal 'policies' of the Antonescu regime were mostly implemented in the eastern part of Romania, on the borders officially established on 17 August 1941 (namely Bukovina, Bessarabia, and some towns and villages in northern Moldavia)⁶, and the Romanian occupied Soviet territory of Transnistria.

Some clarifications concerning these regions are necessary before going further ahead. The Kingdom of Romania enlarged its territory after the Great War by including Transylvania and Bukovina from the former Austria-Hungary, and the province of Bessarabia from the former Russian Empire. The province of Bukovina was created by the Habsburg monarchy from the northwestern part of the principality of Moldavia established in the fourteenth century. The eastern part of this principality was annexed in 1812 by the Russian Empire and was named Bessarabia, although previously this toponym was used only for its southern part. In this article, Moldavia designates the remnants of the former principality of Moldavia, which joined Walachia in 1859 to establish what is called the Old Kingdom of Romania to differentiate from the interwar Kingdom of Romania.⁷ As Irina Livezeanu rightly points out, 'of all the territories Romania gained in 1918, Bessarabia posed the most difficulties for Romania's policies of cultural nationalism'.⁸ This 'difficult' integration was caused by several specificities of the region, as well as Bucharest's centralizing policies in the province during the interwar years. First, ethnic minorities represented almost half of the total population according to the 1930 census and were dom-

of Nebraska Press; Jerusalem: Yad Vashem, 2011); Vladimir Solonari, *Purifying the nation: population exchange and ethnic cleansing in Nazi-allied Romania* (Washington, DC: The Johns Hopkins University Press, 2010) and Vladimir Solonari, *A Satellite Empire: Romanian Rule in Southwestern Ukraine, 1941-1944* (Ithaca: Cornell University Press, 2019).

5 Deletant, *Hitler's Forgotten Ally*, pp. 63-69.

6 Concerning the reintegration of Bessarabia and Bukovina into Romania in August-September 1941 see: *Ibid.*, pp. 83-84.

7 Charles King, *The Moldovans: Romania, Russia, and the Politics of Culture* (Stanford: Hoover Institution Press, 2013), pp. 13-19.

8 Irina Livezeanu, *Cultural Politics in Greater Romania: Regionalism, Nation Building, and Ethnic Struggle, 1918-1930* (Ithaca: Cornell University Press, 1995), p. 89. For a detailed analysis of these challenges see Alberto Basciani, *Dificila Unire. Basarabia și România Mare 1918-1940* [A Difficult Union. Bessarabia and Greater Romania], (Bucharest: Cartier, 2018).

inant in the urban centres.⁹ Second, Romanian authorities imposed the centralized administrative model of the Old Kingdom, and the Romanian language, on non-Romanian speaking locals. The local economic and cultural elites made mostly of Russian speakers opposed these centralizing policies. To make the situation even more complicated, the intense underground activity of the Communist Party of Romania (financed by Soviet Union) in the region during the interwar period reinforced Romanian state authorities' suspicions that the province's local population, especially the local Jewry, was supporting 'subversive' activities against the Romanian rule.¹⁰ Thus, in Bessarabia, the state institutions' antisemitic narratives and violent behaviour against the Jewish population were widespread even before the period 1938-1944, when the successive far-right dictatorships carried out systematic antisemitic policies in Romania.

Transnistria has generally received more attention in the historiography of the Holocaust in Romania, due to its centrality in the Antonescu regime's 'policies'. But northern Moldavia, Bessarabia and Bukovina were also of key importance as sites of experimenting with murderous techniques such as mass shootings, establishing camps and ghettos, and deporting large groups of the Jewish population. Of these practices, this article deals with the mass shootings of Jews and so-called 'political suspects' by the Romanian gendarmerie in Bessarabia during the summer of 1941. The latter was a law enforcement institution inspired by the French model of keeping order in rural areas, established in mid-nineteenth century. The gendarmerie was subordinated to the Ministry of the Interior and was led by a general inspector. Its most important sub-divisions were the so-called legions (*legiuni*), whose territory of jurisdiction usually covered a county (*județ*).¹¹

Most writing about the mass killings of Jews in Bessarabia and northern Bukovina can be divided in three categories. First, there are books authored by the contemporaries of these tragic events or collections of documents concerning the Romanian Holocaust published after 1945. These provide us access to the voices of the survivors and witnesses, or to those who carried out field research in the period im-

9 Livezeanu, *Cultural Politics in Greater Romania*, p. 92.

10 Alberto Basciani, 'The Other "Thermopylae" of Europe. Greater Romania and the Red Menace' in *The Rise of Bolshevism and its Impact on the Interwar International Order. Security, Conflict and Cooperation in the Contemporary World*, ed. by Valentine Lomellini (London: Palgrave Macmillan, 2020), pp. 55-74.

11 Vladimir Solonari, *A Satellite Empire: Romanian Rule in Southwestern Ukraine, 1941-1944* (Ithaca: Cornell University Press, 2019), p. 84.

mediately following the events, but also to various key documents selected from the state archives.¹² Second, are monographs dealing with Romanian state 'policies' on Jews during the far-right dictatorships, which succeeded in Romania from 1938 to 1944.¹³ Third and finally, are articles or chapters in edited volumes focusing on the mass killings of Jews in Bessarabia and northern Bukovina during July–August 1941.¹⁴ This last category includes several well documented inquiries into the mass killings of Jews in Bessarabia and northern Bukovina in the summer of 1941, which analyse not only how the centre (central headquarters of the coercive institutions in Bucharest) planned these murderous campaigns, but also how local actors (soldiers, gendarmes, policemen) implemented the centre's orders, and how the local Gentiles were involved in these atrocities.

Several scholars of the Romanian Holocaust have observed the key role played by narratives concerning the security of the war zones (before and after the launch of Operation Barbarossa) in legitimizing what the Antonescu regime called 'exceptional measures' against Jews.¹⁵ However, one particular aspect has received little attention: the continuities between the *modi operandi* of the Romanian coercive institutions (the army, the gendarmerie, the police, the secret services, the

12 Matias Carp, *Cartea Neagră* [The black book] (Bucharest: Editura Diogene, 1996– [1st ed., 1946]); Marius Mircu, *Pogromurile din Bucovina și Dorohoi* [The Pogroms in Bukovina and Dorohoi] (Bucharest: Editura Glob, 1945); *Documents Concerning the Fate of Romanian Jewry*, ed. by Jean Ancel (New York: Beate Klarsfeld Foundation, 1986), 12 vols.

13 Mariana Hausleitner, *Die Rumänisierung der Bukowina: Die Durchsetzung des nationalstaatlichen Anspruchs Grossrumäniens 1918–1944* (Munich: Oldenbourg, 2001), pp. 385–388; Ioanid, *The Holocaust in Romania*, pp. 63–108; Heinen, *Rumänien*; Ancel, *The History of the Holocaust*; *International Commission on the Holocaust*, pp. 126–140; Jean Ancel, *Contribuții la istoria României. Problema evreiască – Despre participarea Armatei Române la aplicarea „ordinelor speciale”* [Contributions to the history of Romania. The Jewish problem – concerning the participation of the Romanian Army in the implementation of 'special orders'] vol. I, Part II (Bucharest: Hasefer, 2001), pp. 111–142.

14 Jean Ancel, 'The Romanian Way of Solving the "Jewish Problem" in Bessarabia and Bukovina, June–July 1941', *Yad Vashem Studies* 19 (1988), 187–232; Solonari, 'Patterns of Violence', 749–787; Geissbühler, 430–449. Adrian Cioflâncă also dealt with the mass killings of Jews carried out by the Romanian army and law enforcement institutions (See: Adrian Cioflâncă, 'Mass Killings and Sexual Violence during the Holocaust in Transnistria', paper presented at the 2019 ASN World Convention, Columbia University 2–4 May 2019). A recent contribution on the role of legionaries in the mass violence carried out by the Romanian army against Jews and Roma is offered by: Roland Clark, 'Fascists and Soldiers: Ambivalent Loyalties and Genocidal Violence in Wartime Romania', *Holocaust and Genocide Studies*, 31.3 (2017), 408–432.

15 See for example International Commission on the Holocaust, pp. 201–202 and Ioanid, *The Holocaust in Romania*, p. 90.

border guards, and the military courts) in 1941-1944, and previous practices of the same institutions before June 1940.¹⁶

In this respect, I will discuss one example which illustrates the continuities between what Ernst Fraenkel termed the 'prerogative' components of the 'dual state' during Antonescu's dictatorship, and those functioning within the preceding political regimes in Romania from 1919 to 1940. In June 1941, General Inspector (head) of the Romanian Gendarmerie Constantin Z. Vasiliu – the mastermind behind the mass killings of Jews in Bessarabia and northern Bukovina – organized three meetings in Roman, Fălticeni and Galați (all towns in the vicinity of the future war zones) with the gendarmerie personnel due to be sent to the two regions.¹⁷ In these meetings, General Vasiliu instructed the gendarmerie on 'cleansing the terrain' (*curățirea terenului*) in Bessarabia and northern Bukovina during and immediately after the joint Romanian-German military operations in these territories. Vasiliu used 'metaphoric' language that the middle-(legions) and local-(stations) level gendarmerie personnel were supposed to understand. The orders were only given verbally, and in most cases relayed the same way by the middle-level echelons to the local personnel of the gendarmerie. The main contributors on the topic agree that by 'cleansing the terrain', General Vasiliu meant the murder of the Jews of the rural areas and the internment of the urban Jewish population in camps and ghettos.¹⁸ Regarding 'political suspects', several sources that I will discuss in the second part of this article reveal a more fluid interpretation of the orders.

According to the testimony of Master Sergeant Gheorghe Zamă from the Lăpușna gendarmerie legion, who attended the meeting in Roman, during his speech, General Vasiliu used his own personal example to 'galvanize' the gendarmes that were about to be sent to Bessarabia. Allegedly, Vasiliu told the audience that back in 1918 he 'cleansed the terrain' in Cernăuți, the regional capital of Bukovina, with the help of only one captain.¹⁹ Whether or not Vasiliu really took part

16 Among the contributions observing these continuities without developing the topic are: Vladimir Solonari, 'A conspiracy to murder: explaining the dynamics of Romanian "policy" towards Jews in Transnistria', *Journal of Genocide Research*, 19.1 (2017), 1-21 (p. 7), Ioanid, *The Holocaust in Romania*, p. 90, and Heinen, *Rumänien*, 109-133.

17 Ioanid, *The Holocaust in Romania*, p. 91. Ancel, *Contribuții la istoria României*, p. 125.

18 Solonari, 'Patterns of violence', p. 759; Ioanid, p. 64.

19 ASRI—Arhiva Serviciului Român de Informații [Romanian Intelligence Service Archives] (ASRI), dos. no. 197/1945, f. 2 [U.S. Holocaust Memorial Museum (hereafter USHMM), RG.25.004, reel 16], deposition submitted by Gheorghe Zamă of 27 September 1945. Although I found no other documents to confirm his role in 1918, Vasiliu was active in Bukovina from April 1919

in the operations of the Romanian army and gendarmerie in Bukovina in November 1918, what is important is how he perceived the genocidal campaign launched in June 1941. By interiorizing the myth of Judeo-Bolshevism, he included the murder of thousands of Jews from northern Bukovina and Bessarabia within the narrative of a mission he had assumed back in 1918 to fight the 'danger of Communism'.

The tragic events of July–August 1941 demonstrate the Romanian gendarmerie's key role in the infrastructure of mass murder in the Holocaust in Romania. As Vladimir Solonari rightly pointed out, the Antonescu regime was a military dictatorship, but after the suppression of the Iron Guard uprising in January 1941, it had no fascist movement to mobilize for its genocidal 'policies'. Consequently, Antonescu had to rely on the involvement of the Romanian army, police, gendarmerie, and secret services to carry out his murderous plans.²⁰ Starting from this central role played by Romanian gendarmerie in the Holocaust, I argue that it is important to inquire deeper into the institutional factors that might explain why so many gendarmes accepted murderous orders while many others proved reluctant or elusive in carrying them out. One of my main hypotheses is that the gendarmerie's institutional culture, particularly its routine implementation of 'exceptional measures' against those labelled as a danger to state security during the interwar period, worked as an important factor in turning the gendarmerie into an effective genocidal tool for the Antonescu regime.

This article aims to examine the extent to which the institutional culture of the Romanian gendarmerie shaped its involvement in the Holocaust in Romania. There are two main arguments for choosing Bessarabia²¹ as a case study. First, during the interwar period it was in this region in particular that the state institutions experimented with intensive use of 'exceptional measures' to annihilate underground Communist networks. Second, because most of the gendarmerie personnel involved in the mass shootings of Jews in Bessarabia in July–August 1941 had been active in the region before June 1940, we can more

to May 1920, where he was the head of a gendarmerie battalion. See Alexandru Alin Spânu, 'Fișă biografică: Constantin (Pichi) Z. Vasiliu' [A short biography: Constantin (Pichi) Z. Vasiliu], *Revista Jandarmeriei. Literară și artistică*, 2.10 (2000), 1–3.

²⁰ Solonari, 'A conspiracy to murder', p. 11.

²¹ In this context, I use the toponym Bessarabia to refer to the historic province between the rivers Prut and Dniester. This clarification is necessary because the so-called guvernământ of Bessarabia established officially by Antonescu's regime in September 1941 was a smaller administrative unit than the historic province.

easily assess the role their previous experiences played in shaping how they interpreted and carried out the orders in the summer of 1941.

Conceptually, this article draws on Ernst Fraenkel's work. Fraenkel proposed a 'key to understanding the National Socialist system of rule' by bringing to the fore the duality and tension between a so-called 'normative state', where the laws in force are obeyed, and a 'prerogative state', where the executive power tends to ignore and violate the legal framework.²² These two components are part of what Fraenkel calls 'the dual state'.²³

The roots of the 'dual state': the danger of Communism and the use of 'exceptional measures' in interwar Romania

The Romanian 'dual state' – which culminated during the dictatorships of King Carol II and Antonescu – had its roots in the First World War and its aftermath. From 1917 to 1924, the territories under Romanian rule were a testing ground for various techniques of using state violence to deal with a broad variety of 'threats' to state security and social order. One of the main sources of tension between the 'prerogative' and the 'normative' state in the post-First World War years was the intense use of martial law, which in Romania took the shape of the French inspired state of siege (*stare de asediu*).²⁴ According to the Statute adopted in 1864 regulating these mechanisms, the proclamation of state of siege in a territory entailed the transfer of several competencies from the civil authorities to the military.²⁵ State of siege allowed the coercive institutions to carry out searches, arrests and criminal inquiries expeditiously and send these cases to military courts. Romanian governments post-First World War resorted to state of siege to deal with a broad variety of perceived 'threats' to state security and social order,

22 Ernst Fraenkel, 'Preface to the 1974 German edition', in: Ernst Fraenkel, *The Dual State: A Contribution to the Theory of Dictatorship*, ed. by Jens Meierhenrich, Edith Lowenstein, and Klaus Knorr (Oxford: Oxford University Press, 2017), (pp. xiii-xii), p. xv.

23 Ibid., pp. xv, xxiii.

24 Because the meaning of state of siege discussed here is slightly different to the British martial law, I will keep using the original concept in function at that time: state of siege.

25 This act was in fact a translation into Romanian of the French Statute on the State of Siege of 1849. See Cosmin Sebastian Cercel, 'The "Right" Side of the Law. State of Siege and the Rise of Fascism in Interwar Romania', *Fascism: Journal of Comparative Fascist Studies* 2 (2013), 205–33 (p. 218).

such as workers' strikes, rural uprisings, or violent irredentist nationalist movements.²⁶ However, none of these threats were so deeply connected with the emergence of the 'dual state' in interwar Romania as the 'danger of Communism'.

The impact of the October Revolution on the Romanian labour and socialist movement, combined with the Soviet support of the Communist underground networks in interwar Romania, fuelled the political elite's fears that revolution could spread to Romania.²⁷ Furthermore, Bessarabia was a particularly difficult issue between the Romanian and Soviet governments during the 1920s due to the latter's refusal to recognize the Romanian rule over the province. Consequently, the Communist Party of Romania was outlawed in April 1924 and a harsh repression against its members was carried out during most of the interwar period.²⁸

As in other European countries during the interwar period, anti-Communist narratives in Romania merged with older forms of antisemitism, leading to the wide spreading of the myth of Judeo-Bolshevism.²⁹ Cases such as the 1919 campaign initiated by Prime Minister Arthur Văitoianu (a general and war hero) disseminating the idea that 'only Jews are Bolsheviks' epitomize the prevalence of the Judeo-Bolshevism myth among the Romanian army, police, gendarmerie and secret services.³⁰ Diana Dumitru remarked upon the importance of the antisemitic ethos among cadres of the Directorate of the Security Police (*Direcțiunea Poliției de Siguranță*, or *Siguranța*) during interwar and Second World War periods as a key ideological factor in the Holocaust in Romania.³¹

26 See in this respect the reports drafted by the *Siguranța* on the groups investigated and sent to military courts during the 1920s and 1930s. Consiliul Național pentru Studierea Arhivelor Securității [National Council for the Study of Securitate Archives] (thereafter CNSAS), Fond Documentar București, file D 012724, vol. 1-2, and file D 10745, vol. 3.

27 Concerning the impact of the October Revolution on the Romanian political elite and the use of state of siege during the early post-First World War years see: Corneliu Pintilescu, 'The Reverberations of the October 1917 Revolution and the State of Siege in Interwar Romania', in *1917 and the Consequences*, ed. by Gerhard Besier and Katarzyna Stokłosa (London: Routledge, 2020), pp. 111-130.

28 See Vladimir Tismăneanu, *Stalinism for All Seasons: A Political History of Romanian Communism* (Berkeley: University of California Press, 2003), pp. 54-56.

29 Paul Hanebrink, *A Specter Haunting Europe: The Myth of Judeo-Bolshevism* (Cambridge: Harvard University Press, 2018), pp. 53-54.

30 Livezeanu, *Cultural Politics*, p. 251.

31 Diana Dumitru, *The State, Antisemitism, and Collaboration in the Holocaust: The Borderlands of Romania and the Soviet Union* (New York: Cambridge University Press, 2016), pp. 77-82.

In order to fight the 'danger of Communism', coercive institutions in interwar Romania used a broad variety of methods labelled as 'exceptional' in the official discourse of state authorities.³² These methods were legitimized by invoking 'threats' to state security posed by the local Communists and the support they enjoyed from the Soviet Union. The 'exceptional methods' can be divided in two categories in terms of their relation to the legal framework.

The first category comprises the institutional practices pertaining to the state of siege. During the interwar period, the exceptional powers granted by the state of siege were used to surveil and repress a broad variety of what the Romanian governments labelled as 'threats' to state security. These included underground Communist networks, initiators of workers' strikes, far-right activists, nationalist movements among ethnic minorities, and activism of unrecognized religious minorities. The territory of Romania was either entirely or partially under state of siege from 1918 to 1928, and 1933 to 1938.³³ In February 1938, King Carol II established his dictatorship and proclaimed state of siege for an indefinite period.³⁴ The institution of state of siege became one of the key pillars of his dictatorial regime. Although military courts were among the key institutions involved in implementing the state of siege legislation, in many cases these courts failed to provide the harsh sentences the state authorities expected from them. Consequently, the coercive institutions were tempted to use more violent and expeditious methods to get rid of those considered dangerous to state security. Thus, the second category of so-called 'exceptional' methods entailed arrests and searches without warrants or any other legal procedures, the use of violent methods during criminal inquiries, and – when no other means were considered effective – carrying out summary executions followed by drafting false documents alleging that those shot had been trying to escape from escort.

32 A good example of the official discourse legitimizing the 'exceptional measures' is the speech held in the Romanian parliament by Gheorghe Tătărescu – at that time Under Secretary of State within the Ministry of the Interior, which was published as: Gheorghe Tătărescu, *Internaționala a III-a și Basarabia, discurs rostit în Adunarea Deputaților* [The Third International and Bessarabia: a speech held in the Assembly of Deputies] (Bucharest: Imprimiile Independența, 1925).

33 CNSAS, Fond Documentar București, file D 012724, vol. 2.

34 Corneliu Pintilescu, *Justiție militară și represiune politică în România comunistă (1948–1956). Studiu de caz: activitatea Tribunalului Militar Cluj* [Military justice and political repression in communist Romania (1948–1956). The activity of the military tribunal in Cluj: A case study] (Cluj-Napoca: Presa Universitară Clujeană, 2012), pp. 211–212.

The region most affected by both the use of state of siege mechanisms and illegal state violence was Bessarabia. The 'exceptional methods' used by coercive institutions in interwar Romania were labelled 'the Bessarabian system' in the jargon of the *Siguranța*'s personnel. A volume published in 1925 by Gheorghe Costa-Foru – a left-wing lawyer and journalist – provides us with an insight into Bessarabia's centrality in developing the toolkit of 'exceptional measures'.³⁵ According to the testimonies gathered by Costa-Foru, several individuals under investigation in the headquarters of the *Siguranța* in the early 1920s were threatened with the use of the methods pertaining to the so-called 'Bessarabian system'.³⁶ These included summary executions followed by the 'legal fiction' of reporting them as caused by 'attempts to escape from escort'.³⁷

Romanian newspapers in the interwar period aired many scandals related to the coercive institutions' abuse in the region bordering Soviet Union. One of these incidents identified General Ion Popovici (head of the Military Headquarters of Bessarabia, located in Chișinău) as a key figure. Following a royal decree of amnesty in June 1922, dozens of Communists imprisoned in Bessarabia were released. The General ordered the re-arrest of twenty-eight of them by invoking the state of siege, and issued official orders that five of them to be expelled to the Soviet Union.³⁸ The expulsion was a pretext: three of the men (Dumitru Kirilov, Jacob Targorodski and Avram Elie) were shot by gendarmes on 23 June 1922, during their transfer to the border with the Soviet Union.³⁹ The bodies of the other two (Burăh Odesser and Mihail Babac) were discovered drowned in the Dniester.⁴⁰ Confronted with a press scandal, General Popovici argued that the five Communists were shot while trying to escape from escort, and that all the procedures in their cases followed the legislation of state of siege in force at that time in

35 Constantin Gheorghe Costa-Foru, *Abuzurile și crimele Siguranței Generale a Statului: declarațiunile victimelor* [Abuses and crimes of the General Safety Police of the State: the victims' statements] (Bucharest: Editura "Triumful", 1925).

36 *Ibid.*, pp. 74–78.

37 Edward B. Westermann, "Shot While Trying to Escape": Procedural Legality and State-Sanctioned Killing in Nazi Germany', *Dapim: Studies on the Holocaust*, 32.2 (2018), 93–111.

38 'Asasinatele din Basarabia. Soarta amnistiaților: doi înecați, trei împușcați' [The assassinations in Bessarabia. The fate of the amnestied victims: two drowned, three shot], *Adevărul*, 2 July 1922, p. 2.

39 *Ibid.*, p. 2.

40 *Ibid.*, p. 2.

Bessarabia.⁴¹ It was very unlikely that the five Communists – who had been already amnestied by a royal decree – would risk their lives trying to escape from escort.⁴² This case illustrates how the same personnel could perform different roles within a 'dual state': by obeying the national legislation, putting the royal decree into practice, and freeing the arrested Communists; by using the state of siege in force in Bessarabia as a threshold between law and unrestricted state violence (the twenty-eight Communists were re-arrested by invoking this legislation); and finally, when the tools provided by the state of siege were not enough, by resorting to methods outside the legal framework, such as summary executions, which worked as the last layer of the 'dual state'.

There is no other event that better illustrates the routinization of state violence in Bessarabia than the Tatarbunar Uprising of September 1924 and its aftermath. The Soviet policies aiming to undermine Romanian rule in Bessarabia and ignite a revolution found a favourable context in 1924 due to a famine caused by severe drought.⁴³ In September 1924, a group of local insurgents led by Andrey Klyushnikov (alias Nenin) attacked the gendarme station in Tatarbunar – a village in southern Bessarabia – and proclaimed the establishment of the Moldavian Soviet Socialist Republic. The Romanian authorities used several army units and the local gendarmerie to suppress the uprising under the state of siege. From August to December 1925, a group of eighty-five locals were sentenced to harsh punishments for rebellion by a court-martial in Chişinău.⁴⁴ Besides those sentenced in Chişinău, other large groups among the local population in southern Bessarabia suspected of supporting the rioters were subjected to indiscriminate violence by the state authorities.

One of many acts of this indiscriminate state violence took place in the villages of Sărăria and Noul Caragaci in southern Bessarabia. In Sărăria, dozens of local citizens were arrested due to a denunciation

41 'Generalul Popovici a mărturisit' [General Popovici confessed], *Adevărul*, 13 August 1922, p. 1.

42 Cosmin Cercel provides an analysis of the state authorities' approach to the criminal investigations and trials of those accused of 'Communist' activities in: 'Unearthing the Dark Side of the Law. Narratives of Law and Authority in the Tatarbunar Trials', *History of Communism in Europe* 14 (2023), 111–130.

43 For a detailed analysis of the Soviet involvement in preparing the Tatarbunar uprising see: Igor Caşu, 'Exporting Soviet Revolution: Tatarbunar Rebellion in Romanian Bessarabia (1924)', *The International Journal of Intelligence, Security, and Public Affairs* 22.3 (2020), 224–243 (pp. 233–236).

44 Svetlana Suveică, 'Tatar-Bunar 1924: "procesul celor 500"' [Tatar-Bunar 1924: The Trial of the 500], *Analele Ştiinţifice ale Universităţii 'Alexandru Ioan Cuza' Iaşi, Istorie* 46 (2000), 281–292 (p. 289); Cercel, 'Unearthing the Dark Side'.

concerning a transport of guns meant to support the Tatarbunar Uprising. The investigation – coordinated by lieutenant Grigore Slăvoc and Master Sergeant Ioan Popa – was carried out by the staff of the local gendarmerie station in February-March 1925. Nine people died during this inquiry under unclear circumstances. The gendarmes involved reported them as ‘shot while trying to escape from escort’.⁴⁵ Due to the scandal in the newspapers, the gendarmes who perpetrated these crimes were moved to other gendarmerie stations.⁴⁶ Eleven years later, in 1936, a state prosecutor from Chişinău brought them in front of a civil court and accused them of murdering the nine Bessarabian peasants.⁴⁷ The trial that took place in May 1936 in Galaţi received a lot of attention from the left-wing national newspapers *Adevărul* [The Truth] and *Dimineaţa* [The Morning]. Both were very critical of the National Liberal Party governments and their abusive use of state of siege during the interwar period.⁴⁸

With the occasion of the trial of May 1936, many details of the violent events of February-March 1925 were brought to light in the press.⁴⁹ One article published by *Universul* [The Universe] gave a detailed account of how Popa arrested many of the rich inhabitants of the villages he was in charge of,⁵⁰ pressuring them to pay huge amounts of money for their release. Popa threatened to send them to Chişinău, shoot them on the way and report their execution as ‘shot while trying to escape’.⁵¹ The sentence of the May 1936 trial epitomizes how the tensions between the ‘normative’ and ‘prerogative’ components of the ‘dual state’ ended in such cases. The defendants received no prison punishment and were only forced to pay some amounts of money as reparations to the relatives of the victims.⁵² The newspaper correspondents expressed consternation at the attitude Master Sergeant Popa exhibited in court. During

45 Alexandru Sahia, *Scrieri alese* [Selected writings], (Bucharest: E.S.P.L.A., 1960), p. 375.

46 Sahia, *Scrieri alese*, p. 375.

47 M. Sevantos, ‘Apologia faptelor din Basarabia’ [The apology of the deeds in Bessarabia], *Adevărul*, 16 May 1936, p. 1.

48 See for example the articles: M. Sevantos, ‘Apologia faptelor din Basarabia’, *Adevărul*, 16 May 1936, p. 1; and Zilişteanu, ‘Procesul ororilor jandarmereşti de la Tatar-Bunar’ [The trial of the crimes perpetrated by gendarmes in Tatar-Bunar], *Dimineaţa*, 9 May 1936, p. 14.

49 ‘Procesul rebeliunii din comuna Caragaci’ [The trial of the uprising in Caragaci], *Universul*, 10 May 1936, p. 11.

50 *Ibid.*, p. 11.

51 Zilişteanu, ‘Procesul ororilor’, p. 14.

52 Zilişteanu, ‘Sentinţa în procesul ororilor jandarmereşti de la Tatar-Bunar’ [The verdict of the trial of the crimes perpetrated by gendarmes in Tatar-Bunar], *Dimineaţa*, 10 May 1936, p. 10.

the hearings, Popa would appear with his thirteen medals received for his service in the gendarmerie. He emphasized the 'danger of Bolshevism' and his patriotic duty to fight it. Popa claimed that he was ordered by his superiors to discover and repress the 'Communist organizations' involved in the [Tatarbunar] uprising 'by any means', and that he had lengthy experience in this activity, which he turned into 'his speciality'.⁵³ In an article drafted by journalist and Communist activist Alexandru Sahia, – most likely during the period of the trial, but published posthumously in 1950 – Popa confessed during the court hearings that he received 'some secret orders from the centre [central headquarters in Bucharest], insistently asking him to "cleanse the terrain"'.⁵⁴

This continuity of the terminology used in the orders given by Vasiliu and Topor in June 1941, and the practices and jargon used within the *Siguranța*, gendarmerie, and police during the interwar period, should come as no surprise. According to the lawyer of the defendant Slăvog during the trial of May 1936, both Slăvog and Popa followed the orders of the head of gendarmerie of the Cetatea Albă county, Lieutenant Colonel Ioan Topor. Topor was the chief of the 5th Gendarmarie Regiment, in charge of the territory of the Cetatea Albă, Ismail, and Tighina counties in southern Bessarabia from 1922 to 1925.⁵⁵ In June 1941, Ioan Topor – at that time General and 'grand pretor' (*mare pretor*, a chief military prosecutor) of the Romanian Army – attended the aforementioned meetings hosted by General Constantin Z. Vasiliu in Roman, Fălticeni, and Galați. Topor took active part in planning the mass killings of Jews and the so-called 'political suspects' in northern Bukovina and Bessarabia.

In sum, the gendarmerie's interwar experience of the state of siege prepared it for the murderous campaign of the summer of 1941 in three key ways. First, the internalization of the ideological values of anti-Communism and antisemitism merged in the myth of Judeo-Bolshevism functioned within the Romanian gendarmerie as a vehicle for understanding the social and political realities in Bessarabia. Second, the involvement of the gendarmes in implementing 'exceptional measures' during the interwar period marked the gendarmerie's organizational culture. Third, the intertwining of 'exceptional measures' with corruption led to a particular form of legal immunity enjoyed by the

53 Zilișteanu, 'Procesul ororilor', p. 14.

54 Sahia, *Scrisori alese*, p. 377.

55 'Decizia ministerială 837 din 24 octombrie 1925' [Ministerial Decision 837 of 24 October 1925], *Monitorul Oficial*, 4 November 1925, p. 12.

gendarmes involved. The state's tolerance of such a high level of arbitrariness and violence in the gendarmerie's illicit activities could be explained by the fact that the higher echelons turned a blind eye to the deeds of the gendarmes, whose superiors ordered them to commit crimes in the interest of state security. Thus, their legal impunity was an unwritten rule of the system. If Popa and his colleagues had been punished by the 'normative state' in the highly publicized case of May 1936, no other gendarmes would have been willing to carry out such abusive and violent orders.

The Antonescu regime: between the narratives of 'law and order' and the logic of exception

In September 1940, General Ion Antonescu and the Iron Guard established a dictatorship where the power was divided between them. The Iron Guard brought an upsurge of the 'prerogative state', which manifested through an explosion in extralegal violence, in what was called the 'National Legionary State'. This was a political regime in power only for a few months from September 1940 to January 1941. The Romanian fascists pressed for a radicalization of the antisemitic 'policies' and launched a wave of violence against Jews, which reached its highest point with the pogrom of Bucharest in January 1940.⁵⁶ The violence, committed by fascists, against the Jews and those they considered political enemies, over less than five months, was perceived by Antonescu as instigation to chaos and a form of contesting his sovereign power. In the aftermath of the legionary rebellion of 21-23 January 1941, Antonescu adopted a legitimizing discourse based on 'law and order', in contrast to the disorder and arbitrariness promoted by the Iron Guard. According to Cosmin Cercel, the 'arbitrary violence' carried out by the Iron Guard could be perceived as the 'prerogative' side of 'the dual state' during the National Legionary regime, while the conservative militias supporting General Antonescu could be labelled as the core of the 'normative state'.⁵⁷ However, Antonescu and his close collaborators also

56 See International Commission on the Holocaust, pp. 110-113.

57 Cosmin Cercel, 'Sub umbra excepției: stat, națiune și conducător în epoca extremelor' [In the shadow of exception: state, nation, and leader in the Age of extremes], in *Șefii de stat. Dinamica autoritară a puterii politice în istoria constituțională românească* [Heads of State. The Authoritarian Dynamics of Political Power in Romanian Constitutional History], ed. by Manuel Guțan, Dana Rîzescu, Bogdan Iancu, Cosmin Cercel, Bogdan Dima (Bucharest: Universul Juridic, 2020), pp. 313-427 (pp. 352-353).

built their dictatorial regime by drawing on a logic of exception. The General presented himself as a predestined leader, the only one able to save the country from the national disaster following the territorial dismantling of the summer of 1940, when Romania lost one third of its territory. Some of the first acts that created the legal background of his power were Decrees no. 3051 and 3052 of September 1940, which suspended the Carlist constitution of 1938 by invoking the 'state of extreme necessity in which the country finds itself'.⁵⁸

Another expression of the logic of exception structuring Antonescu's dictatorship was the institutional framework designed to implement the state of siege legislation. Antonescu's regime inherited a complex legal framework and coercive institutions that had already kept under surveillance and annihilated those labelled as 'dangerous' to state security, as a matter of routine. These institutions were designed to use state violence both within and outside the legal means of the state of siege legislation. The tensions between the narratives of 'law and order' and the logic of exception are some of the main characteristics of the Antonescu regime. The concept of 'dual state' helps us to grasp this paradoxical inner contradiction within the Antonescu regime: between its tendencies to build an order based on authoritarian (and very often discriminative) law and the inner forces promoting arbitrary power unconstrained by its own laws.

The beginning of the war against the Soviet Union in June 1941 deeply changed the balance between the 'normative' and 'prerogative' sides of the Antonescu regime. If, before June 1941, Romania was under a 'fictitious' state of siege, the start of the military operations against the Soviet Union turned it into a 'real' state of siege.⁵⁹ This brought an explosive extension of the 'prerogative state' and led to radical changes at different levels of the state apparatus. First, Antonescu considered that it was a favourable context to deal with the Jewish population in the vicinity of the front without constraints.⁶⁰ This new approach can be observed in Antonescu's orders, instructions and speeches in which he invoked the 'necessity' of legitimizing 'exceptional measures' concerning the Jewish population.⁶¹

58 Ibid., p. 350.

59 For the distinction between a 'fictitious' and a 'real' state of siege, see: Gian Giacomo Fusco, 'Exception, Fiction, Performativity', in: *States of Exception: Law, History, Theory*, ed. by Gian Giacomo Fusco, Cosmin Cercel, Simon Lavis (Abingdon, UK: Routledge, 2020), pp. 15–33 (p. 32).

60 Ioanid, *The Holocaust in Romania*, pp. 90–93.

61 Deletant, *Hitler's Forgotten Ally*, pp. 128–130.

The state of siege also played a key role in the administrative experiments that Ion Antonescu initiated after the liberation of Bessarabia and northern Bukovina from the Soviet armies. Retaking these territories created a propitious context for Antonescu and his close collaborators to experiment with some of his ideas concerning the so-called 'national revolution', meant to dramatically change not only the administrative traditions, but also the population structure of the country.⁶² According to Vladimir Solonari, in June 1941 Antonescu planned to turn Bessarabia and Bukovina into 'model provinces' to inspire a future transformation of all of Romania.⁶³ The first category of radical changes in the two provinces consisted of their 'purification'. This entailed the removal of ethnic minorities considered both dangers to state security and – in Antonescu's words – to the Romanian 'race'. Among these ethnic minorities, Jews were perceived as the most dangerous 'alien' element.⁶⁴ The second category of experiments aimed to introduce a different administrative system in the two 'model provinces'.⁶⁵ Decree-Law no. 790 of 3 September 1941 defined the administrative system of the two provinces. In contrast with the rest of the Romanian territory, Bukovina and Bessarabia were removed from the control of the ministries in Bucharest and placed under the rule of two regional governors, who were subordinated directly to Antonescu.⁶⁶ As Antonescu said to these governors during the meetings of the Council of Ministers in December 1941, they were 'sovereigns' in these provinces.⁶⁷

In this tense context, the state of siege turned into a key tool of everyday governance in Bessarabia and Bukovina. For example, one of the main decisions taken by Constantin Voiculescu following his appointment as governor of Bessarabia on 5 September 1941 was to establish a permanent military court in Chişinău to carry out its repressive 'policies' in the region.⁶⁸ The state of siege provided a favourable legal and institutional framework for the discretionary power of the gov-

62 Solonari, *A Satellite Empire*, p. 57.

63 Vladimir Solonari, "Model Province": Explaining the Holocaust of Bessarabian and Bukovinian Jewry', *Nationalities Papers*, 34.4 (2006), 471-500 (p. 482).

64 International Commission on the Holocaust, p. 132. See Solonari, "Model Province", pp. 477-478.

65 Solonari, "Model Province", pp. 482-483.

66 Ibid., p. 484.

67 Ibid., p. 485.

68 ASRI, dos. no. 22539, vol. 12, ff. 207-208, Indictment against Constantin Voiculescu (RG 25.004, reel 16).

ernors of Bessarabia and Bukovina, and their administrations, from 1941 to 1944. The power relations between Antonescu and the governors of Bessarabia, Bukovina, and Transnistria followed a logic of quasi-feudal bonds in which personal loyalty to protectors from upper echelons of power was the main rule. This structuring of power inside the Antonescu regime was inspired by the Nazi Führerprinzip, promoted in Bessarabia and Bukovina by Karl Pflaumer and Theo Ellgering, the German advisers serving the governors of the two provinces.⁶⁹

In this respect, a good example is the relationship between General Ion Antonescu and Mihai Antonescu, who was Vice President of the Council of Ministers in the summer of 1941. The latter played a key role in appointing the law professor Gheorghe Alexianu – the two were old friends and shared the antisemitic views of Ion Antonescu – as governor of Transnistria.⁷⁰ In Bessarabia, the regional inspector of the gendarmerie, Meculescu, was a protégé of General C.Z. Vasiliu, who was the best man at one of his daughters' wedding.⁷¹ The principle of structuring power in Bessarabia and Bukovina based on patron-client relationship, combined with the broad use of state of siege mechanisms, led to a verticalization of power and a boost of 'the prerogative state'. This tendency is well illustrated by an exchange of letters between governor Voiculescu and the Sub-Directorate of Litigations within the *guvernământ* of Bessarabia. Voiculescu exerted pressure on this subordinated administrative structure through an official letter dated 30 November 1942:

It is desirable to find a way to get rid of proceduralism and routine in matters of state security and to proceed in a more expeditious and decisive manner as is appropriate for a regime like the current one.⁷²

69 As Vladimir Solonari argues that in the case of Transnistria these experiments were influenced by the German advisers Karl Pflaumer and Theo Ellgering, who promoted the principle of a large provincial autonomy drawing on the Führerprinzip. Solonari, *A Satellite Empire*, pp. 55–62. By the beginning of September 1941, Karl Pflaumer was already mentioned in the documents as adviser to Constantin Voiculescu, the governor of Bessarabia, on military and economic issues. ASRI., dos. no. 22539, vol. 12, f. 196, Indictment against Constantin Voiculescu (RG 25.004, reel 16).

70 International Commission on the Holocaust, p. 139.

71 ASRI, dos. no. 20725, vol. 5, Deposition submitted by Sergeant Ion Romila, 15 September 1945, ff. 241–241v. (RG 25.004, reel 24).

72 ASRI, dos. no. 22539, vol. 12, f. 201, Indictment against Constantin Voiculescu (RG 25.004, reel 16). All translations of quoted documents from Romanian into English are the author's own unless otherwise indicated.

Although the state of siege worked as a tool for freeing the 'prerogative state' to a certain extent, the room for manoeuvre provided by these mechanisms was not always enough for Antonescu and his governors. For example, although the military courts were expected to implement the repressive 'policies' of the Antonescu regime, in many cases these courts gave much lighter penalties than the governors of Bessarabia, Bukovina, and Transnistria had expected.⁷³ Thus, the powers provided by the state of siege were perceived as insufficient for Antonescu's genocidal plans in June 1941. Nevertheless, although the state of siege failed to provide a free hand to unrestricted state violence, its inner logic of encouraging exceptionality boosted the abusive behaviour of the staff involved in implementing it. From this point of view, the state of siege can be perceived as a threshold which, rather than bringing a strict demarcation between forms of state violence within and outside the law, encouraged the emergence of a grey zone between legal and illegal practices of state coercion.

Despite these limitations, the state of siege was a key vehicle for transferring the sovereign power from Antonescu to the regional governors and from them to the capillaries of the state institutions. By sovereign power, I follow Michel Foucault, who argued that the essence of the sovereign power is the 'right to take life and let live'.⁷⁴ By invoking state of siege legislation, the middle- and local-level personnel of the gendarmerie were empowered to decide who was dangerous for state security, arrest, intern them in camps and ghettos, or send them to military courts. As we will illustrate in the last part of this article, the transfer of sovereign power to the capillaries of the dictatorship reached the highest point in cases of state violence outside the law, such as the case of the summary executions of Jews and the so-called 'political suspects' in Bessarabia during the summer of 1941. Within these murderous mechanisms, the decision on how to interpret a particular order and who was destined to die or live was in the hands of middle- and local-level staff.

73 Solonari, *A Satellite Empire*, pp. 90–91.

74 Michel Foucault, *Society Must be Defended*, trans. by David Macey (New York: Picador, 2003), p. 242.

The 'dual state' at the grass roots level: mass shootings and the organizational culture of the gendarmerie in Bessarabia (July-August 1941)

To better understand this verticalization of the sovereign power, I am proposing a closer look at how Antonescu's 'dual state' worked at the grassroots level. In this last part of the article, I will focus on the following five issues: the ideological values interiorized by the staff of the Romanian gendarmerie and the instrumentalization of these beliefs by the heads of the institution; the cryptic language of General C. Z. Vasiliu's orders from June 1941 from and their reception by the middle- and local-level gendarmerie personnel; the gendarmes reaction to the murderous orders; the role played by the previous experiences, and perceptions of law, of the Romanian gendarmes in their involvement in the mass shootings in the summer of 1941; patterns in the gendarmerie's *modi operandi* in Bessarabia in 1941.

According to Katherine Sorrels, the staff of the *Siguranța* carried out intensive surveillance of the political activism of the Jewish minority in interwar Bessarabia and misread the variety of these political movements by attributing 'subversive' and 'conspiratorial intent' to them.⁷⁵ The *Siguranța* – and this conclusion could be easily extended also to the army, the police and the gendarmerie – perceived the surveillance of the Jewish minority 'as part of an ideological battle against Bolshevism'.⁷⁶ Thus, the myth of Judeo-Bolshevism turned into a main hermeneutical tool of the aforementioned coercive state institutions when analysing the political activity of Bessarabian Jews during the interwar period. For example, a report drafted by the *Siguranța* office in the Cetatea Albă county in southern Bessarabia for the month of August 1933 concluded that:

there was almost no subversive, espionage, or terror organization discovered that did not include Jews, especially in the leadership [...] therefore they pose a danger to our nation precisely in those regions bordering Soviet Russia.⁷⁷

⁷⁵ Katherine Sorrels, 'Police harassment and the politicization of Jewish youth in interwar Bessarabia', *East European Jewish Affairs*, 47.1 (2017), 62–84 (p. 63).

⁷⁶ *Ibid.*, pp. 64, 78–79.

⁷⁷ Arthur Viorel Tuluș, *Stări de spirit ale populației din județul Cetatea Albă între anii 1933–1934 (Documente din Arhiva de Stat a Regiunii Odessa, Ucraina)* [The mood of the population of Cetatea Albă County between 1933–1934 (Documents from the State Archives of the Odessa Region, Ukraine)] (Brăila: Istros, 2016), p. 145.

The chaotic withdrawal of the Romanian administration and army from Bessarabia at the end of June 1940 turned even more bitter for the Romanian soldiers, state clerks, policemen and gendarmes because of the Soviet violations of the very conditions Moscow itself imposed through its ultimatums, particularly the advance of Soviet troops ahead of schedule and their abusive behaviour.⁷⁸ The disarmament of Romanian soldiers and gendarmes during their withdrawal was carried out in some cases by the Soviet army with the participation of Bessarabia locals. Although those committing these reprehensible acts were of different ethnicities, state propaganda found the Jews as the perfect scapegoats by explaining the loss of the two provinces through the 'domestic Jewish treason in favour of the Soviet Union'.⁷⁹ This led to an upsurge of antisemitic beliefs among the Romanian population and a wave of violent protests against Jews.⁸⁰ In this context, it was not difficult for the state propaganda to portray the Bessarabian and Bukovinian Jews as 'traitors' working for the 'Bolsheviks' since these narratives were built on previous antisemitic discourses that developed during the interwar period. As Grant T. Harward rightly pointed out, for many Romanian soldiers, the interiorization of the myth of Judeo-Bolshevism painted the Eastern military campaign during Second World War as a 'holy war' between Christian soldiers and the 'atheistic Bolsheviks' led by Jews.⁸¹

In light of this pre-existing, multi-layered, systemic antisemitism, the speeches held by General C. Z. Vasiliu during the two meetings with the staff of the gendarmerie legions (units) set for Bessarabia that took place in Galați (with the legions in charge of southern Bessarabia)

78 Ioanid, *The Holocaust in Romania*, p. 38. For a detailed analysis of these events and their reception, see: Philippe Henri Blasen, 'L'évacuation de la Bessarabie et de la Bucovine du Nord (juin-juillet 1940): la création d'un cliché antisémite roumain', *Revista de Istorie a Evreilor din Romania*, 20 (2020), 271-310.

79 Ștefan Ionescu, 'Myths, Narratives, and Patterns of Rumors: The Construction of "Jewish Subversion" and Retributive Violence in 1940-41 Romania', *Culture & Psychology*, 15.3 (2009), 327-336 (p. 329). Concerning the widespread dissemination of antisemitic stereotypes through state propaganda in Romania before and during the Second World War, see: Dumitru, *The State*.

80 Ionescu, 'Myths', p. 328.

81 Grant T. Harward, *Romania's Holy War: Soldiers, Motivation, and the Holocaust* (New York: Cornell University Press, 2021). Emanuel-Marius Grec argues that the interiorization of antisemitic values partially explains the involvement of the Romanian army in the mass killing of Jews, such as the massacres that happened in Odessa in October 1941; Emanuel-Marius Grec, 'Geography of Genocide: Deportation and Mass Murder in Romanian-Occupied Territories during World War II', *The Journal of Slavic Military Studies*, 36.2 (2023), 164-178 (p. 169).

and Roman (for the legions of central Bessarabia) on 17–18 June 1941,⁸² had several purposes. The first was to boost and instrumentalize the antisemitic and the anti-Communist beliefs of the gendarmes. The second was to instruct the gendarmes on how these orders should be implemented. The third was to enhance the pressure on the gendarmes by threatening severe punishments to those who would dare to evade the orders. According to some testimonies, General Ioan Topor, the 'grand pretor' of the Romanian Army, and Colonel Teodor Meculescu – head of the Chişinău Gendarmerie Inspectorate in charge of the province of Bessarabia⁸³ – also attended these meetings and provided instructions. General Vasiliu particularly emphasized the 'exceptionality' brought by the context of war to put pressure on the middle-level personnel to implement their ruthless orders.⁸⁴ Most of the gendarmes attending these meetings were sent back to the gendarmerie legions and stations where they had been active before June 1940.⁸⁵ Besides the fact they were more familiar with the territory, the testimony of Captain Laurenţiu Stino implies that this decision might be also connected with the fact that the gendarmes were more motivated to seek revenge this way. He recalled that during the meeting in Roman, Meculescu ordered them 'to carry out a bloody revenge'.⁸⁶

However, the documents archived in the war criminal files drafted during the period 1945–1946 provide different accounts of the aforementioned murderous orders. Many testimonies of the gendarmes attending the meetings emphasize that Generals Vasiliu and Topor asked them to carry out the 'cleansing of the terrain' of Jews and political suspects, but without explaining what this meant. Other similar documents reveal details of what the murderous gendarmerie leadership's plans for the Jews of the rural areas entailed. For example, Master Sergeant Gheorghe Zamă from the Lăpuşna gendarmerie legion said that Colonel Meculescu stated openly that 'Jews must be exterminated'.⁸⁷

82 Ioanid, *The Holocaust in Romania*, p. 91.

83 As head of Chişinău Gendarmerie Inspectorate, Colonel Teodor Meculescu was in fact in charge with coordinating the gendarmerie activity in the so-called guvernământ of Bessarabia.

84 ASRI, dos. no. 197/1945; Deposition submitted by Trofim Lăpuşneanu [Laiba], f. 279 (RG.25.004, reel 16).

85 Ibid., ff. 279–280.

86 ASRI, dos. no. 20725, vol. 5, Transcript of hearing with Captain Laurenţiu Stino, 8 September 1945, ff. 238–238v. (USHMM, RG.25.004, reel 24).

87 ASRI, dos. no. 197/1945, ff. 1–2v.; Deposition submitted by Eugen Dimitriev; Deposition submitted by Gheorghe Zamă, 27 September 1945 (USHMM, RG.25.004, reel 16).

When Zamă and his colleagues arrived in the small town of Călărași, Lieutenant Colonel Nicolae Caracaș, the head of the legion of Lăpușna county, 'verbally transmitted an order to us, in fact the same order received at Roman, namely: that the Jews must be exterminated, and the political suspects and deserters from Romanian army to be arrested and sent to Court Martial'.⁸⁸ Later on, the headquarters of the Lăpușna county legion sent a written order signed by Meculescu to the local staff, which also mentioned the 'extermination of Jews'.⁸⁹ The detail mentioned by Zamă's testimony (confirmed by other testimonies⁹⁰) is that, after approximately two months, this written order was to be sent back to the headquarters of the gendarmerie legions. The fear that traces of their illegal actions could be found afterwards made the deputy of the head of Lăpușna legion to order his subordinated station chiefs to burn the archives of their gendarmerie units while the Romanian authorities withdrew from Bessarabia in 1944.⁹¹

These details concerning how orders circulated top-down within the gendarmerie suggest some possible explanations for the inconsistencies of these testimonies. The ambiguous language General Vasiliu used in these meetings has different potential explanations. First, superiors within the gendarmerie may have expected that gendarmes were already used to carrying out 'exceptional measures' from their previous experience before June 1940. Thus, even when orders were phrased ambiguously, superiors will have expected them to be understood by their subordinates. In this respect, a testimony signed by Master Sergeant Ion Untescu openly stated that despite the ambiguous character of General Vasiliu's orders concerning the 'cleansing of the terrain' of Jews and political suspects, 'from the way he gave these instructions, it could be understood that it was about their execution'.⁹² A second possible explanation for Vasiliu's use of cryptic language was that he and his fellow officers aimed to avoid responsibility for the mass murders caused by their orders. Alongside these two explanations, we should also not exclude the possibility that the term 'cleansing the ter-

88 ASRI, dos. no. 197/1945, ff. 2-2v.; Deposition submitted by Gheorghe Zamă, 27 September 1945 (USHMM, RG.25.004, reel 16).

89 Ibid.

90 ASRI, dos. no. 197/1945, ff. 6-6v.; Deposition submitted by Nicolae Stanciu, 7 November 1945 (USHMM, RG.25.004, reel 16).

91 ASRI, dos. no. 20725, vol. 5, ff. 241-241v., Transcript of hearing with Ion Romila, 15 September 1945 (USHMM, RG.25.004, reel 24).

92 ASRI, dos. no. 197/1945, ff. 60-60v., Deposition submitted by Ion Untescu, 15 December 1945 (RG.25.004, reel 16).

rain' meant different measures considering the subject (Jew or 'political suspect') and which category of 'danger' to state security they fell into.

An important aspect of the vague language of these orders is that it granted a large room for manoeuvre to Colonel Meculescu, but also to the middle- and local-level personnel of the gendarmerie. The testimony of Captain Stino suggested that sovereign power was transferred from upper to lower levels of the gendarmerie:

according to the instructions they had received in Roman, it was up to the local staff, even a private, to suppress any number of those arrested during their transfer to the headquarters of a gendarmerie legion.⁹³

The fact that 'cleansing of the terrain' might entail different measures considering the category in which an individual was included deserves more attention. Merging the two 'targets' of state violence (Jews, and the so-called 'political suspects') in one murderous campaign reflects that those planning it really interiorized the state propaganda of equating Jewishness with Bolshevism. This is shown by order no. 4593 of 30 June 1941 sent by the Ministry of the Interior to the General Inspectorate of the Gendarmerie. According to the order, the gendarmerie units had to pay attention to the actions of sabotage carried out by Soviet agents in the towns of Moldavia, who 'initiate contact with their agents in the country and with the Judeo-Communist population'.⁹⁴

Non-Jewish 'political suspects' received different treatment than Jews during the 'cleansing of the terrain', although mass shootings were carried out in their case, too. The testimony of Master Sergeant Gheorghe Tomița provides insights not only into the 'policy' of the gendarmerie concerning 'political suspects', but also into how the head of the Ismail legion transmitted the orders received from General Vasiliu and Colonel Meculescu. According to this testimony, the 'political suspects' were to be divided into three categories, or degrees of danger to state security, based upon an analysis of their files. The head of legion was the one to decide on each case. Prisoners not considered dangerous to state security were to be released, those labelled as 'less guilty' than the highest degree of danger were to be sent to military courts, and those

93 ASRI, dos. no. 20725, vo. 5, ff. 238–238v., Transcript of hearing with Captain Laurențiu Stino, 8 September 1945 (USHMM, RG-25.004, reel 24).

94 ASRI, dos. no. 20725, vol. 6, f. 306, Order no. 4593 of 30 June 1941 sent by the Ministry of the Internal Affairs to the General Inspectorate of the Gendarmerie (USHMM, RG25.004, reel 24).

perceived as 'dangerous' had to be imprisoned.⁹⁵ Concerning this last category, many testimonies show that Colonel Meculescu verbally ordered and pressured the heads of gendarmerie legions and stations to carry out their summary execution.⁹⁶

In most cases, the gendarmerie also treated the rural and urban Jews in Bessarabia differently. According to the widely accepted interpretation within the historiography of the topic, by 'cleansing the terrain' General Vasiliu meant the mass killing of Jews in the rural area, the concentration of the urban Jews in ghettos and the arrest of the so-called 'political suspects'.⁹⁷ However, as we will see below, not all middle-level heads of the gendarmerie understood the orders this way.

Some of the most detailed testimonies were gathered in the criminal file of Lieutenant Colonel Nicolae Caracaş: head of the Lăpuşna legion of gendarmerie from July 1941 until March 1942. Caracaş had already ordered his subordinates to shoot 'all Jews without exception' and 'the identified dangerous political suspects' before they even reached their territory.⁹⁸ His subordinates carried out a mass shooting of approximately 250 Jews from the small town of Călăraşi.⁹⁹ The same order was given by Major Filip Bechi – the head of the Orhei legion – to the heads of the gendarmerie stations of his legion: 'all Jews found on the territory in their competence to be executed by shooting'.¹⁰⁰ These cases show that in those gendarmerie legions where their heads displayed a zealous antisemitic attitude, the genocidal campaign was not limited to the Jewish population from the rural areas, as many gendarmes understood from Vasiliu's orders.

Vladimir Solonari and Simon Geissbühler brought to the fore how factors such as widespread antisemitism, anti-Communism, ruthless careerism, cowardice, sadism, greediness, and corruption turned not only soldiers, policemen, and gendarmes, but also regular people from the local population into mass murderers in Bessarabia and Bukovina

95 ASRI, dos. no. 197/1945, Transcript of hearing with Gheorghe Tomiţa, 15 January 1946, ff. 82–82v. (USHMM, RG-25.004, reel 16).

96 Ibid.; ASRI Dos 20725, vol. 5, Transcript of hearing with Captain Laurenţiu Stino, 8 September 1945, ff. 238–240; Transcript of hearing with Grigore Iancu, 2 October 1945, f. 245 (USHMM, RG-25.004, reel 24).

97 See Ioanid, *The Holocaust in Romania*, p. 91; Solonari, 'Patterns of Violence', pp. 758–759; International Commission on the Holocaust, pp. 129–130.

98 ASRI, dos. no. 582, vol. 1, f. 2 (RG-25.004, reel 15).

99 See Ioanid, *The Holocaust in Romania*, p. 102 and International Commission on the Holocaust, pp. 331–332.

100 ASRI, dos. no. 20725, vol. 5, f. 245–245v. (USHMM, RG-25.004, reel 24).

in the summer of 1941.¹⁰¹ Starting from the analysis of several illustrative cases, I will focus on how middle- and local-level echelons of the gendarmerie reacted to General Vasiliu's orders and what their reactions tell us about the legal and organizational culture of the Romanian gendarmerie. The few cases discussed below cannot provide the ground for an exhaustive analysis of the motivations behind the decision of some gendarmes to implement, oppose or evade orders. However, I argue that they can shed light on some key aspects concerning what the bibliography on the function of the state institutions in interwar Romania calls the 'gap between the formal (*de jure*) and actual (*de facto*) state of affairs' and its relation to the mass shootings in Bessarabia.¹⁰² The ambiguous language of the aforementioned orders, and the fact that the higher echelons of the gendarmerie staff avoided issuing written orders clearly asking the murder of Jews and the so-called 'dangerous political suspects', surface a complicated and fluid relationship between the legal framework and the unwritten inner rules of the institution. From the *de jure* point of view, most of the gendarmes were aware that the orders they received concerning the summary execution of Jews and the 'dangerous' political suspects were illegal. In the testimony of one of the perpetrators, Sergeant Trofim Laiba – a local Bessarabian who acknowledged his involvement in the mass shootings of Jews in Orhei county – stated that he opposed the orders at the beginning by invoking both moral and legal arguments. According to his testimony, he reacted to the pressure to carry out the murderous orders by saying: 'I cannot shoot an innocent man. [...] I reported [to his superior, Master Sergeant Gheorghe Palaghiță] that our actions are illegal [...] and we will be held responsible for this inhuman behaviour'.¹⁰³ Already suspect in the eyes of his colleagues because of his surname,¹⁰⁴ which sounded of non-Romanian origin to someone born in a province other than Bessarabia, Laiba was accused by Master Sergeant Palaghiță

101 See Solonari, 'Patterns of Violence', 749–87 and Geissbühler, 430–449.

102 Diana Mishkova and Roumen Daskalov, "Forms without Substance": Debates on the Transfer of Western Models to the Balkans' in *Entangled Histories of the Balkans, Vol. 2, 'Transfers of Political Ideologies and Institution'*, ed. by Roumen Daskalov, Diana Mishkova (Leiden: Brill, 2014), pp. 1–99 (p. 19).

103 ASRI, Dosar 197/1945, ff. 282–284. His attitude was confirmed by other testimonies from the same file such as: Deposition submitted by Master Sergeant Ioan Harabagiu, f. 236 (USHMM, RG.25.004, reel 16).

103 ASRI, dos. no. 2236/1951, vol. 2, ff. 282–284, Deposition submitted by Trofim Lăpușneanu on 21 September 1949, ff. 278–289 (USHMM, RG.25.004, reel 16).

104 Because of the suspicions caused by his family name, Trofim Laiba changed it after 1945 into Trofim Lăpușneanu.

of being a Jew and a Communist. Palaghiță invoked the fact that, according to gendarmerie inner regulations, Laiba had to fire his weapon 'following the order of his superior, who is the only one responsible for it'.¹⁰⁵ Finally, Laiba gave up his opposition and took part in the mass murder of Jews in the Orhei county. This case shows that the gendarmes involved in mass shootings were fully aware of the illegality of their actions and that they were not just simple naïve cogs within a bureaucratic killing machine. Laiba's dilemma was one that many faced when choosing whether to carry out the murderous orders.

Despite pressure from their superiors, those who had the courage to refuse these orders did not usually suffer dramatic consequences. For example, one gendarme from the Ismail legion pretended to be ill before a scheduled summary execution, while another used his old age as an excuse to avoid participating in the mass shootings.¹⁰⁶ Although Colonel Meculescu and other heads of the gendarmerie legions in Bessarabia put constant pressure on their subordinates to carry out their genocidal orders, when analysing the negative consequences for those opposing or evading them, these punishments do not seem harsh. In one case, a young gendarme from the Chilia Nouă legion who refused to carry out a summary execution of a 'political suspect' received a warning and was sent to a special course in an inner gendarmerie school to improve what his superior considered poor skills.¹⁰⁷ In another case, the punishment was more severe. Master Sergeant Stoenescu from Orhei gendarmerie legion, who hid a Jew whom he had been ordered to shoot, was convicted by a military court and sentenced to three months in prison. Colonel Meculescu asked the convicted gendarme to come forward in front of his colleagues at a legion gathering and presented him as a negative example.¹⁰⁸

Cases in which the personnel of the coercive institutions in Bessarabia invoked the issue of legality when they received their murderous orders are very good case studies for understanding the inner tensions between the legal framework and the actual practices within these institutions. One such case is the murder of Jews in and around

105 ASRI, dos. no. 2236/1951, vol. 2, ff. 282–284; Deposition submitted by Trofim Lăpușneanu on 21 September 1949, f. 283 (USHMM, RG.25.004, reel 16).

106 ASRI, dos. no. 197/1945, ff. 59–59v.; Deposition submitted by Gheorghe Ionescu, 15 December 1945 (USHMM, RG.25.004, reel 16); ASRI, dos. no. 582, vol. 4, ff. 72–72v.; Deposition submitted by Ioan Voicu, 12 December 1945 (USHMM, RG.25.004, reel 15).

107 ASRI, dos. no. 582, vol. 4, ff. 73–73v.; Deposition submitted by Dumitru Moise, 18 December 1945 (USHMM, RG.25.004, reel 15).

108 ASRI, dos. no. 20725, vo. 5, ff. 244–245v. (USHMM, RG.25.004, reel 24).

the small town of Noua Sulița in northern Bessarabia in July 1941, during several joined operations involving the army, police, and gendarmerie. Following a decision from Antonescu, the Hotin county of the northern part of Bessarabia, including the town of Noua Sulița, was annexed to the territory under the administration of the so-called *guvernământ* of Bukovina in September 1941, in order to balance the size of the two special administrative units.¹⁰⁹ At the beginning of July 1941, the Romanian troops entering the town of Noua Sulița carried out a massacre of more than 980 Jews.¹¹⁰ As Buha Schaker – a survivor of this tragic event – testified, thousands of local Jews escaped because they managed to hide themselves.¹¹¹ When Romanian gendarmes and policemen entered the town, they found more than 3,000 Jews who survived the massacre. Following the zealous initiatives of Military Pretor Gheorghe Vartic – head of a military police company – the local Jews were interned in an improvised camp in a distillery in Noua Sulița. In this camp, the town's deputy head of the police, Assistant Commissar Artemie Crișan (Crijanovschi), carried out violent interrogations to identify those supporting or displaying sympathy to Communism.¹¹² Major Vartic asked the approval of his superiors to execute fifty Jews by invoking an alleged attempt to open fire on Romanian troops, which was not confirmed by other sources.¹¹³ Of those interned in the improvised camp, forty were selected for execution, based on their alleged support or sympathy to Communism, and imprisoned in the courtyard of the police headquarters in town. However, Assistant Commissar Crișan freed them after two weeks of imprisonment. Major Vartic was dissatisfied with Crișan's lenient attitude towards the group of Jews.¹¹⁴ Vartic took the initiative to order the re-arrest of those released and put pressure on Major Traian Drăgulescu – the head of the Hotin gendarmerie legion – to organize their summary execution.¹¹⁵ Finally, Major Drăgulescu accepted this task and ordered Master Sergeant Gheorghe Grigore – the head of the gendarmerie section in the village of Marșenița – to carry out the mass shooting of the group, and

109 Solonari, "Model Province", p. 483.

110 Ioanid, *The Holocaust in Romania*, pp. 102–103.

111 ASRI, dos. no. 20521, vol. 17, f. 34. Buha Schaker, who lived in Noua Sulița from 1937 to 1941, gave the testimony on 9 October 1948 (USHMM, RG.25.004, reel 24).

112 ASRI, dos. no. 20521, vol. 17, ff. 141–41v. (USHMM, RG.25.004, reel 24).

113 ASRI, dos. no. 20521, vol. 17, f. 22 (USHMM, RG.25.004, reel 24).

114 ASRI, dos. no. 20521, vol. 17, ff. 152–52v. (USHMM, RG.25.004, reel 24).

115 ASRI, dos. no. 20521, vol. 17, f. 22; Excerpt from prosecution indictment no. 89 from file 4552/1949 (USHMM, RG.25.004, reel 24).

asked Commissar Gheorghe Hotea – the head of local police in Noua Sulița – for his assistance in this operation. Although in some testimonies Crișan was accused of being involved in the organization of the mass shooting, according to Hotea's statements, the former refused to take part in the summary execution of the group of the forty Jews.

Crișan provided some complementary details in his testimony and brought the role played by Major Drăgulescu to the fore. According to Crișan, the order and instructions on how to carry out the summary execution was sent to Commissar Hotea through Major Drăgulescu, who mobilized both the gendarmes and policemen to carry out the mass shooting in mid-July 1941. Crișan refused to be involved in the murder of Jews and highlighted that 'the order given by Major Drăgulescu is illegal, especially in its verbal form'.¹¹⁶ In answer to the refusal, Hotea said that 'Jews were taken out of the protection of law'.¹¹⁷ Hotea's remark that Jews had to be treated as an 'exceptional' category was in accordance with the gendarmerie's practice concerning cases related to state security during the interwar period, as documented in the first part of this article. Hotea's words epitomize a view of the legal status of Jews widespread among the personnel of the Romanian coercive institutions in Bessarabia and northern Bukovina. In the view of those ordering the mass shootings, Jews were no longer citizens enjoying civil rights, and Romanian laws did not apply to them. As Radu Ioanid has shown, by the end of June 1941, Antonescu issued instructions which imposed a logic of emergency to the local state authorities 'in regard to the treatment of the Jewish population', which led to a situation in which 'Jews were outside the protection of the law'.¹¹⁸ This 'policy' can be read through the perspective of Hannah Arendt's perception of 'the killing of the juridical person' as a main step on the path towards the Holocaust.¹¹⁹ If we look at this testimony through the lens of Giorgio Agamben's work, by losing civil rights Jews were stripped of their 'political body' and were turned into what the Italian philosopher termed – drawing on Aristotle's political philosophy – 'bare life': a

¹¹⁶ This information is confirmed by the declarations provided by some of his subordinates, such as the Deposition submitted by Sigismund Căliman, 9 May 1949 (Sigismund Căliman was guardian in Noua Sulița police station). ASRI, dos. no. 20521, vol. 17, ff. 30, 31–32v. (USHMM, RG.25.004, reel 24).

¹¹⁷ ASRI, dos. no. 20521, vol. 17, f. 22; Excerpt from prosecution indictment no. 89 from file 4552/1949 (USHMM, RG.25.004, reel 24).

¹¹⁸ Ioanid, *The Holocaust in Romania*, p. 90.

¹¹⁹ Hannah Arendt, *The Origins of Totalitarianism* (San Diego: Harcourt Brace Jovanovich, 1973), p. 451.

condition in which one's life can be ended without suffering legal sanctions.¹²⁰

Following the instructions received from Major Drăgulescu, Hotea and the gendarmes of the Marșenița gendarmerie station organized the details of the summary execution of the aforementioned group of forty Jews selected for execution. The group had been reduced to less than forty people after a few inmates, including a woman with a child, were extracted from the convoy. The execution was planned for the night of a fictitious transfer from Noua Sulița to Cernăuți. When the convoy of Jews guarded by gendarmes and policemen arrived at a place two kilometres from Marșenița, the Jews were executed by their guards. The following day, Hotea asked Crișan to draft a report to be sent to the military court in Cernăuți informing that the entire group of Jews was shot 'because they tried to escape from escort'.¹²¹ Crișan declined to draft the false report, which was finally drawn up by another subordinate of Commissar Hotea.

This case surfaces several key aspects of the mass shootings that took place in Bessarabia during the summer of 1941. First, it shows that the way gendarmerie personnel carried out the orders was deeply influenced by the practices used in the region to suppress those labelled as 'dangerous to state security' prior to June 1940. There is no evidence that Vasiliu or Meculescu asked their subordinates to draft false reports to cover the summary executions. The fact that the files of the war criminal trials document many such reports in Bessarabia is therefore an argument that this was rather an initiative of middle- and local-level chiefs. The gendarmes and policemen active in Bessarabia before June 1940 were used to this practice since the early post-First World War period, and this bureaucratic routine continued in many cases during the summer of 1941. Second, although the state of siege did not grant the gendarmes the right to carry out summary executions, the experience of using this legal framework led to a routine of invoking 'exceptions' and encouraged abusive behaviour.

In the case of the mass shooting in Marșenița, the tension between the legal framework and the informal internal rules of the coercive institutions was solved by what Edward B. Westermann labels as the 'the legal fiction of "shot while trying to escape"'.¹²² Westermann argues that

120 Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. D. Heller-Roazen (Stanford, CA: Stanford University Press, 1998), pp. 4–11, 114–115.

121 ASRI, dos. no. 20521, vol. 17, ff. 32–32v. (USHMM, RG.25.004, reel 24).

122 Westermann, p. 110.

despite Nazi leaders' contempt of the constraints entailed by the remnants of the *Rechtsstaat*, the Nazi institutions used this 'the legal fiction' to 'normalize' and integrate the summary executions of Jews into the legal framework.¹²³ As in the case of Nazi regime, who borrowed this practice from the toolkit of the anti-Communist and antisemitic milieus within the coercive institutions of Weimar Germany, Antonescu's regime developed and recontextualized the techniques of this 'legal fiction' of invoking attempts to escape from escort, which was established as a key instrument to cover the illegal executions of those perceived as 'threats' to state security in interwar Romania.

One may ask why the gendarmes involved in the mass shootings in Bessarabia during the summer of 1941 felt the need to draft documents such as the false report requested by Commissar Hotea, since they were carrying out the orders issued by General Vasiliu. There are a few possible answers to this question. Each modern state, even one where the use of arbitrary violence is routine, as in Antonescu's dictatorship, has a need for inner bureaucratic and legal consistency. The boost to prerogative powers at the middle- and local-level presented for the central government a high risk of losing control over the state apparatus in the territory. This was in contradiction to Antonescu's official discourse presenting his regime as one of order, versus the chaos promoted by the Iron Guard. Antonescu's narratives of order explain the practice of establishing inner commissions within the gendarmerie in Bessarabia meant to inquire into reported cases of abuse and corruption networks. There is no other theoretical background that could better help us grasp this inner institutional contradiction than the concept of 'dual state' coined by Fraenkel. Thus, the 'legal fiction' of drafting false reports, such as in the case of Marșenița, aimed to solve the tensions between the two structures of Antonescu's 'dual state': the remnants of the 'normative state', and the 'prerogative state' which was strengthened after June 1941. Superiors at the gendarmerie and police headquarters in Chișinău were very well aware of what actually happened at the local level when they received the false reports of the alleged attempts of escaping from escort. They tolerated and even participated in this forgery as a formal solution accepted by all parties involved to solve the inner contradictions, as the case of the summary execution of 'political suspects' in the village of Tașbunar in southern Bessarabia in September 1941 illustrates. How the superiors cov-

123 Ibid., p. 110.

ered up for their subordinates is described in a deposition provided by Major Partenie Andone, at that time head of the Ismail legion.¹²⁴ According to this document, Andone denied his involvement in the summary executions of Jews or 'political suspects', but he emphasized that there were cases of people who were shot while 'attempting to escape from escort'.¹²⁵ He mentioned the case of the village of Taşbunar, where, following the shooting of two 'political suspects' by his subordinates, a commission was established to investigate the events gathering a local judge, a military pretor and Andone's deputy at the Ismail legion. As another testimony signed by a member of this commission proves, the activity of such commissions was considered a mere formality, and the members never did local investigations on the validity of the report drafted by the local gendarmes.¹²⁶

If we look at the practice of drafting false reports covering summary executions from the perspective of those ordering them, we should consider some practical aspects. Most of the gendarmes with experience from the interwar period knew that when contradictions between orders from their superiors and legality occurred, verbal orders took precedence over the law. For example, when a subordinate reported summary executions in his gendarmerie station before his appointment, Major Filip Bechi – at that time head of Cetatea Albă legion – rudely replied: 'You're going to murder too, you bastard!'.¹²⁷ However, even members of the coercive institutions with experience in Bessarabia before June 1940 could display reluctance to carry out illegal verbal orders because the higher risk was not for the one who gave them, but for those implementing them. Thus, the practice of drafting false reports also had the goal to assuage the local personnel's reluctance when pressed to perpetrate summary executions by presenting this method as a way for erasing their legal responsibility.

Although in most of the cases analysed here the gendarmes and policemen perceived the practice of reporting the shootings as caused by attempts of escaping from escort as a safe method for covering illegalities, there were some previous experiences which acted as counterar-

124 ASRI, dos. no. 197/1945, ff. 10–10v.; Deposition submitted by Partenie Andone, 26 November 1945 (RG.25.004, reel 16).

125 ASRI, dos. no. 197/1945, ff. 10–10v. (RG.25.004, reel 16).

126 ASRI, dos. no. 197/1945, ff. 65–65v. Deposition submitted by Dumitru Băduţ, 17 December 1945 (RG.25.004, reel 16).

127 ASRI, dos. no. 20725, vol. 5, Transcript of hearing with Marin Lillea, 10 September 1945, ff. 239–239v. (USHMM, RG.25.004, reel 24).

guments for the former. In the late 1930s, gendarmes were used by King Carol II's dictatorial regime to repress the far-right movement of the Legion of Archangel Michael. Several leaders of the legion, including Corneliu Zelea Codreanu, were killed in summary executions followed by documents that legitimized the murders as alleged attempts to escape from escort. When the Iron Guard came to power, those involved in the repressive policies of King Carol II became the target of retaliation. Some gendarmes active in Bessarabia in 1941 recalled this dramatic turn and openly declined to be involved in the mass shootings of Jews and 'political suspects'. This is illustrated by a deposition submitted by a former head of gendarmerie section of the Soroca legion, Victor Ramadan, who received the order from Meculessu to shoot Jews who would not be able to keep up with the convoy during their deportation from Vertujeni camp to Transnistria. In his deposition, Ramadan stated that he refused to carry out the order. He invoked that the gendarmes who had been involved in the repression of the Iron Guard under King Carol II were held responsible for their crimes under the National Legenary State and concluded that: 'the same will happen now'.¹²⁸

Another problem was that this 'legal fiction' was not always considered adequate. A case of summary executions of 'political suspects' in southern Bessarabia demonstrates the limits of this method. When Major Partenie Andone, the head of the Ismail legion, ordered Master Sergeant Gheorghe Tomița to carry out the summary execution of eleven 'political suspects' in the village of Necrasovca-Veche in southern Bessarabia, the former tried to alleviate the latter's fear of possible negative consequences by proposing that reports be drafted to prove that the group was trying to escape from escort.¹²⁹ However, Tomița replied that it was not plausible that all eleven prisoners tried to escape from escort and were shot.¹³⁰

Most of the files of war criminals used in this article suggest that this 'legal fiction' was often used for covering up the killings of the non-Jewish 'political suspects', and was rather rare for cases where the victims were Jews. One reason for this could be that the shootings of

128 ASRI, dos. no. 20725, vol. 5, Deposition submitted by Victor Ramadan, 17 January 1945, ff. 254–254v. (USHMM, RG.25.004, reel 24).

129 ASRI, dos. no. 197/1945, ff. 81–81v.; Transcript of hearing with Gheorghe Tomița, 15 January 1946 (USHMM, RG.25.004, reel 16).15

130 ASRI, dos. no. 197/1945, ff. 81v., 82–83v.; Transcript of hearing with Gheorghe Tomița, 15 January 1946 (USHMM, RG.25.004, reel 16).

Jews in Bessarabia during the summer of 1941 often involved very large groups. As Tomița's testimony above shows, when the gendarmes carried out the murder of large groups, it was considered less believable to present them as shootings caused by attempts to escape from escort.

To understand the role of widespread corruption in the inner dynamics of the gendarmerie, it's important to have a good grasp of the tensions between the law, and the institution's unwritten rules. As the aforementioned cases of the villages of Sărăria and Noul Caragaci in 1925 demonstrated, material benefits were a part of a tacit deal between state authorities and the personnel involved in the 'exceptional measures' against those labelled as 'dangerous' for the state security. The gendarmes accepting the role of perpetrators in the interest of state security expected their 'legal impunity' to extend to other acts of abuse through which they were able to extract material benefits illegally. In many cases, their superiors tolerated this corruption since this worked as an unofficial reward for assuming the risks of carrying out illegal executions. Thus, this kind of corruption among the gendarmerie was connected with the transfer of the sovereign power towards middle- and local-level chiefs, since giving them a free pass to use indiscriminate violence to repress those labelled as dangerous to state security entailed the risk that these powers be misused for personal gains.

As the deposition submitted by Master Sergeant Nicolae Cristea from the Ismail legion shows, the higher echelons of the gendarmerie not only tolerated and but also became accomplices to the local corruption networks in 1941. According to Cristea, Master Sergeant Gheorghe Olteanu – head of a legion station in southern Bessarabia – 'behaved very brutally with the residents of the territory under the responsibility of his gendarmerie station, residents whom he threatened and made various accusations against related to the period they spent under the Soviet regime in order to extort various amounts of money'.¹³¹ His abuses were covered up by the head of the Ismail legion, Major Andone, who used to collect valuable goods 'whenever they went to inspect' the activity of their subordinates.¹³² A similar behaviour was displayed by Major Filip Bechi, who was famous among his subordinates not only for his cruelty, but also because 'he used to go to inspect only

¹³¹ ASRI, dos. no. 197/1945, ff. 50–52v. Deposition submitted by Nicolae Cristea, 11 December 1945. The details provided in this document were confirmed by the testimony of one of his colleagues: ASRI, dos. no. 197/1945, ff. 47–47v., Deposition submitted by Toma Rîșcă, 7 December 1945 (USHMM, RG.25.004, reel 16).

¹³² ASRI, dos. no. 197/1945, ff. 47–47v., 51–52v. (USHMM, RG.25.004, reel 16).

those gendarmerie stations of the villages he knew there were Jews so that he could appropriate their goods'.¹³³ As already discussed in the main contributions on the topic, robbing the victims played a key role in motivating both the gendarmes and local population in participating in the mass killings of Jews.¹³⁴

The cases presented above reveal several similitudes and differences concerning the *modi operandi* of the 'policies' of 'cleansing the terrain' targeting the Jews and 'political suspects'. Both in the cases of mass shootings of Jews and 'political suspects' the gendarmes usually chose a space outside towns and villages as the place of execution. The heads of the gendarmerie organized execution squads and ordered them to shoot the victims while on a fictitious transfer to another gendarmerie station or a ghetto.¹³⁵ In some cases, these preparations involved digging a pit with the help of the locals to bury the victims. In other cases, such as the mass shootings of Jews from the villages of Țibirica, Dere-neu, and Vâprova (in the central and eastern parts of Bessarabia), the gendarmes used trenches or anti-tank ditches.¹³⁶ The victims were told that they were to be transferred to another gendarmerie station or ghetto. The gendarmes planned to carry out the shooting after a sign from the chief of the escort indicating the right moment for execution. For example, in the case of the aforementioned shooting of Jews near the village of Marșenița in July 1941, Commissar Hotea made a sign to the gendarmes and policemen escorting the group with his gas lamp when they arrived at the execution site.¹³⁷

We can identify a few reasons why gendarmes used these methods. First, they wanted to avoid a fast spreading of the news of the summary executions in the local communities that would cause an exodus of their future victims. Second, by carrying out executions a few kilometres from towns and villages, the gendarmes hoped to

133 ASRI, dos. no. 20725, vol. 5, ff. 245–245v. (USHMM, RG.25.004, reel 24).

134 Ioanid, *The Holocaust in Romania*, pp. 101–102; Heinen, *Rumänien*, pp. 127–179; Solonari, 'Patterns of Violence', pp. 767, 786; Geissbühler, pp. 436–439. See for example the following depositions: ASRI, dos. no. 2058/1950; ff. 18–18v.; Deposition submitted by Master Sergeant Carol Urzică, 22 March 1950 (USHMM, RG.25.004, reel 16); ASRI, dos. no. 20725, vol. 5, ff. 245–245v.; Transcript of hearing with Grigore Iancu, 2 October 1945 (USHMM, RG.25.004, reel 24).

135 ASRI, dos. no. 22539, vol. 41, f. 377, Criminal report dated 12 March 1950 written by Ploiești Militia Regional Headquarters; ASRI, dos. no. 22539, vol. 45, The sentence of 20 September, 1920 of the Third Criminal Section of the Bucharest Court, ff. 6–10 (USHMM, RG.25.004, reel 17).

136 ASRI, dos. no. 2058/1950, ff. 18–18v.; Deposition submitted by Carol Urzică, 22 March 1950 (USHMM, RG.25.004, reel 16).

137 ASRI, dos. no. 2058/1950, ff. 18–18v.; Deposition submitted by Carol Urzică, 22 March 1950 (USHMM, RG.25.004, reel 16).

avoid having unwanted witnesses. Third, since the victims were told that they were transported to another gendarmerie station, to legion headquarters, ghetto or military court, the perpetrators could use the factor of surprise to avoid real attempts of escape or opposition. Fourth, it was easier for the gendarmes to find ways to get rid of the bodies of their victims outside urban and rural settlements. The gendarmes even coined an expression for this frequent strategy for perpetrating mass shootings of Jews. According to the deposition submitted by Master Sergeant Carol Urzică, 'to send Jews in transfer [to another gendarmerie station or military unit]' meant in fact to carry out their summary execution.¹³⁸ When comparing this practice with the summary executions in Bessarabia of the interwar period with the mass shootings of July-August 1941, one can grasp that the origin of the method of using the scenario of a fictitious transfer to carry out mass shootings of Jews had already been in the toolkit of the Romanian gendarmerie during the interwar period. As discussed above, because the summary executions of Jews very often involved large groups, the gendarmes rarely used the 'real fiction' of reporting them as attempts to escape from escort. But with the shootings of 'political suspects', this 'legal fiction' was used more often, particularly when the groups of victims were not very large.

Conclusion

An analysis of the legal and institutional practices of the gendarmerie units involved in the mass shootings of Jews and 'political suspects' in Bessarabia in the summer of 1941 reveals a few lines of continuity between 1941 and the interwar period. The cases discussed here also highlight the need to understand the prior legal and institutional contexts within which the law enforcement institutions who carried out mass killings during the Holocaust had worked in the decades before the massacres. At the contextual and discursive level, the narratives of 'necessity' and 'exceptionality' by invoking 'threats' to state security legitimized an expansion of the 'prerogative state', both during the interwar period and in the summer of 1941. However, while the state of siege was proclaimed in peacetime during the interwar period and can be labelled as 'fictitious', in the summer of 1941, the launch of the mil-

¹³⁸ ASRI, dos. no. 20521, vol. 17, ff. 22-22v. (USHMM, RG.25.004, reel 24).

itary operations against the Soviet Union led to a 'real' state of siege and to an unprecedented boost to 'exceptional measures'. The radicalization of Antonescu's antisemitic 'policies' in the context of war took place in parallel with and was shaped by this boost of the 'prerogative state'. This led to an increase of the importance of state of siege mechanisms and to an unrestrained extension of those practices outside the legal framework, such as the mass shootings of Jews and 'political suspects'. In this respect, it is important to highlight that, once in power, Antonescu's regime found complex legislation concerning the state of siege and turned it into a main tool for its genocidal 'policies'. The experience of functioning under the state of siege during the interwar years routinized the use of state violence targeting those labelled as 'threats' to state security by the coercive institutions' personnel. Furthermore, the state of siege worked as a vehicle of transferring the sovereign power from the higher ups to regional, middle- and local-level echelons of the coercive institutions in Bessarabia, Bukovina and Transnistria.

Concerning the *modi operandi* of the gendarmes during the summer of 1941, some of their strategies and methods were inspired by their toolkit used before June 1940. Both in the case of the mass shootings of Jews and the so-called 'political suspects', the strategy of using a scenario of a fictitious transfer to another place was among the most common methods. Despite orders and instructions to deal with Jews as a separate category, outside the protection of civil rights, the gendarmes very often felt the need to solve the tension between the illegal verbal orders and the remnants of *Rechtsstaat*.

Just as the methods used by gendarmes in the summer of July 1941 were inspired by their previous experiences, so too did the ideological narratives invoked to mobilize the gendarmes to carry out the murderous orders instrumentalize their own pre-existing antisemitic and anti-Communist beliefs. During the interwar period, the merging of the narratives of anti-Communism and antisemitism shaped the worldview of the Romanian gendarmes, particularly in Bessarabia and Bukovina, where the pressure of the Soviet-backed Communist underground activity was more intense. Thus, when General C.Z. Vasiliu organized the three meetings with the personnel of the gendarmerie to be sent in Bessarabia and northern Bukovina, his mobilizing speeches, rife with the myth of Judeo-Bolshevism, fell on fertile ground.

At the grassroots level, the interwar experiences of the gendarmes had a significant impact on how they reacted to Vasiliu's murderous or-

ders. Most gendarmes involved in the mass murder of Jews and 'political suspects' in Bessarabia in July-August 1941 were also active in the region before June 1940. Since the region was a testing ground for the 'exceptional measures' against the 'threats' to state security during the interwar period, many of them had already had a first-hand experience with these methods. This made the gendarmes in Bessarabia in the summer of 1941 more inclined to comply with those illegal verbal orders asking them to carry out mass shootings of Jews and 'political suspects'. Within the organizational culture of the Romanian gendarmerie, following illegal verbal orders was considered an unwritten rule of the institution. Furthermore, breaking the law for the sake of higher state interests promised legal impunity within the institution. From this point of view, one can safely state that these practices of the interwar period worked as a favouring factor in turning the gendarmes into perpetrators in the summer of 1941. The verticalization of power under the Antonescu regime, boosted by the logic of 'necessity', led to a transfer of sovereign power to middle- and local-echelons of the gendarmerie. These institutional practices released the gendarmerie personnel of the constraints of the remnants of *Rechtsstaat*, encouraged their abusive behaviour and fuelled corruption networks.

However, these aspects should not make us forget that these continuities can be traced mostly at the level of methods, on the one hand, and on the other to the manner in which the legal and organizational culture of the institution favoured many gendarmes' acceptance of their superiors' illegal orders. In carrying out its genocidal policies, Antonescu's regime instrumentalized several legal and institutional tools established by previous regimes for different goals. Nevertheless, this does not erase the gendarmes' full awareness of the illegality of their deeds. As the cases of gendarmes who opposed or evaded these orders illustrate, the personnel of the coercive institutions involved in the mass shootings were not just cogs in a mechanism of mass murder, but individuals aware of their responsibility for their actions and consequences.

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