

Episode 13: Socialist Justice in the GDR

Transcript

00:00:04 Aada Pettersson (AP): Hi everyone and welcome to a brand-new season of the EuroStorie Podcast. The stories of politics, law and history of Europe. My name is Aada Pettersson and with me is my co-host Floris van Doorn.

00:00:16 Floris van Doorn (FvD): Hello.

00:00:17 AP: On this podcast we're here to talk with researchers about all things Europe and today we've got the pleasure of talking to our very own Ville Erkkilä. Hi Ville.

00:00:25 Ville Erkkilä (VE): Hello.

00:00:27 FvD: So Ville is a university researcher at the Centre for European Studies here at University of Helsinki. He's got background in legal and intellectual history and currently focus on the legal historiography of East Germany, and he's also just been appointed as the new team leader for the subproject in Law and the Uses of the Past here at EuroStorie. Congratulations Ville!

00:00:53 VE: Thank you

00:00:55 FvD: So today we'll be talking with Ville Erkkilä about social justice in the GDR. So before we dive in we were wondering whether you would be sort of willing to talk a bit more about your personal background, what you studied and how you sort of ended up working in academia in the first place.

00:01:13 VE: Okay yea so, I've studied Finnish and Nordic history at the University of Helsinki, I graduated and worked as a subject teacher in history and civics in junior high school, and also worked as a guidance counselor for teenagers and adults alike for many years. And I really liked that work and I still think that at its best it's a dream job, but I wanted some change, I wanted maybe some development in the personal level, so I applied on an academic project on European legal history and to my surprise I got the job and you know I suppose that's the journey I'm still on.

00:01:56 AP: So how did you then end up at EuroStorie?

00:02:00 VE: Well, EuroStorie is in a way continuation of the first project and at EuroStorie I in a way study the same subjects I studied for years only adjusted a bit, so previously I studied legal history of Germany, Western Germany, Nazi-times, but in this project I concentrate on Eastern Europe and East Germany.

00:02:30 FvD: I think it will be useful for context for you to sort of briefly talk about how the GDR came in to being especially in terms of its legal system and how sort of ahistorical this founding myth, this socialist founding myth, is for the way we or the way GDR sort of ended up thinking about socialist justice.

00:02:50 VE: To describe GDR in just a few words is pretty difficult but you know from the very beginning it was an artificial thing. It started as a zone of occupation for the Soviet Union and the first years of the regime they were open. The exact essence of the regime was still undecided, it seemed, but gradually the state's grip got harsher and harsher and tighter, and the subject rights of the individual were attacked. The funny thing about the GDR is that the criminal code and the civil code of the German Reich were still in effect, so the socialist government just amended the old code and laws and interpreted it in a way that you know backed up their socialist project. At the same time, especially in the countryside and among the common people, the old identity still existed and were very strong, for example in the South part of the regime, the region, catholic identities were very much the thing that you know defined the values and perception of life for common people.

00:04:12 AP: Yeah I think it's really interesting, the kind of the, even though the new system had the economical and political planning, but then simultaneously there were the people that had these memories, had the kind of experience of the past, and then these two get mixed up and I think the kind of idea of socialist justice and what we're going to talk about today is a good example of the kind of space between a new regime and then the people.

00:04:43 FvD: So shall we move on to the passage that you've prepared cause I think that this can be really sort of difficult topic to come to grips with and so we suggest that you sort of read a really brief passage on how sort of justice could end up working in the context of the GDR especially when it comes to property rights and we're going to talk about this much more extensively, would you like to say anything beforehand Ville, or would you just like to read the passage?

00:05:11 VE: Yea, just as a background information you know, this thing with the values of the common people and the political aims was the thing that you know the GDR struggled for their whole existence, and this particular example from 1953 is I think illuminating in a way that you know the government tried different means, different ways of bending the people to uphold its socialist values. So, in 1953 Greta Wolf, a 49-year-old midwife and mother of three kids, was accused of embezzlement of common property according to the law on the protection of common property at the district court in Thuringia, southern part of GDR.

00:06:01 VE: Wolf worked as a volunteer, arranged and served the school lunch at the local comprehensive school, and her duties included making sandwiches for the kids, and Wolf had taken some leftover butter home from school approximately some one point five kilos butter which was worth some five euros in according to our standards. So the court announced that Wolf had violated the law on the protection of common property and sentenced her to three years and two months of imprisonment. Thousands of people in 1953 were accused and sentenced according to the law on the protection of common property. What is illuminating in this example is also that community in which Wolf worked and lived tried to defend her. They gathered a petition. 77 mothers from her village signed a letter of petition to the district court asking pardon for her. In the end the petition laid a major part in the course of action and Wolf's sentence was overruled in 1954 in the end.

00:07:24 AP: The sentence seems ridiculously long for stealing basically a piece of butter.

00:07:31 VE: That was the means that the government decided to use in 1953. Later on they used different ways of trying to bring together the values of the people and the socialist policy but in 1953 very harsh sentences and the new law on the protection of common property was the thing that they tried with not very good results in the end.

00:07:56 FvD: How come?

00:07:57 VE: Well, if you sentence people for stealing butter what you get is like thousands of sentences and thousands of people are imprisoned and the amount of prisoners was just too much. It was, you know the government couldn't cope with the amount of prisoners. Also, the people started to revolt, and in the end the Soviet Union had to step in, and the Soviet Union ordered the government to just, you know, overrule the court and stop the madness and that's what they had to do.

00:08:37 AP: So, the kind of, the ruling by fear clearly didn't work.

00:08:42 VE: Yea, like a blunt fear Draconian legal means, that was not a way to revolutionize the society. In general law is not a very good tool to revolutionize a society. Law is good for conserving, but here you can see that, you know, it really didn't work very well.

00:09:05 AP: You mentioned that a lot of people ended up in prison, so were these crimes against the common property common?

00:09:13 VE: Yea, they were and obviously you know the background was that East Germany was very poor. It tried to rebuild the society after the total destruction of the Second World War. People didn't have much, and when the state claimed that all property within the region belongs to the state and state is to decide what to do and who can use the amount of property, you know, that was something that people couldn't, they couldn't follow. Their subsistence was something that was their priority.

00:09:48 FvD: Right. And then this case took place in the district court, right?

00:09:54 VE: Yep, it did.

00:09:55 FvD: And your work, you also focus on the social court, and I think for many people it is a particularly unfamiliar sort of concept, and so would you be willing to explain what these actually are and how they came in to being?

00:10:10 VE: Yep, well the second attempt to bring together the values of the people and the socialist policy was done through this so-called social court. It was a system of popular justice, like arbitrary courts, conciliation bodies at workplaces, collectives and even major housing complexes, and when the government had seized the total amount of property in the GDR the administration and protection of that common property was arranged through these social courts, so in social court system laymen had received a brief education in law, administered justice in small cases like defamation, disputes and petty crimes and most importantly in small crimes that had to do with common property so in a way state handed over some of the judicial power, that you know traditionally had been in legal order, to these social courts and the collectives administered justice within themselves and the courts were overwhelmed in the East Germany so in many ways the system, the practice, did work.

00:11:38 AP: You talk about the kind of democratization of the justice system so how does these kinds of social courts link with the idea of democratization or citizen participation in the system?

00:11:55 VE: The overall ideology, the socialist ideology, in the 20th century you know obviously was very much about democratization of justice, and the social courts were a practical implementation of this ideology. The common people, normal people, played the part of judges, and the GDR is called for very good reasons a participatory dictatorship.

00:12:24 AP: Right.

00:12:25 VE: Because the people in the name of democratization in these practices maybe even unwillingly supported the regime in its aims.

00:12:37 FvD: Then what happened when the social courts sort of didn't sort of act in accordance with socialist morals or when these did too far away from the ideals of socialism as such?

00:12:50 VE: That was obviously, the dynamics within the system were there all the time and for a decade also it played pretty well, you know the tension was there and the government was all the time aware that you know by handing over power to the collectives they were beyond state's sort of grip. But for the most part of 1960s the system worked pretty well, but 1968 was a turning point that showed for the regime and the government that in the end the possibility of a popular revolution that would have happened in Czechoslovakia is a real possibility, so the government tried to sort of restrict and narrow down the jurisdiction of social courts and take back some of the judicial power to the legal order.

00:13:51 FvD: Right, and when you focus on these social courts I think what's significant is sort of rather than focusing on like legal capture or direct ways in which the state tried to sort of control these social courts I think what's significant about these social courts is that you really sort of end up focusing on the nitty-gritty of politics so rather than focusing on the political, sort of the overt attempts to control and regulate the law in a sense, you're really focusing on the way it's all done in practice through communities, is that right?

00:14:25 VE: Indeed, in a way the idea of social courts is ingenious, they sort of take over the jurisdiction regarding everyday life, disputes between common people, really petty crimes that have no ideological meaning or significance, so it worked very well in the sense that you know these small cases did not burden the legal order any more and also people felt that you know they were part of something, they had power to decide, they had power to sort of pressure justice in their own local environment, and many scholars think that the social court system is a factor that explains why GDR was in the end very stable socialist dictatorship. There was no 1968 in the GDR, there was no 1956 in the GDR and there was no solidarity movement in the GDR like in Poland in late 1970s and early 1980s.

00:15:38 AP: So, in 1968 when things changed and the system took back some of the power from the social courts, was it kind of the doomsday for the regime?

00:15:51 VE: 1968 was sort of a wake-up call for the government but the actual narrowing down and restricting the social courts happened in the course of 1970s

00:15:59 AP: Okay.

00:16:00 VE: In a it played a part in the demise of the GDR, but other factors also explain why it didn't play out, why it didn't sort of succeed and why it collapsed. This inherent tension between the political and legal, the social courts sort of were an attempt to repair and a means for ignoring the inherent tension within the system but they weren't enough. The justice was political in the GDR and the social courts were a pretty good attempt but not enough, so in the end the GDR collapsed because of, I would say, more major things behind the ideological attempt to build a socialist paradise.

00:17:00 FvD: Right, and when we look at the isolation of the legal and the moral, or the legal and the political, it comes off as legal consciousness or in German Rechtsbewusstsein is really important as well, could you talk a bit more about how you sort of employ the concept and how the social courts in particular try to sort of forge the right legal consciousness, cause in a way you sort of use it in two different ways, there's like an individual legal consciousness you can have or can't have but then there's also the more general, more collective meaning of the term, where certain socialist ideals or credentials, so could you make that more concrete, so what are the meaning in GDR to be without or to be declared as being without a legal consciousness?

00:17:58 VE: First of all, the concept of Rechtsbewusstsein is an old concept, it dates back to 19th century Germany at least. The legal consciousness, Rechtsbewusstsein, as used in the GDR had its roots in the Soviet Union, especially in the revolutionary era of Soviet Union, and legal consciousness meant a sort of a generic alternative source of law emerging from the common will of the worker class and it was from the very beginning, this common will, was poised to secure the production system, the structures of work and common property. And also, it meant knowledge in socialist law and will to uphold it, so this was the scholarly meaning of the concept. It was used in a way to depict the grey zone between the political aims and the principles of legal system because these two were very far away from each other. So, when the values of the people and the politically defined principles of legal order are too far away from each other you need to change one or the other or try to bring them closer together with the means of some vague and abstract concepts such as legal concepts that describe the entity of common understanding of justice.

So, it was used like you said as an ideal sphere of socialist morals, socialist understanding of justice, in order to steer the society as a whole, or legal system, into desired direction, but in the practice of and in the level of administering justice in legal cases in particular deed or violation of norms was then referred to this ideal sphere, so in practice it could be used as a means to decide whether a particular individual deed was aggravated or not, was it dangerous for the society as a whole or not. It worked as a tool for the government to use legal system and order to achieve some results from the ideological aims.

00:20:45 FvD: So, when it comes to socialist justice in a sense using the concept of legal consciousness it basically in a sense means an alternative social floor in a sense

00:20:55 VE: It does.

00:20:56 FvD: Cause there's a legal context and there's rules, there's laws but then there's morality and political as well and they constantly interact through this concept, and sort of when arcing back to the social courts, how would you sort of see this sort of play out in practice, what would it have meant in court cases especially when it comes to property law?

00:21:19 VE: It indeed it was a part of the larger scheme of introducing an alternative social floor into realm of administering of justice. In practice, to say it in a very short way, and in the work of social courts, you didn't have to care that much about legal principles, legal tradition, due process. When you have this alternative social floor that was not very clearly defined, it was an abstract thing that you know was connected to socialist morals, it could be used pretty freely.

00:22:03 FvD: So when it comes to conceptualizing like socialist justice, what has been the elephant in the room in a sense, what sort of emerges is a picture of a system that is quite tenuous in its being in a sense and so on the one hand you've got the attempts to sort of really build this mature socialist regime, on the other hand you're dealing with the people and dealing with their thoughts, their experiences and the only contradiction there that keeps returning to this conversation is really clear when talking about socialist justice, but just very briefly, would you be able to explain how easily socialist justice sort of ripped up in a sense?

00:22:47 VE: That's a very good question because you know we really don't have concepts and words and terms to explain what was socialist justice. GDR was not a Rechtsstaat, that's for sure, but on the other hand we have this system that in a way worked. It brought stability. But when you compare that system into our understanding of justice, it's clear that these two you know, they are two different things.

00:23:20 FvD: Yes.

00:23:22 VE: And so, the scholars are divided, and depending, I suppose, on the background of the one who studies and analyzes the system one could sort of emphasize the popular essence of the GDR legal system and the democratization of justice and social courts, and you know in a way in some sense they worked. But on the other hand, it is clear that in the background that the legal system was subordinate to political steering and one cannot you know deny that.

00:24:05 AP: I have to ask, you talk about these two different justice systems and the kind of, the east and the west type of systems, so what happened when the wall came down and the unification happened, how did the people, cause there kind of came to be a generation that was used to socialist justice system right, so what happened in the unification?

00:24:30 VE: Well, the socialist system was repealed like immediately in course of months. Also, that process was very hasty and dramatic and in hindsight it looks like you know there were something we could have done better, and one part of this whole thing of Ostalgie is sort of to be nostalgic about the communal

decision making and communal forms of justice, but in the end I suppose the larger aim was justified, the legal system of the GDR was flawed and it needed to be repealed, but the end result, the whole picture of what happened after the wall came down is also a bit disputed.

00:25:30 AP: Yea, it would be interesting to hear kind of the on the personal level cause you talk about the kind of, how the people and their kind of narratives and at the same time their memory and the perceptions they had of the legal system, so when the wall came down, what happened, had they gotten used to the socialist justice, or were they happy to get the western type of justice system back?

00:25:54 VE: Yep, there's a big discussion concerning the subject in Germany, I suppose at the very moment also. Did the system change people, did their perception of life, justice, society, change to something very different from the Western idea? And I suppose we don't have a clear answer to this, for sure to some extent, but to what extent you know. It's a thing that you know I can't give a definitive answer, this is a major dilemma.

00:26:32 AP: Yea.

00:26:34 FvD: There's an awful lot to pick still and that's good in a sense, I think let's end it on that note, and before we leave, we would like to ask you one more question, so could you tell us something we don't know about you yet, and it could be anything, cause for example Aada's got a thing for biathlon apparently.

00:26:55 AP: I love watching biathlon, I'm waiting for the IBU Cup to start.

00:26:56 FvD: And she's really dedicated.

00:27:00 FvD: So, anything, any last words from you Ville?

00:27:05 VE: Umm ((laughs)) I just realized that I love college football, American college football, the new season just started, and I started watching the games and I realized that I've been waiting for this, I don't know why but I'm hooked.

00:27:27 AP: That's great.

00:27:28 FvD: Have you got a favorite team yet?

00:27:30 VE: The Ohio State

00:27:32 FvD: Interesting choice. So today we talked with Ville Erkkilä about socialist justice in the GDR. Thank's for taking the time to talk to us Ville, much appreciated.

00:27:45 VE: Thank you very much, it was my pleasure.