

Ceterum Censeo

A Guide to the Law and Courts in the Empire

This overview only covers the criminal courts and the criminal law and not the civil court or law. This may be done in a future overview. The guide is widely based on the *Constitutio Criminalis Carolina*. The criminal law enacted by King Charles V in the Holy Roman Empire in 1532 (used until the 19th century).

The Courts

Courts exist not in every city. The province capital generally has a court as well as the next two bigger cities. Except for the capital of the province the courthouses do generally not have always present judges. Instead a judge visits the courthouse every week or so and holds court. In the villages the local watchmen or the road wardens patrol the area and bring every offender to the next court sitting, which is generally the court in the province capital. The only city with two courts is Altdorf. One court is the court for the province of Altdorf, while the second is the Imperial Court of Chambers.

The courthouses share a few characteristics. They always have at least one courtroom. The judges and the lay-judges sit behind an elevated bench on one end of the room. The suspect stands on one side of the room, always the side opposite to any window, so that the suspect cannot flee too easily. Opposite of the suspect sits the clerk and one or two watchmen. Any witness or expert makes his testimony in front of the bench.

A court also has an archive where old records are stored. Besides rooms for the judges, the clerk and the guards, the court holds a few prison cells, the number depends on the size of the city, and a room for interrogation. Some courts additionally have a library.

Besides the ordinary courts, a number of other types of courts exist. These include courts of the various religions as well as a court in Altdorf that mainly deals with inter-cult disputes. The nobility have, should they ever be brought to court, a court in Altdorf, in which they are treated by their peers, should the dispute not have been settled before (e.g. a duel or arbitration). In these courts the Imperial Chancellor, representing the Emperor, plus a number of other noblemen sit.

The Competence of the Court

A court has competence in most criminal cases. The competence is not unlimited. In criminal cases the court has no competence in matters involving the Empire and other provinces. In cases where the offender has violated Imperial Law the court only decides if Imperial Law is violated or not. If the court finds that the offender has violated Imperial Law, he is imprisoned and later brought into Imperial custody which means that he is brought to Altdorf. Imperial Criminal Law however is scarce. The most important cases are high treason against the Empire and collaboration with the enemy. The criminal court has restricted competence in offences against any cult. In these cases the court is only competent if the cult agrees. This is generally done in less serious cases, like blasphemy. In more serious matters, like theft from a temple, chaos worshipping etc., the offender is handed to the canonical courts that can be held in any temple, but requires that a member of each cult affected is present. Of course the court has no competence in cases that involve someone from the nobility (either as the offender or as a victim). The cases have to be tried by the peer courts. Besides these restrictions the criminal court has competence over all matters in which another person was in any way injured.

The local ruler may decide that a matter may not be trial by a court in his domain. This generally includes cases in which his personal interests are affected. There is no rule of thumb how the case is then dealt with. This very much depends on the personality and mood of the ruler.

Trial Procedure

In criminal cases anyone, generally the victim or the victim's relatives, can bring forth a motion for judgement. If this is done a single judge decides if the case, as brought forth by the petitioner, is conclusive. If he thinks that the facts are conclusive the suspect is arrested by the guards and brought into custody. If he thinks that the facts are not conclusive the judge can either squash the motion or decide that the trial may start, when the petitioner pays a fixed sum security deposit. This money is given to the suspect when the suspect turns out to be innocent. If the suspect is in custody he may petition the judge to be let free until the trial starts. The decision is in the judge's discretion. He may either squash the petition or agree to it. In the later case the suspect has to pay a sum as security. Should a priest of Verena, Sigmar (Ulric in Middenheim) or Shallya speak in favour of the suspect the judge generally grants temporal freedom without security.

When the suspect is in custody, he is informed of the indictment. The judge then decides upon the date of the trial. For the trial the judge and between two and eight lay-people (depending on the offence and local customs), called deciders, gather and discuss the matter beforehand. The court is also serving as the prosecutor. The trial starts with reading out the accusation. The suspect is then asked, if he confesses or not. If the suspect confesses, the bench deliberates and decides upon the sentence. If the suspect does not confess, the petitioner

is brought into court and asked about the cases by the judge. Should the petitioner not be present he is brought before court by the watch. Should he have left the city or died, the judge orders that the indictment is read out to the public and it is asked if anyone is willing and able to step into the motion for judgement. Should nobody step into the motion after three days and three nights, the indictment is squashed.

Besides the petitioner at least one other person is necessary who has witnessed the crime. Should such a witness be available and made his testimony, the court deliberates if the suspect is guilty and about the sentence. Upon its own discretion the court may hear other people on the suspects character. Is no other person available that can give testimony about the case, the only way to find a decision is through the suspect. The suspect is a valid judicial evidence. Since the suspect does not confess, he is brought into the cellar. There he is shown the instruments of questioning. The judge and all deciders have to be present as well as a clerk. The suspect can then confess. Should he not confess, the suspect is tortured until he confesses. His confession has to be read out to the suspect after one day to prevent that it was free of influence. Should he revoke his confession the suspect is again tortured.

During the torture a priest of Shallya is present to help the suspect. This is the only concession made by the judge to the cult of Shallya. The torture however is much disputed among the priest of Shallya. While some think that this is unnecessary and cruel, others think that peace among the community is the greater good.

All sentences are final. They can only be revoked by an act of clemency. There is no appeal.

The clerk has a distinct function in the trial. He not only keeps records of the trial, but also serves as a legal advisor. In cases that involve a complex legal problem, the court may upon the decision of two member of the court seek the advise of the clerk. This should restrict the influence of the judge upon the deciders. The clerk then drafts an expertise and reads it out to the court during the trial. The expertise is based upon the letter of the law and prior decisions of the court. In cases with serious sentences, the death sentence, the clerk has to give an expertise. In most cases the expertise rarely covers more than half a page. The clerk reads out what the law says about the offence and what aggravating and mitigating circumstances are accepted.

Sentences

There are only two types of sentences in criminal matters: bodily sentences or fines. Fines are used in misdemeanours. These include among others minor theft and attempted assault. In cases of minor theft, which includes all kinds of theft where less than 5 GCs worth of money were stolen, the offender has to pay twice the sum to the city and the single damage to the victim.

Bodily sentences include a range of sentences between flailing and death sentence. The sentence is based on two principles: Generally the sentence reflects the offence. Major theft is answered by chopping off the right hand. False testimony results in chopping off two fingers of the right hand (the hand with which the offender swore the oath). Blasphemy results in tearing the tongue out. This principle fulfills another important function, as the "crime is written on the body of the offender". A theft is therefore always identifiable as such.

The other principle is that the offender is generally give to the elements. The mildest death sentence is beheading with the sword. This is done in cases of manslaughter, robbery, incest and abortion. Death by hanging is a more serious death sentence and done in cases of burglary and repeated theft. Murder and poisoning are punished with breaking on the wheel. Arsons, crimes with witchcraft and magic and coinage offence are punished with burning on the stake. The worst death sentence is draw and quartering, which is the punishment for betrayal and minor treason (as well as treason in Imperial cases, see above). When the offender is female drowning replaces quartering, braking on the wheel and hanging. When a mother kills her newborn child, she is buried alive.

Breaking on the wheel and drawn and quartering should be further explained. A sentence to the death on the wheel means that a wagon wheel is used to crush the bones and joints of the offender. The body, which may still be alive, is then woven into the wheel and displayed outside the city walls. Drawn and quartering is not done by tearing the convict in four parts by horses. Instead the convict is tied to four horses that stretch the body. The hangmen then cuts the body in four parts. The body parts are then displayed in four different places of the city. Some custom laws state that the convict is beheaded before quartered in which case the quartering has only symbolic reasons.

In aggravated cases the offender can be, upon the courts decision, pinched with glowing pliers before the death sentence is executed.

Is the offender sentenced to a fine and unable or unwilling to pay the sum, he is incarcerated until he or a third person, generally the family, pays the sum.

The Judges and people of the court

A court has one professional judge. This judge is appointed by the local ruler or the city council. Besides him up to eight lay-people, depending on local customs and the offence, sit on the bench. Only male citizens of the city can become lay-judges. The lay-judges have the same vote as the judge and should not accept any order either by the judge or other people in their decisions (in theory). The decision is reached by majority vote. In general one member of the lay-judges comes from the guilds and one from the city watch. In cities dominated by a local

nobleman, he always chooses one member of the lay-judges.

A clerk has to be present during all trials and the interrogation of the suspect. This clerk often either comes from the clergy of Verena (Sigmar in Altdorf) or a local guild. The clerk drafts all papers and read out the sentence before the execution.

A priest of Verena serves as an expert in court.

Advocates and lawyers do exist. In criminal cases however they have to be paid by the suspect and therefore most lawyers do not want to serve as advocates in criminal cases, unless of course the suspect is rich enough and able to pay most of the sum in advance.

The Imperial Court of Chambers in Altdorf is exceptional as it has it own troops. The court guards are not part of the city watch. They all come from the templars of Sigmar.

Acts of clemency

The city council or the local nobleman have the right for acts of clemency. The Emperor and his chancellor has the right for acts of clemency throughout the Empire, although this right is rarely used and not enjoyed by the local rulers. The high priest of Sigmar has the right for acts of clemency throughout the province of Altdorf, not the Imperial Court of Chambers. Should he petition outside the province, such a petition is generally granted, with the exception of provinces dominated by Ulric, in which Arc-Ulric has the same right.

In theory the city council or the local nobleman cannot directly order any judge. In practise however they have the right to question every judge on single decisions. This power is widely used with the hope to influence future decisions. They also have the right to be informed by the judges of current cases. This again is used with the hope of influencing.

Terms in Reikspiel

Here are the name of the courts and judges in English and Reikspiel:

Imperial Court of Chambers

Kaiserlich Peinliches Kammergericht
(also called Kaiserliches Halsgericht)

Court

Gericht

Judge

Richter

lay-judge

Schöffe

deceider

Urteiler

clerk

Urkundsbeamter