

JUSTICE ENSLAVED

*A Collection Of Documents
On The Abuse Of Justice
For Political Ends*

INTERNATIONAL COMMISSION OF JURISTS

1955

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International Commission
of Jurists (ICJ)
Geneva, Switzerland

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PREFACE

The International Commission of Jurists, established in 1952, aims at supporting and advancing those principles of justice which they believe to have universal and lasting validity.

In its Statement of Aims the Commission declared that wherever such principles are being systematically eliminated or violated, their re-instatement will be sought by exposing the processes of injustice at work. The International Commission has the honour to present herewith to the members of the legal profession throughout the world a collection of documents concerning the administration of justice in a majority of countries behind the Iron Curtain.

The four parts of the collection cover the fields of Public Law, Penal Law, Civil and Economic Law, and Labour Law. It does not appear necessary to introduce this documentation by a long preface. It has to speak for itself. It consists of written documents and certified depositions of witnesses, material which is conclusive evidence for every lawyer.

In the grim uniformity which their variety displays they prove the existence of a system under which justice is enslaved to serve political ends — supposedly the ends of a class, in reality however those of a ruthless party-clique.

Such a system necessarily negates the leading principles of an independent justice. It is therefore unacceptable to the jurist trained in the best heritage of our legal traditions.

It is against the rule of injustice that the International Commission of Jurists takes a stand, not against any specific political idea. The Commission strives to maintain complete neutrality towards all political parties, groups or ideologies, except those which promote tyranny over men.

The documentation presented herewith by the Commission to the members of the legal profession exposes the system of injustice in Communist countries. This does not imply that the Commission restricts its activities to the field of totalitarian systems of the Communist variety. If the first collection of documents applies only to Communist countries, it is for two outstanding reasons. Firstly, because the systematic injustice in these countries has assumed such proportions that it constitutes a direct menace to those legal principles which the Commission is pledged to defend throughout the world. Secondly, because in the countries behind the Iron Curtain there is neither right nor means to raise a voice in protest against the flood of injustice. This is particularly the case of those whose true mission is that of helping individuals to assert their right against its private or public abuse — the lawyers. The International Commission assumes the task of these silenced jurists and files through its documentation open charges against a system which — in face of a hostile majority of the subject peoples — abdicated legality to exigencies of self-preservation.

At the same time, this accusation is to serve as a warning. In the free countries where incidental cases of injustice — which occur and will always occur — can be freely discussed and criticized, many people, lawyers included, are apt to lull themselves to sleep with a philosophy of aloofness. They contemplate the dangers of systematic injustice in Communist practice in the same way as they viewed the National Socialist regime, viz., as a remote system sealed off from the world of true democracy.

The documentation presented here proves that the realm of injustice is spreading closer than we might be inclined to think. It is the Commission's hope that the overwhelming evidence contained in this collection will stimulate all free lawyers to increased efforts to keep the blazon of justice undefiled, to enlighten free peoples of the priceless value of their liberties and of the necessity of a determined struggle for their preservation.

I wish to acknowledge the thanks of the International Commission of Jurists to Messrs. Edward S. Kozera and Karel Vasak, of The Hague, Mr. Werner Schulz, of Munich, and Mr. Horst W. Rockmann of West-Berlin, officers of the Staff of the Commission, and to Mr. P. G. Walther Rosenthal, for the collecting and arranging of the documents contained in this collection, and to the organizations and persons from many countries who helped us to bring it into the present form.

A. J. M. van Dal
Secretary General

PART A

PUBLIC LAW

I. VIOLATIONS OF THE FUNDAMENTAL HUMAN RIGHTS

The Constitutions of the Soviet Union and of the so-called "People's Democracies" contain a complete enumeration of the fundamental rights guaranteed to their citizens. Nevertheless, what can be said of a fundamental right which can be exercised only "with a view to the reinforcement of the socialist system", and what of a liberty which can be enjoyed only "in conformity with the interests of the working people"?

The restriction to which either the law or the fundamental liberty is subjected is important: it suffices to read the famous Article 126 of the Soviet Constitution so as to see that the "interests" of the worker must coincide with the desires of the Communist Party. A fundamental right, rather than constituting a bastion behind which the individual takes shelter to defend himself against the encroachments of the State, becomes, once put into the hands of the Party, an instrument for the realization of its own ends.

It is important, furthermore, that one falls not into any error because of the constant re-assertion, according to which, the Law is at the service of the workers. Once more it is necessary to come back to the Communist Party, the "alpha" and "omega" of the whole communist doctrine. Thus one perceives that the worker — quite apart from a small clique of functionaries — deprives himself specifically for the benefit of the Party, of both his rights and liberties in a most definite and irrevocable manner.

There already exists in the constitutional texts of the communists an implacable logic of oppression and discrimination. To take account of this, however, it is not enough to limit oneself to explanations of the letter of the law, because the Law in the communist countries stands, insofar as it is a means of constraint, not only in the formal juridical texts but equally in the resolutions containing "directives", "advice" and "suggestions" from the Communist Party, and the practices inspired by it frequently and deliberately violate the text of the formal law. It is certain that in these conditions juridical security disappears completely while giving way to an arbitrary system. The fundamental rights in the communist doctrine contain in themselves the seed of their eventual disappearance.

The following documentation will permit to see exactly to what extent the Law become synonymous with injustice.

VIOLATIONS OF THE FREEDOM OF OPINION AND EXPRESSION

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interferences and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Art. 19, United Nations Universal Declaration of Human Rights.

Freedom of opinion and discussion undoubtedly constitute for the citizen the most tangible result of the democratic system since this furnishes the criterion whereby one may most often judge the democratic character of any given State.

The Constitutions of the USSR and its satellites list the freedom of opinion and expression as belonging among the "rights of the citizen". It is necessary but to read the corresponding articles in order to realize that the restrictions included in the Constitutions themselves render the freedom of opinion and expression completely devoid of sense.

DOCUMENT No. 1 (USSR)

*Art. 125 of the Constitution of the Soviet Union of
5 December 1936:*

In conformity with the interests of the toilers and for the purpose of consolidating the Socialist System, the following rights shall be guaranteed by law to the citizens of the USSR:

- a) Freedom of speech;
- b) Freedom of press;
- c) Freedom of assembly and freedom to hold meetings;
- d) Freedom to hold street processions and demonstrations.

The realization of the citizens' rights is ensured by placing at the disposal of the toilers and their organizations the printing industry, stocks of paper, public buildings, streets, telecommunications, and other material resources for the exercise of these right.

The example of the Soviet Union is followed by all its satellite States, their Constitutions stipulating that liberty of opinion and expression, while formally guaranteed to the citizens, must have as their objective the strengthening of the regime of the "People's Democracy", and that such rights can be utilized only to that end.

DOCUMENT No. 2 (ROUMANIA)

*Art. 85 of the Constitution of the Roumanian People's
Republic of 24 September 1952:*

In conformity with the interests of the toilers and for the purpose of consolidating the regime of the people's democracy, the Law of the

Roumanian People's Republic shall grant its citizens the following rights:

- a) Freedom of speech;
- b) Freedom of press;
- c) Freedom of association and assembly;
- d) Freedom to hold street processions and demonstrations.

For the practical exercise of these rights, there shall be placed at the disposal of the toilers and their organizations printing plants, stocks of paper, public buildings, streets, means of communications, and other facilities necessary for this purpose.

DOCUMENT No. 3

(HUNGARY)

Art. 55 of the Constitution of the Hungarian People's Republic:

- 1) In conformity with the interests of the toilers, the Hungarian People's Republic shall grant to its citizens freedom of speech, of press, and of assembly.
- 2) The State shall place at the disposal of the toilers the material means necessary for the practical exercise of these rights.

It should be noted that the above-mentioned articles from the Soviet, Roumanian and Hungarian Constitutions, all contain a paragraph two according to which printing-plants, paper supply, public buildings, etc., are put at the disposition of the working people for the realization of their rights. Communist jurists take pleasure in emphasizing this paragraph as signifying for them the difference between the "genuine liberty of expression in the socialist countries" and "the completely theoretical liberty of expression in the capitalist states".

To show what is practically involved in this realization of the rights of the working people, it is necessary only to cite the following decree of the Roumanian Council of Ministers:

DOCUMENT No. 4

(ROUMANIA)

Decree No. 583, Regulating the Use, Sale, Purchase, Possession, and Transfer of All Duplication Machines.

The Council of Minister in session;

Considering the communication of the Ministry of the Interior No. 782 of 25 May 1950;

On the basis of Article 55 of the Constitution of the Roumanian People's Republic.

Decrees:

Article 1:

All institutions, enterprises, state and private stores, public or private associations, offices for copying documents, and all private persons who possess typewriters and duplicating machines such as gestettners, mimeographing machines, photo-engraving machines, hand presses, as well as material necessary for duplication of various texts, such as stencils, fluids, and other similar materials, are required to register them at the Ministry of Interior, General Administration of Police, within 30 days of the publication of this decision. Upon registration they will be issued authorizations for use.

Article 2:

The sale, purchase, and transfer of the machines mentioned in

Article 1, as well as of rubber type, may only be effected with the authorization or approval of the Ministry of Interior, General Administration of Police.

Article 3:

The Ministry of Interior is authorized to issue regulations regarding methods of issuing special authorizations, of exercising control and of establishing competent organs.

Source: Buletinul Oficial, No. 51, 9 June 1950.

On 21 May 1954 a decree of the Great Assembly of the People's Republic of Roumania added an article to the Penal Code, written out as follows:

DOCUMENT No. 5
(ROUMANIA)

Article 268, section 28a:

The manufacture, repair, possession, transmission or acquisition without previous license of type-writers, calculating-machines, duplicating machines, any parts for such apparatus, as well as the material for multicopying by means of such machines, the exploitation of multicopying machines without license and the possession of printing installations without authorization is liable to imprisonment of 3 months or a fine of from 10 to 2000 lei.

These measures are not special to Roumania, which furthermore is inspired, as are the other satellite States, by a decree passed in 1932 by the Council of the People's Commissars of the USSR. Authorizations are delivered in the USSR solely to organizations of a public character: enterprises, kolkhozes, co-operatives, etc., through the militia, which also controls the "correct" use of the machines.

The other countries of the people's democracies have similar legislations: in Bulgaria, according to the law of February 1948; in Hungary, by a decree of January 1951. In Czechoslovakia the Ministry of Security ordered in November 1951 its security-organs to prepare a register of all the proprietors of typewriters and duplicating machines.

Whoever dares to use the right of free expression of his opinion in another than the desired way must take the risk of a heavy jail sentence for the "dissemination of false news pernicious to the State". This is expressly stated in special laws. (See, for example, the Polish "Decree of 13 June 1946 on Particularly Dangerous Offences During the Period of Reconstruction of the State" in Part B — Criminal Law; Article 91, Bulgarian Penal Code — *ibid.*; Czechoslovak Penal Law — *ibid.*)

In the Soviet Union, undesirable political expressions of opinion are punished in accordance with Article 58 of the Penal Code (See the Deposition of Nikola Kostka in Part B — Criminal Law).

It is, however, not sufficient to refrain from expressing any opinion contrary to the regime in power. The distortion of the basic right to free expression of opinion goes so far that the

population is again and again forced to give its collective and individual sanction to measures taken by the government. Whoever does not participate in these demonstrations becomes by this fact alone an enemy of the State. The failure to make a required declaration will be evaluated as incriminating on every possible occasion.

DOCUMENT No. 6
(POLAND)

"...The District Court of Brodnica sat at Brozie during the first half of December of last year. The accused were the refractory farmers: Piotr Kobylski, who was maliciously in arrears with the delivery of 12.191 kilogrammes of cereals (*the fact that this was deliberate is proved by his hostile attitude against our system and by the fact that none of his family signed the Peace Appeal*), Felix Karbowski of Maly Glebizek and Zykmunt Swiniarski of Sugajno...

These kulaks were sentenced to penalties ranging from 2 to 2½ years imprisonment."

Source: *Gazeta Pomorska (Bydgoszcz)*, 9/10 January 1954.

The effects of the restrictions of the freedom of expression of opinion show themselves particularly clearly where the citizen is forbidden to form an opinion of his own regarding events in his country and in the outside world. In Communist-dominated countries, therefore, the reception of foreign news and publications is under strict supervision. Unauthorized circulation or possession of such publications is punished with imprisonment. (See: Sentences passed on Adolf Skala and Rudolf Kuntos, Part B — Criminal Law).

In the Soviet Zone of Germany the action of letting others listen to RIAS (independent, non-communist broadcasting station in West-Berlin) is being punished with several years of imprisonment. (See: Sentence passed on Robert Stock, Part B — Criminal Law).

If inhabitants of the Soviet Zone bring a newspaper from West-Berlin and pass its contents on to others, they are punished with penal servitude for boycott-incitement and incitement to war. The imposed sentences remain in force even after the reports circulated by the culprits were actually borne out by later developments.

DOCUMENT No. 7
(SOVIET ZONE OF GERMANY)

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Author: Richter, Municipal judge at the Land Court.

Judgment.

In the Name of the People!

In the criminal proceedings against the tradesman Walter Volkmann, born 7 August 1901, in Diesdorf Salzwedel, domiciled at Diesdorf, Sandstrasse 150, German, married, father of a 13-year old child, with no previous convictions according to his own statement (an extract of the penal register will be provided),

remanded in custody in this matter in the prison of Salzwedel since 5 March 1952,

for crimes and offences under Article 6 of Control Council Directive 38, Section II, Art. III A III,

the Major Penal Chamber I, of the Land Court in Magdeburg, at the session of 25 April 1952, in the presence of Land Court Judge Roeder, President,

Municipal Court Judge at the Land Court Richter, assisting judge, Hermann Uhde, employee, of Magdeburg,

Ise Reichelt, employee, of Magdeburg,

Editha Walter, housewife, of Magdeburg, lay assessors,

Public Prosecutor Kluth representing the Senior Public Prosecutor, Law clerk Deicke, secretary of the Court,

has pronounced judgement as follows:

For boycott-incident and manifestation of incitement to war, the defendant is sentenced in accordance with Article 6 of the Constitution of the DDR (German Democratic Republic) to three years' hard labour, the time spent in custody since 5 March 1952, to be included.

The defendant is found incriminated under Control Council Directive 38, Section II, Article III A III. The following sanctions are therefore added:

He may not occupy any official position.

He forfeits all legal claims to a pension or gratuity from public funds.

He forfeits his active and passive electoral rights and the right to carry out any political activity or to be a member of any political party.

He forfeits the right to be a member of a trade union or of an economic or trade association.

He is forbidden, for five years after his release, to work in a liberal profession or to work independently in any commercial enterprise; to be a partner in any such undertaking or to have charge or control thereof;

to be employed in non-independent work other than as an ordinary labourer;

to be employed in any profession listed in Article IX (7).

He is subject to restrictions regarding place of residence and accommodation.

He forfeits the privileges listed in Article IX (9) and the right to own a motor vehicle.

The accused will bear the costs of the trial.

Reasons The accused tradesman Walter Volkmann was born on 7 March 1901 in Diesdorf, Kreis Salzwedel, the fifth of eight children of Wilhelm Volkmann, tile setter, and his wife Minna Goethke. From 1907 to 1915 he attended the elementary school at Diesdorf, where he consistently maintained the class standard. After leaving school he was a commercial apprentice for four years, till 1922. After passing his examination he spent another year as commercial clerk with the firm where he had served his apprenticeship and then joined the Rudolf Herzog store in Berlin as employee. He worked there until 1926. From 1928 to 1944 the defendant worked in another Berlin firm in the despatch department. This employment was brought to an end by his military service. The defendant was a soldier until the Armistice. He then returned to Diesdorf and founded his own business, the manufacture of small wooden articles. He mainly made wooden soles and heels. The defendant employed five workers but did not work himself. In 1949 he gave this firm up and went to Hamburg, where he spent one month with a relative in order to familiarize himself with the work of the latter, as he intended to enter interzonal trade. From 1949 to 1951 the defendant dealt in international business as representative of the Hamburg firm with an office in Diesdorf. Since 1951 the defendant has been a pensioner with a net income of DM 145 per month. The defendant married Herta Grocholl in 1930. There is one son of this marriage, still under age.

From 1920 to 1933 the defendant was a member of the German Asso-

ciation of Employees, and from 1933 to 1945 he belonged to the German Labour Front. In 1938 he joined the NSDAP to which he belonged until 1945. After 1945 the defendant did not join any organization. He is not a member of either a Party or a political organization.

The defendant travelled to the democratic sector of Berlin in order to transfer to Diesdorf some furniture which he had in storage in Berlin. There he met a relative who comes from West Berlin. On the occasion of a small family reunion his uncle asked him whether it was a fact that a forbidden zone several kilometres wide was being established along the demarcation line on the territory of the DDR. It was said that a number of villages had already been evacuated, for houses were due to be demolished and a zone several kilometres wide created for military purposes. The evacuations had already begun a week ago, he said. The defendant contradicted his uncle's statements. The latter, however, showed him a copy of the "Telegraf", in which there appeared an article titled "No-man's-land on the border". This article gave more weight to the uncle's statements which the defendant now believed. Thereupon the defendant went to the editorial office of the Telegraf at Berlin-Halensee, and asked whether the contents of the article represented the truth. He was told that the editorial office made use of reliable sources and that the evacuations had indeed started a week ago. From the editorial office the defendant went straight home. The defendant was met at the station by his son, to whom he talked about the evacuations. He also discussed the possibilities of evacuations with his wife, who had already noticed that he was somewhat excited. *He was firmly convinced that such a forbidden zone was being created*, although his wife and son contradicted him. The defendant had this conversation at about 11 PM on Saturday, March 1, 1952. On Monday, March 3, at about 6 PM, he went to Bormann's restaurant in Diesdorf. As he entered he met the witness Burgomaster Gorges, whom he addressed with words to the following effect: "Well, so you want to move, you?" Upon hearing the astonished reply of the witness, who said that he was no thinking of it in the least and that for this time it was the turn of others, he showed him the article in the "Telegraf". The witness had no spectacles and so both men returned to the regulars' table where there were already seated the witnesses Bormann and Pieper with the witness John who had now appeared. The defendant gave the article to John who read it out. Those seated at the table discussed the contents of the article with some heat, *and the witnesses expressed the opinion that the creation of such a border zone was impossible and that they did not believe it*. But they all had the impression that the defendant still persisted in this opinion that the article expressed the truth, even after the witness Schroeder used a number of arguments to point out the nonsense of this highly provocative article. Two days later the defendant likewise told the witness Glass, whom he happened to meet on the street, that the inhabitants of Diesdorf must leave because a forbidden zone was to be created...

The article in the Telegraf, "No-man's-land on the border", is a provocative article of the worst kind. The defendant brought it into the DDR from Berlin and thereby already committed boycott-incitement. According to the contents of the article, it amounts to incitement to war against the Soviet Union for it is said that the Soviet Western Command is creating a military bulwark by means of a prohibited zone along the border in which Soviet troops and people's police are to be stationed on the alert against the Federal Government. Thereby the defendant has fulfilled objectively and subjectively the conditions characterizing a criminal case under Article 6 of the Constitution of the DDR. According to Article 144 of the Constitution of the DDR, the Constitution went in force immediately. By circulating the contents of the article, however, the defendant has also passed on tendentious rumours which seriously endanger the peace of the German people and that of the whole world. Thereby he has also fulfilled subjectively and objectively the conditions of a case under Control Council Directive 38, Section II, Art. III A III.

In doing so he has propagated an obvious incitement to war. He could have seen clearly that the establishment of a prohibited zone along

the border does not serve the purpose of bringing together and reuniting a Germany that has been divided by the monopolistic capitalists. The defendant knows the realities of life. He sees and knows that the peace-loving peoples of the world are striving to preserve world peace under the leadership of the Soviet Union and that they are staking everything on the prevention of a third world war. The defendant knows that the Soviet Union is one of the countries in the world that were hit the hardest by the war. It is precisely the Soviet Union that has strived for years for the attainment of a lasting peace as its finest and most noble aim, in order to provide thereby all men with a happy and prosperous future. The defendant who describes himself as a peace-lover, knows all the problems of the day which dominate our hearts. He knows that we have only one struggle, the establishment of German unity in order to give the world peace camp yet another formidable partner in the fight against imperialist warmongers. He therefore also knows that nothing is ever done by the Soviet Union that stands in contradiction to these great aims. But the creation of such a zone would represent a preparation for war and would be just as dangerous a threat of war as a divided Germany is. In view of the fact that the prudent inhabitants of Diesdorf did not let themselves be influenced by the defendant — thanks to the development of our antifascist-democratic order and to the recognition of the prominent leading role of the Soviet Union in the global fight for peace — and in view of the fact that they showed him clearly and unambiguously that the article and his opinion on the carrying out of a military work of that work were nonsense, it is particularly despicable on the part of the defendant that he nevertheless still persisted in trying to pass on the contents of the article as truth and that he stated his opinion and his conviction that the news item in the "Telegraf" was true.

The representative of the prosecuting authority demanded that the defendant be sentenced to three years' hard labour under Article 6 of the Constitution of the DDR and that he be recognized as incriminated under Control Council Directive 38, Section II, Article III A III.

The Chamber agrees with this demand. The defendant is guilty in the sense of Article 6, for he has spread incitement to boycott and incitement to war. He is therefore sentenced to hard labour for three years under Article 6 of the Constitution in conjunction with Section 1 of the Penal Code. The Chamber deems this penalty to be sufficient, but also necessary as an expiation commensurate with the degree of danger caused to society.

The defendant was further found incriminated under Control Council Directive 38, Section II, Article III A III, for he circulated tendentious rumours liable to endanger world peace. Furthermore he is subject to sanctions provided under Article II (3-9), the restrictions under item 7 to apply for a period of five years.

The time spent in custody since March 2, 1952, is to be deduced from the term imposed by the judgment.

The decision regarding costs is in accordance with section 465 of the Code of Criminal Procedure.

Done: (Signature)

(Signed) Roeder

Law clerk

(Signed) Richter

Shortly afterwards, a Soviet Zone decree of 26 May 1952 (Gesetzblatt p. 405) did in fact establish a prohibited zone along the demarcation line. Thus was confirmed the essential part of the report of the West Berlin newspapers which the condemned Volkmann had circulated. In spite of this, the appeal he lodged after the establishment of the prohibited zone was dismissed as "obviously unfounded".

DOCUMENT No. 8
(SOVIET ZONE OF GERMANY)

Er Ns 65/52 (62)

Decision

In the criminal case against the tradesman Walter Volkmann, born on 7 August 1901 at Diesdorf, Kreis Salzwedel, for crimes and offences against Art. 6 of the Constitution of the DDR and Control Council Directive 38, Section II., Art. III A III.,

The first Penal Chamber of the Higher Land Court in Halle/Saale, having heard the appeal of the defendant against the judgment of the First Major Penal Chamber of the Land Court in Magdeburg of 25 April 1952,

has decided unanimously after hearing the Public Prosecutor of the Higher Court:

The appeal is dismissed for obvious lack of sufficient reasons. The costs of the appeal to be borne by the defendant.

(Sec. 6, Chapter I., Part. 6, Ordinance of 6 October 1931, Gesetzblatt page 563; Sec. 473 (1) Code of Criminal Procedure).

Halle/Saale, 21 July 1952

(Signature)

Legal assistant as

recording official

of the court registry

Halle/Saale, 17 June 1952

(Signed)

Hanke

Walter

Heimsath "

In a State where the freedom of expression does not exist, the author will be one of the first victims. In Communist countries the Party issues directives on literature and has the absolute right to decide the fate of the writer. He becomes a propaganda instrument for the State and must comply with the political requirements of the moment.

DOCUMENT No. 9
(HUNGARY)

"The writer tries to defend his right to write on the themes he has chosen. In our world, however, such a right is in no matter conceded to the writer... We would not know how to subscribe to the aesthetic principle according to which the taste and the judgment of the writer are the principle criteria in reply to the questions as to why and how in literature. The taste and judgment of the writer cannot be in opposition to the interests of the people of the State and the Party. It is neither the People nor the State which must adapt itself to the taste and judgment of the writer, but the writer who, by his work and instruction must produce only what is in accordance with the interests of Socialist construction."

Source: Jozsef Revai, the Minister of People's Culture of Hungary, in "Tarsadalmi Szemle" (Budapest) of 15 September 1952.

VIOLATIONS OF THE RIGHT OF ASSEMBLY AND ASSOCIATION

-
- (1) Everyone has the right to freedom of peaceful assembly and association.
 - (2) No one may be compelled to belong to an association.

Art. 20, United Nations Universal
Declaration of Human Rights.

Regarded as essential among the conditions which must be realized to permit a State to develop in a free and democratic manner is the right for the citizens to meet and to associate freely for peaceful purposes. This right and freedom is constantly violated in the communist States and deflected from its true mission — to permit citizens to participate in the direction of public affairs.

In the Soviet Union, citizens are allowed to found groups and associations only if these are directed and controlled by the Communist Party. Further, the ends pursued by such associations must be in complete agreement with those of the State. To ensure this, the Communist Party constitutes the central nucleus of this mechanism of oppression.

DOCUMENT No. 10

(USSR)

Art. 126 of the Constitution of the USSR of 5 December 1936.

“In conformity with the interests of the working people and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the USSR are guaranteed the right to unite in public organizations: trade-unions, co-operative societies, youth organizations, sport and defence organizations, cultural, technical, and scientific societies; and the most active and politically-conscious citizens in the ranks of the working class, toiling peasantry, and toiling intelligentsia to *unite voluntarily in the Communist Party* of the Soviet Union, which is the vanguard of the working people in their struggle to build a communist society and is *the leading core of all organizations of the working people, both public and State.*”

This article constitutes the key of the Constitution and of the Soviet Law, since it assures the absolute domination in the State by the Communist Party. The Party alone is qualified to set into operation the so-called “transmission-belts”, of which Lenin was so proud, for the carrying out of the decisions of the Communist Party.

DOCUMENT No. 11

(HUNGARY)

Art. 56 of the Constitution of the Hungarian People's Republic:

1. In agreement with the Constitution, the Hungarian People's Republic shall grant the right of assembly within the framework of the toilers' development and of their social, economic, and cultural activities.
2. In agreement with the Constitution, the Hungarian People's Republic depends on the *organization of duty-conscious workers*. These found trade unions, democratic women's leagues, youth associations, and other mass organizations for the defence of the people's democratic order, for an intensified participation in the building of Socialism, for the spreading of the domain of cultural enlightenment, for the realization of the people's rights and for the advancement of international solidarity. All these forces are united in the people's democratic front. In these organizations the close co-operation and democratic unity of industrial and agricultural workers and intellectuals had become a fact. *The working class, led by its vanguard and resting upon the democratic unity of the people is the driving force of the activities of State and society*".

DOCUMENT No. 12

(ROUMANIA)

Art. 86 of the Constitution of the Roumanian People's Republic of 24 September 1952:

"In the interest of the working class and of the progress of the political and social activity of the broad masses, the Roumanian People's Republic shall grant its citizens the right to form social organizations, trade unions, co-operatives, women's and young people's organizations, cultural organizations and technical and scientific societies.

"Any organizations with a fascist or antidemocratic character is prohibited. Membership in such organizations shall be punished in accordance with the provisions of the law.

"The most active and most conscious members of the working class and other toilers unite in the Workers Party which, to a certain extent, forms the *vanguard of the workers in the fight for the consolidation and development of the People's democratic regime and of the support of Socialism*".

Whereas the Polish and Czechoslovak Constitutions do not mention bluntly the directing role of the Communist Party in all political organizations, they nevertheless contain the proper dispositions to empty the freedom of association and assembly of all its content.

DOCUMENT No. 13

(POLAND)

Art. 72 of the Constitution of the People's Republic of Poland of 22 July 1952:

1. In order to promote the political, social, economic and cultural activity of the working people of town and country, the Polish People's Republic guarantees to its citizens the right to organize.
2. Political organizations, trade unions, associations of working peasants, co-operative associations, youth, women's, sports and defence organizations, cultural, technical and scientific associations, as well as other social organizations of the working people, unite the

citizens for active participation in political, social, economic and cultural life.

3. The setting up of and participation in associations whose aims or activities are directed against the political and social structure or against the legal order of the Polish People's Republic are forbidden.

In Czechoslovakia, the law regulating freedom of assembly and association announced by article 24 of the Constitution was voted on 12 July 1951. This law reads as follows:

“Article 24:

- (1) The rights of assembly and associations are guaranteed in so far as they do not endanger the popular democratic system or public peace and order.
- (2) The exercise of the above rights shall be governed by laws.”

The Law organizes the regime of prior authorization for meetings through the Ministry of Interior. It should be noted that according to the first article of the law workers have the “right” to organize themselves within but a single trade-union.

DOCUMENT No. 14
(CZECHOSLOVAKIA)

*Act Respecting Voluntary Organizations and Assemblies,
No. 68, Dated 12 July 1951.*

Voluntary Organizations

Article 1:

For the purpose of exercising their democratic rights and thereby strengthening the people's democratic system and for the purpose of assisting the effort to build up socialism, the people join together in voluntary organizations, *including a unified trade union organization*, a women's organization, a youth organization, a unified popular organization for the physical training and sports and cultural, technical and scientific associations.

Article 2:

- (1) The aims of a voluntary organization hereafter covered by the single word “organization” and the method of achieving the said aims shall be laid down in the by-laws of the organization, which shall also include particulars as to the name and headquarters of the organization, its sphere of activities and its internal administration.
- (2) The by-laws must be approved before the organization can come into existence. The power of approving the by-laws shall belong to the people's committee of the region where the headquarters of the organization is to be established; if the proposed sphere of activities of the organization extends beyond the area of a single region, the by-laws must be approved by the Ministry of the Interior.

Article 4:

- (1) The State shall assist the organizations to develop, create favourable conditions for their activities and growth, and take care that life within them proceeds in accordance with the Constitution and principles of the popular democratic system.
- (2) The above duties shall be carried out by the National Committees under the direction of the Ministry of the Interior as regards general matters relating to the activities of the organizations and in other respects under the direction of the appropriate central department according to the aims of the particular organization.

Article 5:

The following are hereby declared to be organization within the meaning of this Act: The Revolutionary Trade Union Movement, the Unified Farmers' Federation, the Czechoslovak Federation of Youth, the Czechoslovak-Soviet Friendship Federation, the Czechoslovak Federation of Women, the Czechoslovak Sokol Organization and the Czechoslovak Red Cross. The Ministry of the Interior may declare other organizations or societies in existence before 1 October 1951 to be organizations within the meaning of this Act.

Assemblies

Article 6:

In accordance with the interests of the working people the exercise of the right of assembly is guaranteed to Czech citizens in so far as the popular democratic system and public tranquility and order are not thereby endangered.

Source: Sbirka Zakona a Narizeni Republiky Ceskoslovenske (Collection of Laws of the Republic of Czechoslovakia), 30 July 1951, No. 34, p. 215.

Granted this Communist interpretation of the right of assembly and association, the existence of an opposition political party is unthinkable. Stalin expressed himself as follows on the subject of an opposition party:

DOCUMENT No. 15

(USSR)

"...Several parties, and, consequently, freedom for parties, can exist only in a society in which there are antagonistic classes whose interests are mutually hostile and irreconcilable — in which there are, say, capitalists and workers, landlords and peasants, kulaks and poor peasants, etc. But in the USSR there are no longer such classes as the capitalists, the landlords, the kulaks, etc. In the USSR there are only two classes, workers and peasants, whose interests — far from being mutually hostile — are, on the contrary, friendly. Hence, there is no ground in the USSR for the existence of several parties, and, consequently, for freedom for these parties. In the USSR there is ground only for one party, the Communist Party. In the USSR only one party can exist, namely the Communist Party which courageously defends the interests of the workers and peasants to the very end. And that it defends the interests of these classes not at all badly, of that there can hardly be any doubt."

Source: J. Stalin, On the Draft Constitution of the USSR in J. Stalin, Problems of Leninism (11th ed.; Moscow 1954), pp. 699-700.

In the "people's democracies" the process of "class-unification" is not yet finished. But this principle of Stalinism is being applied: the parties which stood sufficiently ideologically close to the Communist Party were absorbed; the other parties were undermined from within, their leaders jailed, their mission rendered more difficult, and finally forbidden.

In Bulgaria, the Peasants' Party was dissolved and President Nikola Petkoff condemned to death.

In Hungary, members of the Smallholders' Party were persecuted and the Party banned; a sensation was caused in Poland by court actions against Socialists and Farmers. In Roumania too the National Farmers' Party, the most important party of the period between the two World Wars, was dissolved.

President Maniu and Vice President Mihalache were sentenced to penal servitude for life. The dissolution of this Party was announced in a decree of the Council of Ministers.

DOCUMENT No. 16
(ROUMANIA)

"The Council of Ministers has pronounced the dissolution of the National Peasants' Party in the following decree:

- 1) The National Peasants' Party shall be dissolved;
- 2) The headquarters and other meeting places of this Party shall be closed. The archives and the entire correspondence shall be confiscated by the competent authorities;
- 3) All movable and immovable property of the Party shall be confiscated in accordance with the provisions of the law;
- 4) The Minister of Interior and the Minister of Justice are charged with the enforcement of this decree."

Source: *Scanteia*, 31 July 1947.

As to the fate which the Communist Party reserves to those other parties whose existence it admits there can, however, be no doubt.

DOCUMENT No. 17
(CZECHOSLOVAKIA)

"The directive role of the Communist Parties is commonly recognized, even if certain countries classified as People's Democracies allow several parties. For the other political parties, whose *existence constitutes the expression of a transitional period in the economy and an unfinished process of formation involving the moral and political unity of the people*, recognise the directing role of the Communist Parties."

Source: Pavel Peska, *Professor in Charles University, Prague: Ustavy lidove-demokratickych zemí (Constitutions of the Countries of the People's Democracies) (Prague 1954), p. 53.*

The "directing role" of the Communist Party is equivalent to a pure and simple supremacy, as is demonstrated, for example, by the Bulgarian Peasant Union, successor to the Peasant Party of Petkov.

DOCUMENT No. 18
(BULGARIA)

"The enlarged session of the Council of Administration of the Union of Bulgarian Peasants studied the work of the organizations of the Union from the Second Republican Congress to the present. It established that there was no occasion to observe important results in the institutional and political strengthening of the Union; that the Organization of the Union of Peasants always successfully co-ordinated its activities with the accomplishment of tasks essential to the building of Socialism, that the members of the Union of Peasants continually fought with a growing and dynamic awareness for the execution of all the orders of the Communist Party and the Government. The members of the Union of Bulgarian Peasants have become new men. They are deeply convinced that the way undertaken is right and they are faithful allies to the Bulgarian Communist Party, the leader of people's authority.

"The members of the Union of Bulgarian Peasants commit themselves without reservation to the legacy of Georgi Dimitrov preserving

Soviet-Bulgarian friendship as the apple of their eyes and upholding all endeavours of the Communist Party and of the Government serving as the guarantee of peace . . .”

Source: Zemedelsko Zname (Sofia), 14 March 1954.

In view of the particular political situation in the Soviet Zone of Germany, Communist rulers have so far abstained from an official dissolution of the two middle-class parties, the “Liberal-Democratic Party” and the “Christian-Democratic Union”. These parties are no longer allowed independent life of any sort. Furthermore, — in order to ensure the monopolistic position of the dominant party (the SED) — Communist officials have founded two more puppet parties, the “National Democratic Party” and the “Democratic Peasants’ Party” which are also watched and guided by the SED (German Party of Socialist Unity).

DOCUMENT No. 19.

(SOVIET ZONE OF GERMANY)

Deposition: Appeared Paul Weidner, born 14 November 1895, recently domiciled at 1, Wendenstrasse, Spremberg, lately domiciled at the refugee camp Zitadellenweg, Berlin Spandau, who says as follows:

“I rejoined the SPD in Spremberg in 1945. Following the amalgamation with the KPD I automatically became member of the SED. I belonged to the SED until 1948 and paid my membership dues regularly until then. In May or June 1948 — I cannot recall the exact date — I was visited by the then police-chief of Spremberg, Ernst Tschickert. Tschickert also belonged to the SED. Before the amalgamation he had been chairman of the (local) SPD. He also took part in the Party Congress held on the occasion of the amalgamation.

“During his visit, Tschickert told me he had a special task for me. He wanted me to form the Kreis organization of a new party in Spremberg. He said: ‘A new peasants’ party and a new allegedly middle-class party are to be founded’. At first I tried to refuse this assignment; then, as Tschickert became rather pressing, I asked for 24 hours to think it over. During this time I talked to some acquaintances who advised me to accept this assignment. The next day I told therefore Tschickert that I agreed.

“Some time later, towards the middle of June 1948, I received a request to come to the restaurant ‘Alter Fritz’ in Potsdam where preliminary discussions were to take place on the foundation of the National Democratic Party on a Land scale. The party had already been founded at a central level and in some Laender. At the restaurant ‘Alter Fritz’ I met another delegate from Spremberg, the municipal clerk Fritz Gaertner. I asked him who had commissioned him to come there. Gaertner told me that the First Secretary of the SED Kreis Committee Kurt Gaertner had commissioned him to take part in the foundation of the party on the Land scale and in the building of the Kreis organization of the NDPD. I must state here that the two Gaertners are not related.

“The discussion was directed by Dr. Kolzenburg.

“A number of declarations were formulated and the proposal was made that the licensing of the Party at Land level should be effected. Further, there was elected a foundation committee to which Gaertner and I belonged.

“I do not know whether all attending the meeting at the ‘Alter Fritz’ in Potsdam had been ordered there by the SED. I deliberately refrained from asking. At any rate, I had the impression that all of them were people selected by the SED. This conjecture was later confirmed as far as the representative from Cottbus, Franz Hahn, was concerned.

"About a week after the above-mentioned Potsdam meeting the foundation committee was summoned to the Potsdam Kommandatur. There we were questioned on quite broad lines and were asked to explain the necessity for the foundation of the Party. Apart from this each of us had to give a brief verbal account of his life. I stress especially that all the questions and the presentation of the individual life stories of the members were formulated so adroitly that the word 'SED' did not come up. A short time after the meeting at the Potsdam Kommandatur, the license to form the Land organization and the Kreis organizations of the Party was indeed issued. I founded the Spremberg Kreis organization of the National Democratic Party with the above-mentioned Gaertner, and was chairman of the Kreis organization of that party until the day of my flight on 9 April 1953.

"From the day on which the preparations for the foundation of the Party started in Spremberg I did not pay any more dues to the SED. However, I did not hand in my resignation from the SED, nor was I expelled from it. As the return of my Party book was not requested either, I assume that my membership in the SED was left in abeyance. In conclusion I wish again to stress emphatically that the National Democratic Party had the task of attracting to itself the middle-class elements that had remained until then non-political. It was also meant to weaken to a large extent the already existing middle class parties, the CDU and the LDP. The National Democratic Party is, as is shown by deposition, an instrument of the SED.

"The above statement represents the truth. If requested, I am at any time ready to give it under solemn oath."

Read, approved and signed:

23 April 1953.

DOCUMENT No. 20
(SOVIET ZONE OF GERMANY)

Deposition: Appeared Friedrich Martin, born 29 May 1902, at Zwickau, formerly domiciled at No. 33, Markwitz, Kreis Leipzig, presently domiciled at the camp at 42 Rathausstrasse, Berlin-Mariendorf, who says as follows:

"I became a member of the KPD in 1928 and belonged to that Party until Hitler's accession to power in 1933. In 1945 on the instructions of the Party leadership I organized the local KPD groups in Markwitz and Gottscheida. In 1948 I joined the Democratic Peasants' Party on the instructions of the SED. Until May 1951 I was Land Chairman of that Party for Land Saxony, and a representative in the Volkskammer until my flight from the Soviet Zone.

"Regarding the foundation of the Democratic Peasants' Party I can vouch for the following facts:

"In the spring of 1948 I was invited by the Soviet Military Administration in Leipzig to a conference with the political officer, Captain Brabbermann. At this conference I was asked why should the peasants wish to found a party of their own. I answered that I considered the foundation of a peasants' party as desirable. A few days later I was invited to visit one Lohagen, who was then First Chairman of the SED Kreis Committee in Leipzig; I was informed that I must go to Dresden for a conference with the First Secretary of the Land Committee of the SED, Wilhelm Koenen, regarding the foundation of a Peasants' Party. When I arrived, a Major Nikodenkov of the Soviet Forces of Occupation was in Koenen's office. He asked me for my opinion on the foundation of a Peasants' Party.

"About a fortnight later I received a telegram from Berlin from the General Secretary of the Central Association for Mutual Farmers' Assistance, Herr Vieweg, in which I was ordered to go to Brandenburg to attend the constituent session of the Democratic Peasants' Party. This must have been about the beginning of June 1948. There were about 30 persons present at this meeting, exclusively members of the SED. I knew some of them. I can still remember the names of Goldenbaum, Paul Scholz and Richter.

"Goldenbaum read a report on the necessity of the foundation of a political party for peasants. The chairman of the Land organizations were then nominated in the following order:

Thuringia	Herbert Hoffmann
Sachsen-Anhalt	Richard Richter
Brandenburg	Rudolf Albrecht
Saxony	Friedrich Martin
Mecklenburg	(forgotten)

"Goldenbaum announced that the necessary authorization for the foundation would be received from the Soviet Military Administration.

"About a week later I was invited to visit Major Nikodenkov at his office in Dresden. At this conference he congratulated me on our being granted permission by the Soviet Military Administration to found a Peasants' Party. At this meeting Major Nikodenkov introduced to me my manager, a certain Walter.

"Soon afterwards, the first constituent session of the Land organization for Saxony was convened in Dresden. For this session the Kreis representatives were selected and summoned by the SED and the Military commanders of the Soviet Administration. The final decision as to whether the selected persons were to be installed in office was passed by Major Nikodenkov. He also financed the setting up of the Party in Land Saxony.

"The first Party Congress took place in Meissen in early June 1949. I was at that occasion confirmed in office as First Land Chairman.

"I know that giving a false affidavit, even if that were due to mere negligence, can result in criminal proceedings. With full knowledge of this fact, I make an affidavit to the veracity of my statement."

Read, approved and signed.

1 June 1953.

Not only are the creation of an opposition party and the foundation of free cultural and social organizations banned in the Soviet Union and the satellite countries; there is also no semblance of independence in their version of trade unions. In Communist countries trade unions have been debased to the status of a mere instrument of the government. These streamlined trade unions no longer represent the interests of the working population. Their only task is to co-operate at the realization of the State's economic planning, particularly by accelerating production and denouncing all forms of labour resistance. (See: Part B, Chapter I).

VIOLETIONS OF THE FREEDOM OF RELIGION

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or in private, to manifest his religion or belief in teaching, practice, worship and observance.

Art. 18, United Nations Universal Declaration of Human Rights.

"People who go to church demonstrate by doing so their opposition to the people's democracy and to Socialism", declared the Czechoslovak Minister of Information, Kopecky, in July 1952. He continued: "In the fight against such enemies we stop at nothing. We do not even hesitate to tread on the alleged holy ground of the churches, nor are we held back by the holy cloth of the priest's stole".

These words already indicate how freedom of conscience and of confession, as well as the right to hold divine services are being thwarted under communist domination. Religion itself is not allowed to be a free realm whose rulers are exempt from secular interference. The governments of the Soviet Union and the satellites are out to transform the Church into a docile instrument of their regime.

The rights of the Churches have been restricted by special laws. Their property has been confiscated. All publications must be submitted for approval, and, finally, in order to be allowed to fulfil their duties at all, the clergy must take an oath of loyalty to the regime of the people's democracy.

DOCUMENT No. 21

(ALBANIA)

Extract from Albanian Law No. 743 of 26 November 1949.

Article 13:

All elections and nominations of Church officials . . . require the agreement of the Council of Ministers . . .

Article 15:

Whosoever violates the laws of the State . . . shall be removed from office immediately . . .

Should the Church authorities not take appropriate measures . . . the State shall act on its own . . .

Article 18:

All religious communities are under obligation to submit to the Council of Ministers, immediately after compilation, all pastoral letters, addresses, speeches, circular notices, and similar texts intended for printing and publication. Should they not meet with the approval of the Council of Ministers, the latter is authorized to forbid their publication . . .

Article 23:

The education of youth is a matter of the State; religious institutions have no part in it . . .

Article 24:

Hospitals, orphanages, welfare institutions and real estate may not be owned by religious communities . . .

All existing institutions of this kind pass into the ownership of the State by the publication of this law . . ."

From the Decree of 26 June 1951:

- "1) The Albanian Catholic Church has a national character. It is a legal entity and has no links with the Pope in organizational or in economic and political matters.*
- 2) The Catholic Church may occupy itself with its duties as long as these do not conflict with the laws of the People's Republic, public morality, and public order.*
- 3) Apart from religious doctrine, the Catholic clergy must inspire the faithful with loyalty towards the people's State of the Albanian People's Republic.*
- 4) The Catholic Church is supported by the Government within the scope of its financial ability and at the request of the episcopate of the Church.*
- 5) Any nomination of clergy and any activity of the clergy in public oratory or public work requires the previous approval of the People's Government.*
- 6) Connections with foreign churches may be established only officially through the competent authority of the Albanian People's Republic."*

DOCUMENT No. 22

(POLAND)

Decree of 9 February 1953 on the Appointment of Clergymen to Ecclesiastical Offices.

- 1) Only Polish nationals may be appointed to the ecclesiastical offices of a clergyman.*
- 2) The erection, conversion, and suppression of ecclesiastical offices held by clergymen as well as a change in the jurisdiction of these offices shall require the previous consent of competent Government authorities.*
- 3) (1) Before an ecclesiastical office may be taken over by a clergyman, prior consent of the competent Government authorities must be obtained.*
(2) Paragraph (1) shall also apply in cases of release of a clergyman from an ecclesiastical office or transfer to another office.
- 4) The following Government bodies shall have the authority to give consent: in matters relating to diocesan ordinaries, the Presidium of the Government shall have the authority; in all other cases the authority shall be vested in the Presidia of the Provincial People's Councils (the People's Councils of the Capital City of Warsaw and the City of Lodz concerned).*
- 5) Clergymen holding ecclesiastical offices shall take the oath of allegiance to the Polish People's Republic. This oath shall be administered in the Office for Denominational Affairs, or in the Presidium of the Provincial People's Councils (the People's Councils of the Capital City of Warsaw and the City of Lodz) concerned.*
- 6) Clergymen holding ecclesiastical offices who act contrary to the law and public order, or support and conceal such activities, shall be removed from office, either upon the initiative of the superior church authority, or upon the request of Government authorities.*

- 7) The Prime Minister shall be entrusted with the enforcement of the decree.
- 8) The decree shall go into effect on the day of its publication.

Chairman of the People's State Council:

A. Zawadzki

Secretary of the People's State Council:
M. Rybicki

The wording of the oath of the clergy is as follows:

"I solemnly swear to be loyal to the Polish People's Republic and to its Government. I promise to work to the best of my abilities for the progress of the Polish People's Republic and for the increase of its power and security. Loyal to my duty as a citizen and to my priesthood I shall exhort the faithful to respect the laws and the authority of the State and to work eagerly for the economic development and the increased well-being of the nation. I promise not to do anything contrary to the interests of the Polish People's Republic or liable to endanger the security and inviolability of its frontiers. Mindful of the benefit and the interests of the State I shall endeavour to parry any danger to the State which may come to my knowledge."

The second sentence of the oath administered to bishops reads as follows:

"I shall take care that my subordinate clergy, true to their duties as citizens and to their priesthood, exhort the faithful to respect the laws and the authority of the State..."

DOCUMENT No. 23
(CZECHOSLOVAKIA)

Law No. 218 of 14 October 1949, to Provide Economic Security for Churches and Religious Associations Through the Government.

Article 1:

According to the provisions of the present Law stated below, the Government shall grant emoluments to the clergymen of Churches and religious associations who with the consent of the Government either perform strictly religious functions or are employed in Church administration or in establishments for the training of clergymen. The Government Bureau for Church Affairs may exceptionally in agreement with the Ministry of Finance also grant emoluments to clergymen who are engaged in other activities.

Article 2:

Governmental consent may be granted only to ministers of religion who are Czechoslovak citizens, are politically reliable, are irreproachable, and who otherwise meet the general requirements for employment with the Government. The Government Bureau for Church Affairs may waive requirement of the citizenship in cases deserving special consideration.

Article 3:

- (1) The emoluments of the clergy shall consist of:
 - (a) A basic salary,
 - (b) Additional pay according to rank, and
 - (c) Efficiency bonuses.
- (2) The Government shall establish by decree the amount (of the emoluments)...

Article 5:

Obligation to Teach Religion.

Clergymen performing strictly religious duties are under the obligation to teach religion in schools, without remuneration, unless there is another arrangement for the teaching of religion. The extent of this obligation and its further regulation shall be fixed by the Ministry in charge of the Government Bureau of Church in agreement with the Minister of Education, Science, and Arts.

Article 7:

Activities and Appointment of Clergymen.

- (1) Only those persons may carry on the activities of a minister of religion (preacher and the like) in a Church or religious association who have obtained the consent of the Government therefor and have taken the oath.
- (2) Every employment (by election or appointment) of such persons shall require the consent of the Government given in advance.
- (3) Vacant posts must be filled within 30 days. If this is not done the Government may take the necessary measures to secure the regular performance of the religious functions, Church administration, or the education of clergymen...

Article 9:

Budgets.

- (1) Representatives of Churches and religious associations as well as managers of Church property must prepare budgets and final accounts and submit them for approval to the Government Bureau for Church Affairs...

Article 10:

Property.

- (1) The Government shall supervise the property of the Churches and religious associations.
- (2) The representatives of Churches and religious associations as well as managers of Church property take an inventory of all personal property, real property, and property rights of the Churches and religious associations, their branches, communities, institutions, foundations, Churches, prebends, and funds, and shall submit them to the Government Bureau for Church Affairs within three months after the date on which the present Law takes effect. The details shall be determined by the Government Bureau for Church Affairs.
- (3) Any disposal or encumbering of the property of the Churches and religious associations shall require the consent of the Government administration, given in advance.

Article 12:

Schools for the Education of Clergymen.

The Government shall maintain schools and institutions for the education of clergymen.

Article 13:

Penal Provisions.

Acts or omissions contrary to this law or other provisions based on it shall be punished, if they are not punishable by the courts, by the District National Committees as administrative offences with a fine not to exceed 100.000 Czechoslovak crowns. According to the gravity of the offence a substitute penalty of imprisonment not to exceed six months shall simultaneously be imposed in cases where the fine cannot be collected.

Article 14:

Repeal of Previous Provisions.

All provisions of law which govern the legal relations of Churches and religious associations are hereby repealed.

Article 15:

The present law shall take effect on 1 November 1949; it shall be carried out by all members of the Cabinet.

The oath of loyalty referred to in Article 7 reads as follows:

"I pledge loyalty to the people's democratic order and swear not to undertake anything contrary to its interests. I shall do everything in my power to support the aims of the Government..."

DOCUMENT No. 24

(ROUMANIA)

Decree No. 177 of 4 August 1948.

Article 13:

In order to be able to organize and to function, religions must be recognized by decrees of the Praesidium of the Great National Assembly issued on the proposal of the Government following the recommendation of the Minister of Religious Affairs. Recognition may be withdrawn the same way for good and sufficient reasons.

Article 14:

In order to obtain recognition each religion shall forward through the Ministry of Religious Affairs for examination and approval its Statute, including the system of organization, management and administration used, together with the Articles of Faith of the respective religion...

Article 25:

The Ministry of Religious Affairs shall suspend any decision, instruction or directive, as well as any order having a church administrative, cultural, educational or a charitable character or pertaining to endowments if it is contrary to the statute of the denomination, to the act of its establishment, to public security or public order or morals. The pastoral and circular letters shall be communicated in advance to the Ministry of Religious Affairs.

DOCUMENT No. 25

(ROUMANIA)

Decree No. 175 of 3 August 1948.

Article 1:

Public education shall be organized exclusively by the State along the lines ensuring its structural unity and on the basis of democratic popular and realist scientific principles. Public education shall be secular.

Article 35:

Church and private schools of all types shall become State schools.

Article 37:

Those who by whatever means shall hinder or attempt to hinder the implementation of the provisions of article 35 of the present law shall be liable to penalties of imprisonment, with hard labour, ranging from five to ten years, and to the confiscation of their property.

DOCUMENT No. 26

(ROUMANIA)

Decree No. 176 of 3 August 1948.

Article 1:

For a better organization of the public education, as well as the expansion and democratization of the educational system, all personal and real properties that belong to the churches, congregations, religious

communities, non-profit organizations and trade co-operations and, in general, to individuals or legal entities which were destined to serve as support... to denominational schools, are transferred to the government ownership and shall be used for educational needs.

DOCUMENT No. 27
(HUNGARY)

Ordinance No. 1101 of 15 September 1950 of the Ministry of Education.

Article 4:

Full-time and part-time teachers of religion shall be appointed on the recommendation of the appropriate Church authorities by the Executive Committee of the County Council concerned...

The Executive Committee of a County Council may refuse to grant a mandate to act as teacher of religion or may at any time withdraw a mandate already granted to a teacher of religion who shows a hostile attitude towards the People's Democracy or defiance of the measures taken by that democracy...

Article 5:

Teachers of religion shall be required to prepare exact outlines of the course of teaching and timetables based on the syllabuses and schools approved by the Minister of Education and to do their work of teaching in accordance therewith.

Article 6:

The lessons in religion must be given after the last regular teaching hour is over. Such lessons must be given only in the school building. Teachers of religion may not convene the pupils outside the school for any other purpose whatsoever.

DOCUMENT No. 28
(USSR)

From: Criminal Code of the Russian Soviet Federative Socialist Republic.

"Article 122:

Instruction of the under-aged or minors in religion's doctrine in State or private educational institutions or schools... is punishable by corrective labour for a period of one year."

In countries with a Catholic majority the convents of the different religious orders have been closed, seized by the State, and the members of these orders have been penned up in certain "concentration convents", as they are called in Czechoslovakia. These measures are justified on the score of the lack of hygiene prevailing in the ancient convents. It is particularly significant to read, in this connection, the following article from a paper of the Czech Popular Party, the allegedly Catholic Lidova Demokracie.

DOCUMENT No. 29
(CZECHOSLOVAKIA)

"In our State, the religious Orders have not been oppressed because our State respects what is intangible within the inner structure of the Churches. The regular members of the clergy living for the most part separate, were grouped together in buildings of communities suitable to the monastic life from the point of view of hygiene. Today the members of the clergy already feel the great advantages of such

measures. Thanks to their retreat into monastic communities, they can live in conformity with their ideal; and, still more important, the friars no longer have to live in quarters so antiquated and unhealthy as to be subject to condemnation from the point of view of modern hygiene.

"The cloisters, which have been newly chosen, are healthy and airy, and offer everything to be expected by a man who has chosen the cloistered way, which has been blessed by God and which involves both physical and intellectual labour. While in other so-called Catholic countries, such as Italy and Austria, it is seriously considered to oppress religious orders which have long since lost their *raison d'être*, our People's Republic accords to all, and without the slightest exception, the greatest attention. Although a large number of orders freely express ideas hostile to our State, our government acts in conformity with Christian and humanitarian principles by doing good to those who have been guilty of both faults and errors."

Source: *Lidova Demokracie*, 14 June 1950.

DOCUMENT No. 30
(CZECHOSLOVAKIA)

Deposition: Appeared: Mr. Jaroslav Schubert, born 27 May 1922, at Kosice in Czechoslovakia, curate of the, Catholic Church, domiciled until July 1953 at Benesov nad Cernou, district of Kaplice, Bohemia, domiciled at present at 20 Rathochstrasse, Muenchen-Obermenzig, Czechoslovakia who says as follows:

"From 1948 to 1951 I was a curate in Horni Plana, district of Cesky Krumlov. After that, for a short time I was in charge of the parish of Benesov nad Cernou. In the spring and summer of 1950 there began in Czechoslovakia the dissolution of monasteries. In most cases it happened as follows.

"At night there arrived at the monasteries military units and ordered the monks or nuns on lorries that they brought with them. They allowed them to take only the barest necessities. The monks and nuns were then taken to what is called concentration-monasteries, located mainly in the neighbourhood of the Polish frontier. An example of this was the convent of Broumov. I myself witnessed such measures about June 1950. At that time I was riding a motorcycle through Horazdovice, where the largest convent (mother house) of the order of Notre Dame in Czechoslovakia was situated. There I saw about 60 lorries and a few ambulances, the latter apparently for sick sisters, and a large number of soldiers. As far as I could gather, the inmates of this convent were taken to the above-mentioned concentration-convent in Broumov. I know that the inmates of other convents of that order, who were in Budejovice, were also taken to Broumov. The equipment of the convent was removed at the same time. It was confiscated and I do not know where it was taken to.

"The same year a number of trials of superiors of monasteries took place and ended always with a sentence of imprisonment. It was alleged during the trials that the centers of high treason were particularly in religious houses. This discovery was used as a pretext to dissolve the monasteries. No special law or decree for the dissolution of monasteries was passed.

"I have heard reports on the treatment in the concentration-monasteries from very many eye-witnesses who all agree that the monks and nuns were sent to forced labour in factories and in agriculture. These persons had special quarters at their places of work where they were kept isolated. They did their work in their religious habits. They were escorted to and from their working places in closed groups.

"Attempts were also made to re-educate these religious as Communists by addressing them on anti-religion and pro-Communist themes, but this effort was futile. The religious continued instead to wear their habits and refused to wear civilian clothes.

"The monasteries were mainly placed at the disposal of the military barracks.

"Some of the religious who had expressed their rejection of the Communist system in particularly strong terms, were then taken from the concentration-monasteries to ordinary concentration camps. Religious orders that had carried out pastoral tasks were forbidden to pursue this activity.

"According to my knowledge, I can say with all certainty that neither high treason nor espionage were carried out in the monasteries. Nor was propaganda made against the State, as this would have been in direct contradiction to the rules of the Catholic orders. I knew several of the superiors of religious houses, for instance, the Jesuit Kaipr of Prague, who was sentenced to 25 years of forced labour, although I am completely convinced that he was altogether innocent.

Kaipr had already spent six years in the Dachau concentration camp under the Hitler regime. I had spoken to Kaipr before his arrest. He told me of a talk he had had with the Minister of State Security of that time, Kopriva, with whom he had been imprisoned in Dachau. Kopriva told him that the fact of his imprisonment in Dachau was irrelevant. If he did not collaborate with regime he would be arrested. That happened indeed a short while afterwards.

"As to the question whether Catholic priests in Czechoslovakia took the oath of loyalty in accordance with the Law No. 218, I admit that this oath was taken generally, under instructions from the bishops, in order to safeguard the very existence of the Catholic Church in Czechoslovakia. The bishops themselves, however, did not take such an oath. Thereupon all bishops were either arrested or interned in their residences. Trials for high treason and espionage were then conducted against several bishops. These trials ended mostly with sentences of life imprisonment. Priests who had taken the oath were permitted to continue their pastoral duties. They had not, for instance, to submit their sermons to the State control authorities.

"The offices of all ecclesiastical newspapers had already been seized in the summer of 1948. Some of these newspapers appeared again toward the middle of 1949, but this time under Communist editorship. The religious section of these newspapers was handled by excommunicated priests.

"There is a Government Decree of 20 August 1952, according to which parents must make a declaration every year to the effect that their children should be given religious instruction. This order was not sufficiently circulated and even then only very late with the result that many parents missed the very short dead-line of eight days particularly since it was not allowed to refer to the decree from the pulpit. This declaration by the parents must be delivered personally in the headmaster's office, and the headmasters were instructed to dissuade the parents from delivering their declarations.

I have now received news from Czechoslovakia that even when these declarations were made, they simply vanished. In many cases the headmasters said that they had no forms and because of that the required declaration could not be delivered."

Read, approved, and signed.

19 January 1954.

In individual countries, special organizations have been founded for the supervision of ministers of religion. In addition, parish priests were forced to speak in church on current political questions and to carry out propaganda in favour of Communist measures. Thus, for instance, parish priests had to persuade the peasant population to join the agricultural collectives. Ministers who did not speak on the prescribed themes were removed from office and persecuted.

DOCUMENT No. 31
(CZECHOSLOVAKIA)

Deposition: Appeared Jaroslav Schubert, born 27 May 1922, at Kosice, Czechoslovakia, curate of the Catholic Church, domiciled until July 1953 at Benesov nad Cernou, district Kaplice, Bohemia (Czechoslovakia) now domiciled at 77 Rathochstrasse, Muenchen-Obermenzig, who says as follows:

"The Communist had founded in 1949 a so-called Catholic Action which had among other things the responsibility of giving priests definite directions on their Sunday sermons. This Catholic Action was meant to become an authoritative department of the Church Administration. Attempts were also made to win over the bishops, but they declined and were later removed in the general wave of persecution in 1950. At first a large number of priest and lay persons devoted to the regime were members of the Catholic Action. But after the publication of a Vatican decree in 1949 excommunicating all members of the Catholic Action most of its members left and there remained only priests and laymen who were particularly loyal to the regime and were subsequently excommunicated.

"The so-called Diocesan Peace Committees of priests were then established as a successor-organization. These were sections of an all-State Peace Committee of Priests the Chairmen of which were the expriests and members of Government Plojhar and Horak. This central organization was in turn a branch of the General Peace Committee in which the two above-named men presided. For this function they received the honorary degree of Doctor of Theology from the University of Prague.

"The Peace Committees also published a list of subjects for Sunday sermons. Gradually the functions of the Peace Committees developed to such an extent that they have become in practice the superior authority of all priests, particularly in matters of administration. The chairmen in each diocese are the vicars capitular, who have been put into office by the Communists. It can be said without exaggeration that these Peace Committees have assumed the authority of our bishops.

"The subjects that were given us for sermons were mainly questions of current interest. For instance, we were often instructed to carry out propaganda for the agricultural collectives. With reference to the Korean war, topics included the banning of the atomic bomb. We were also watched to ensure that we did really speak on these themes. However, it was possible to neutralize such a matter to an appreciable extent by a clever approach. If a priest ignored these suggestions repeatedly he had to get ready for arrest although a different reason would be given for such an action. My predecessor in the parish of Benesov, Father Sasina, was a priest who bluntly refused to preach on the given topics and he fled in time before they could arrest him. The rector of the Theological Institute of Budejovice, Father Sidlo, who also preached without touching these themes was arrested in 1952. The reason given for his arrest was irregularities in his ration cards.

Father Sidlo was under arrest by the S.T.B. (State security service) until the end of 1953 when he was sentenced to 15 years of forced labour, as I learned subsequently. Father Maly, a professor of theology who taught at the Theological Institute of Budejovice was also arrested for the same reason a few weeks before Father Sidlo. First he was taken to the concentration-monastery at Zeliv, and about a year later to prison. He was tried with Father Sidlo and other priests and received a sentence of 15 years of forced labour."

Read, approved and signed.

23 February 1954.

Through their constant violation of freedom and religion, faith and conscience, the communist rulers seek to deprive the

population of their last spiritual resistance against the pressures of the regime. Members of the most varied religious sects have been and are being persecuted in every possible way for the sole reason that they profess their faith. In most cases the sentences are passed under the pretext that the defendants had not confined themselves to purely religious activities but had spied in the service of Western powers. Even parish priests and other Church dignitaries of the principal religions have been tried and condemned under the same pretext.

VIOLETIONS OF THE RIGHT TO INSTRUCTION

-
- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
 - (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
 - (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Art. 26, United Nations Universal Declaration of Human Rights.

The Communist masters try hard to win over young people to their ideas. In doing this they but follow the golden rule of all dictatorships which do not feel particularly sure of their future. It is not surprising, therefore, to note the absence of neutrality on the part of the State in matters of education in Communist countries. "The spirit of education is one of Communism", proclaims Article 1 of the Bulgarian Edict on Public Education (Izvestiya na Presidiuma na Narodno Sobranie, No. 90, 9 November 1954). Other legislative texts elaborate the same formula.

DOCUMENT No. 32

(BULGARIA)

Regulation Concerning the Daytime and Evening Schools for General Education.

Article 1:

The schools for general education have the purpose of giving systematic and lasting scientific knowledge to the students, develop in them socially-useful working habits and skills, erect a Marxist-Leninist outlook, and bring the students up in a Communist spirit so that they could become conscious builders and defenders of their socialist fatherland and the cause of peace and proletarian internationalism.

Source: *Izvestiya na Presidiuma na Narodnoto Sobranié*, No. 93, 11 November 1952.

DOCUMENT No. 33
(BULGARIA)

Regulation Concerning the Implementation of the Law on Higher Education.

Article 13:

(g) Professors, associate professors, senior instructors, and instructors are required to indoctrinate the students in a communist spirit.

Article 24:

Students who have shown Fascist and anti-people behaviour shall be expelled ...

Source: Izvestiya na Presidiuma na Narodnoto Sobranie, No. 82, 16 October 1953.

In violation of the right of education, which belongs to all, in violation of the principle of the equality of all citizens before the law, as well as its corollary, non-discrimination — even though inscribed in the constitutions of all Communist states (and, what is more, imposed by the Charter of the United Nations) — the Communist leaders have organized education in such a way that only those young people chosen by virtue of having political ideas favorable to the regime, or else whose social origin is "orthodox", are allowed to receive education. Certainly, discrimination was never proclaimed as cynically and openly in Communist law.

DOCUMENT No. 34
(CZECHOSLOVAKIA)

Circular of the Ministry for Education of 25 November, concerning Admission of Applicants for Higher Schools in the School Year 1955/56.

... With regard to the selection of applicants it shall be necessary to see to it that the social composition at higher school level corresponds with the class composition of our society. To attain this purpose it shall be the duty of teachers of eleven-year secondary schools and technical schools to render assistance during the whole period of study by a vigilant contact with each pupil, especially those children of working and small-land-holding families whose parents cannot give sufficient care to their preparation of homework. The applicants of families of former capitalists and the village rich may be admitted for higher schools only in very special cases deserving of special attention and then only with the assent of the Ministry of Education.

...
Source: Vestník ministerstva školství, No. 126, Vol. X, issue 34, 10 December 1954.

DOCUMENT No. 35
(ROUMANIA)

Decree No. 175 of 2 August 1948.

Article 12:

At the secondary school in the eight grade, the admission of students will be made after examination, taking into account the fact that fifty per cent of the enrollment is reserved for the sons of workers employed under collective contracts, sons of poor peasants, and sons of public and private employees who are members of labour unions.

After filling the fifty per cent of the reserved enrollment with this category of students, according to the marks on the entrance examinations, the balance of the available openings will be filled according to the results of the entrance examinations of other students.

Source: Monitoral Official, No. 177, 3 August 1948.

DOCUMENT No. 36

(ROUMANIA)

Extract from the Declaration of Florice Mezincescu, Associate Minister of Education on the Opening of the 1949—1950 School Year.

"... therefore it is not a matter of indifference to us who enters high schools. We must watch the social status of the pupils; they must represent the great mass of the working people, which has the guiding role, then the working peasantry, their ally; public officials of all kinds and the small artisans, who march in step with the building up of socialism."

Source: *Gazete Invatamantului*, 23 September 1949.

DOCUMENT No. 37

(BULGARIA)

Resolution of the Council of Ministers.

Article 1:

In order to create a socialist intelligentsia from among the workers loyal to the People's Republic and the people's government, the Committee on Science, Art and Culture is required to admit to the institutions of higher learning for 1950-51 young workers (men and women) from 35 to 40 per cent of the total enrollment of new students. The young workers shall be chosen through the services of ORPS (Trade Unions) and CC of DSNM (Central Committee of the Youth Organization) in the main from among shockworkers, innovators, leaders and members of youth production brigades...

Source: *Durzhaven Vestnik*, No. 50, 1 March 1950.

DOCUMENT No. 38

(HUNGARY)

Deposition: Appeared S.P., technician, born 1 January 1933, at Budapest, last resident in Budapest, from where he fled on 11 October 1953, at present domiciled in Austria, who says as follows:

"In June, 1952, I enrolled for a two-years' course at night school, in order to obtain my bachelor's degree which is necessary for later studies.

"At the moment of the enrollment questions were asked concerning:

- 1) Social origin, i.e., the social status of parents, as only children of peasants and workers were admitted;
- 2) Membership in a church and attendance at services. If one declared that he went regularly to church he was not admitted;
- 3) Similarly, I had to furnish references, particularly from the enterprise where I was last employed (and these documents should come from the directing committee of the enterprise) as well as further references from the secretary of the Communist Party cell in the enterprise and the Communist youth organization."

Read, approved and signed.

Wels, 19 August 1954.

DOCUMENT No. 39

(POLAND)

Deposition: Appeared Henryk Noch, born 15 July 1930, locksmith, of Polish nationality, last resident in Gdansk, Kartuska 86/88, apartment 7, Poland, at present of "Am Sandwerder 17/19", Berlin-Wannsee, who says as follows:

"In October 1950, after my graduation, I was admitted to the commercial school of Zoppot. At that time there were some 500 candidates; only 133 were admitted, not counting 50 who were directly

admitted without entrance examinations as a result of their being authorized by the Polish Youth Organization to make such studies — the entrance examination being primarily a political matter. Candidates of capitalist origin were categorically rejected. During the four semesters that I stayed in the school, the time was generally spent as follows: 5 hours per week devoted to Marxism-Leninism; 5 hours to political economy; even technical courses, such as accounting, statistics, mathematics, etc. were given a definitely political slant. Thus, for example, statements from Stalin on the importance of accounting for Socialism, or the point of view of Engels on mathematics were quoted. In addition there were 12 hours a week for military training. At my school this training was conducted by a Lieutenant-Colonel . . .”

Read, approved, and signed.

Berlin 3 November 1954.

In Hungary discrimination is organized in a manner that might be called “scientific”. Students are divided into four categories according to the origin of their parents, i.e., according to the ideas the regime has on the “Socialist” character of a given profession.

DOCUMENT No. 40

(HUNGARY)

Decree No. 1.207—10/1950 on Tuition Fees in Secondary Schools.

Article 3:

From the point of view of social origin the pupils fall into the following four categories:

- (a) children of toilers, artisan helpers, and members of a production co-operative;
- (b) children of working peasants (up to 10 holds), manual workers of the Post Office and transportation enterprises (streetcar driver, conductor, line-man of the Hungarian State Railroad, letter carrier, etc.), the manual workers of the service industry (hotel, restaurant, bath and commercial employees), and public employees (teacher, civil servant, soldier, policeman, office helper, porter, etc.);
- (c) children of working peasants (from 10 to 25 hold), employed intellectuals (actor, journalist, technical employee of a national enterprise, etc.), and the children of janitors, and last;
- (d) the children of parents of other occupations.

The norm applied for the admission to school is equally valid in the assigning of scholarships. This can be seen from the list of members of the Council who are competent for the awarding of prizes. To obtain a scholarship the student’s attitude towards the regime is evidently of primary importance.

DOCUMENT No. 41

(ROUMANIA)

Decree No. 167.

Article 7:

Nominal distribution of scholarship shall be made at universities and institutes of higher education by a board composed of the following:

- The Rector of the university or of the institute of higher education or the Dean of an institute with a single faculty.
- The Director of Studies or a professor appointed for this purpose.
- A Delegate of the course in Marxism-Leninism.
- The secretary of the organization P.M.R. [Roumanian Workers Party (Communist)] for that institution.

- A Delegate of the local trade-union.
- A Delegate of the local organization U.T.M. [The Union of Working Youth (Youth Communist Organization)].

Source: Buletinul Oficial, No. 58, 12 July 1950, pp. 699-700.

DOCUMENT No. 42
(BULGARIA)

General Regulation on Scholarships.

Article 1:

Scholarships shall be granted to students who are sons and daughters of workers, working peasants, and employees, who are in need of financial support, have an affirmative attitude toward the policies of the people's government, and have shown a good standing in their studies.

Source: Izvestiya na Presidiuma Narodnoto Sobranië, No. 8, 26 January 1954.

VIOLATIONS OF THE FREEDOM OF PRESS

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Art. 19. United Nations Universal Declaration of Human Rights.

The freedom of press is also listed as guaranteed in the Constitutions of the Soviet Union and of the people's democracies. But this freedom too is denied to the inhabitants of those countries, mainly because the printing and distribution of non-communist home publications as well as the circulation of foreign papers would enhance comparisons which could easily jeopardise the very existence of the regime. Consequently, only agencies of the Communist Party and its "transmission belts" are authorized to publish newspapers and distribute all printed matter.

DOCUMENT No. 43 (CZECHOSLOVAKIA)

Act No. 184 regarding the Publication of Periodicals and the Association of Czechoslovak Journalists of 20 December 1950.

Publication of Periodicals

Article 1:

It is the duty of the Press to assist in the constructive efforts and struggle for peace of the Czechoslovak people and to contribute to their education towards socialism.

Press publications, newspapers, magazines and other periodicals thereafter referred to as periodicals may not be objects of private enterprise.

Article 2:

The publication and distribution of periodicals shall be directed by the Ministry of Information and Education, in the case of technical periodicals in agreement with the competent central authorities.

Article 3:

(1) Licences to publish periodicals may be granted to: —

1. Political parties of the Popular Front,
2. State authorities,
3. The federation of the trade-unions,
4. Central cultural, economic, mutual assistance, social and physical education organizations.

(2) Licences to publish periodicals may also be granted to national and communal undertakings, undertakings authorized to carry on foreign trade, people's associations, and other legal persons, but only if the publication is shown to be necessary for their performances of an important public function.

A series of legislative measures have been taken to suppress in a most drastic manner all traces of liberty of press in the satellites. The example of Roumania will allow one to understand the mechanism.

a) **Censure:**

Severe censure is exercised through the intermediary of the Office of Press and Publications, set up by Decree No. 218 of the Praesidium of 20 May 1949. The functions of this office, attached to the Chairman of the Council of Ministers, are outlined in the following document.

DOCUMENT No. 44
(ROUMANIA)

Article 1:

The Directorate General of the Press and Publications has the following functions:

- (a) ...
- (b) To approve the publication of any printed matter (newspapers, periodicals, programs, posters, etc.) ...;
- (c) To approve the printing of books of every kind, in the capital and in the provinces;
- (d) To approve the distribution and sale of books, newspapers, and any other printed matter and the import or export of newspapers, books, or art objects;

Source: Buletinul Oficial No. 32 of 23 May 1949.

On 16 March 1950, Decree No. 62 of the Praesidium established the General Office of Publishing Houses, Printing Industry and Distribution of Books and Newspapers, also attached to the Chairman of the Council of Ministers (Official Bulletin No. 26 of 17 March 1950). Its duties are defined in a decision of the Council of Ministers (No. 409 of 4 April 1950) amended by decree No. 603 of 23 June 1951.

DOCUMENT No. 45
(ROUMANIA)

Decree 603, Amending Decree 409 of 1950 by the Council of Ministers on the organization, activity and general management of publishing firms, the printing industry, the book trade and the press.

The following Decree was issued at the session of the Council of Ministers on 23 June, 1951:

Articles 1, 3 and 4 of Decree 409 of the Council of Ministers, published in the Official Gazette No. 36 of 20 April, 1950, on the organization of ... etc., are amended as follows:

Article 1:

The general management of publishing firms, of the printing industry, of the book trade and the press established under the Council of Ministers of the Roumanian People's Republic has the following competence:

- a) Direction, organization, and co-ordination of the *activities of all publishing houses.*
- b) Direction, organization, and co-ordination of the *activities of all printing plants, of printer's ink factories, of type foundries, which come under the authority of the general management E.P.D., of the State institutions, or any other persons;*

- c) ...
- d) ...
- e) *Direction and organization of newspaper distributions;*
- f) ...
- g) ...
- h) ...
- i) ...
- j) *Control of the quality of publications regarding their contents and their artistic and graphic standards;*
- ...
- ...
- ...

Source: *Buletinul Oficial*, No. 75, 10 July 1951.

b) Organization of the profession of journalists: .

In Roumania there exists no legislation organizing the profession of journalism; yet, in fact, membership in the trade-union, established and authorized by the government, is obligatory for all journalists. It is likely that one day the government will adopt a decree which will supply, recognize and confirm this situation of fact. Indeed, it is characteristic of communist law that very often a reform is first introduced by simple administrative measures, or even by simple practices inspired by the Communist Party, which are next, *ex post*, codified into a legislative text. Such a practice is obviously a serious threat to legal security.

In Czechoslovakia the journalist profession is regulated by a decree of the Ministry of Information.

DOCUMENT No. 46
(CZECHOSLOVAKIA)

Act No. 184 of 20 December 1950.

Association of Czechoslovak Journalists

Article 8:

- (1) An Association of Czechoslovak journalists shall be created to ensure that journalists properly discharge their duties in accordance with article 1. *Only persons admitted to membership of the Association of Czechoslovak Journalists may practice as professional journalists.*

DOCUMENT No. 47
(CZECHOSLOVAKIA)

Decree No. 21 of the Minister of Information and Education containing Rules of the Association of Czechoslovak Journalists of 13 March 1951.

Membership

Article 3:

- 1) A person shall become a member of the Association upon admission by its executive board.
- 2) A person may be admitted to membership in the Association if he: —
 - a) Is a Czechoslovak citizen;
 - b) Has attained eighteen years of age;
 - c) Is a reliable supporter of the people's democratic system and an active participant in the building of socialism in the Czechoslovak Republic;

- d) Has professional and moral qualifications satisfying the high standards required of journalists;
 - e) Is a practising journalist.
- 3) Persons who do not satisfy the requirements of paragraph 2 (a), (b) or (e) may be admitted to membership of the Association with the approval of the Ministry of Information and Education.

Rights and Duties of Members

Article 10:

Members of the Association are responsible for all their acts to the working people. They shall be bound to serve faithfully the People's Democratic Republic of Czechoslovakia; to support the brotherly relations and unity of the two peoples of the Republic; to deepen and strengthen faithful brotherly relations and solidarity with the Union of Soviet Socialist Republics and friendship and solidarity with the People's Democratic States; to take an active part in the struggle for peace and democracy; to unmask systematically their enemies; and to oppose fascist ideology in any form.

c) *Source of information:*

In the USSR and in countries of the people's democracies, foreign news, like news from the country itself, is furnished to journalists only through the intermediary of an official agency closely controlled by the Communist Party. In Roumania, the Agency Agerpress has a monopoly on all information. (Created by Decree No. 217 of 20 May 1949, its functions are outlined in article 2):

DOCUMENT No. 48
(ROUMANIA)

Decree No. 217 of 20 May 1949.

Article 2:

- (1) The agency Agerpress has the following functions: receptions, transmission and distribution of foreign and domestic political, economic and cultural, news and press pictures.
- (2) The right to exercise these functions belongs exclusively to the agency Agerpress. News transmitted or distributed... may not be used in any form except on the basis of a contract with the agency Agerpress."

The same is true for the other countries; the function of issuing a trickle of propaganda, one cannot honestly call it news, belongs to the following agencies: in the USSR — TASS; in Poland — PAP; in Czechoslovakia — Ceteka; etc.

The inhabitants in the countries of the communist orbit consequently are supplied only with that information which the government deems is in conformity with its politics.

Publications from "capitalist countries" do not reach their destination, frequently as a result of seizures instituted by the postal administration. Thus, in the Soviet Zone in Germany the post-offices have received orders to hold all publications coming from Western Germany or from non-Communist countries. Only scientific publications find some measure of grace, only because the "Central Office for Scientific Literature" (Zentralstelle für Wissenschaftliche Literatur) had previously given its consent.

DOCUMENT No. 49
(SOVIET ZONE OF GERMANY)

District Authority for Posts
and Telecommunications
P 2 2355—0/5

Erfurt, 23 Dec. 1953
Beethovenplatz 3
Telephone 5155/300

To the Head of
the Main Post Office

Highly confidential
Subject: Handling of newspapers,
periodicals, and other printed ma-
terial from Western Germany and
capitalist foreign countries.

New regulations have become necessary in view of the increasingly frequent complaints regarding non-delivery of scientific periodicals and as a result of the Government's new courses.

1. Newspapers, periodicals, and other printed matter arriving in parcels and packages are subject to control at the checking points or the customs offices. At the checking points or customs offices they will be removed from the parcels and packages, examined along the lines indicated by the Central Office for Scientific Literature (ZWL), and either delivered to the addressees through the Central Office for Scientific Literature, or seized, according to their contents and their nature.
2. Newspapers, periodicals and other printed matter arriving in wrappers or as open letter mail are to be checked at the post offices of their places of destination even if it is known that a check has already been made elsewhere.
3. The following are to be secured and forwarded to the proper offices without further check:
 - a) Provocative publications such as "Tarantel", "Der Kleine Telegraph", etc.;
 - b) Trashy novels (books priced up to 50 Pfennig), such as "Lore-Romane", "Roswig-Romane", "Romanheft für Alle" (Western editions), "Humor im Hause", and others;
 - c) Well-known illustrated papers such as "Quick", "Stern", "Frankfurter Illustrierte", "Konstanze", "Wochenend", etc.
4. Newspapers, periodicals, and other printed matter the title or the contents of which agree with the field of specialization indicated on the special authorization to receive scientific literature from Western Germany and from capitalist countries are to be delivered without delay to holders of such special authorization.
5. *All other newspapers and periodicals that do not appear on the postal list of newspapers, and other printed matter, if destined for an addressee without special authorization, are to be sent without delay, at least once a week, in sealed bags and without changing the listing of sender and recipient, to the Central Office for Scientific Literature, 8 Unter den Linden, Berlin NW 7, via Post Office Berlin N 4. The Central Office for Scientific Literature shall carry out a check and decide on delivery or non-delivery. The mail thus forwarded must show clearly the names of sender and recipient. That also applies to all enclosures.*
6. Newspapers, periodicals, and other printed matter checked by the Central Office for Scientific Literature and released for delivery to the recipient are marked with a control stamp if they are in parcels or packages, or with an additional cancellation stamp of the Post Office Berlin N 4 if they are in form of letter mail or simply wrapped with a band. Such mail is to be delivered immediately to the recipient without further check.
7. Mail to be sent for checking to the Central Post Office for Scientific Literature (point 5) must be accompanied by a rough list of all items contained in one bag. The list must show the names of sender

and recipient and their addresses, the mail classification (printed matter, special delivery, etc.) and, where applicable, the despatch number. Such lists are to be prepared in triplicate. One copy remains with the office of origin, and two copies are to be enclosed in the bag.

After checking the mail, the Central Office for Scientific literature (ZWL) shall send one copy back to the office of origin via Post Office Berlin N 4. *This copy has to show all mail that has been seized.*

8. The above directions apply equally to mail marked "via ZWL" beside the recipient's address.
9. Post Offices are to be instructed that mails from Western Germany, West Berlin and all foreign countries may be accepted if the sender adds the remark "via ZWL" after the address. Such mails are to be dealt with in accordance with point 5 of this instruction.
10. This regulation enters into force on 4 January 1954.
11. The Checking Offices are being supplied with direct instructions to the same effect.

Signed Richter.

The Communist Party exercises the direction of all newspapers, whether in the capital or in the provinces, whether in papers of different associations or even of another political party. Its "directing role" recognized by the Constitution, authorizes it to do so.

DOCUMENT No. 50
(CZECHOSLOVAKIA)

"...It is indispensable that the direction of a provincial newspaper rest directly in the hands of the leading secretary of the regional committee of the Party. It is further the duty of the regional (Communist) Party committees to... work out long-term plans of action for particularly important campaigns..."

Source: *Rude Pravo (Prague)*, 31 January 1953.

DOCUMENT No. 51
(BULGARIA)

"... the various activities of the press unfold under the constant and direct attention of the Bulgarian Communist Party, which must concern itself with the development and strengthening of the press so as to raise its ideological and political level. Thanks to this preoccupation, our press has become a people's press and closely connected with the tasks of building Socialism.

"The power of the press depends upon its close and constant direction by the Party. In correspondance with the directives and instructions of the central committee of the Party, the departmental, district and city committees devote much care to organizing and publishing the local press and handle in a systematic and concrete manner the direction of their organs.

"The committee of the Party in the district of Plevno directs and constantly follows the activity of every newspaper. Through a series of Resolutions it indicates to the editorship the principal questions which, in the district, should be treated in the press. The office sets the plan of articles by the editors as well as of editorials. Similarly, the office, while planning out its campaign for the annual gathering in of harvests, defines the tasks of the newspaper. On the basis of the resolutions of the office of the committee of the Party the editorial board prepares the quarterly scheme of work for the publication, which then is confirmed by the session of the committee."

Source: *Rabotnitchesko Delo*, 15 July 1954.

In a communist country the journalist who wished, despite everything, to believe in the freedom of the press, as well as to practice in a field of his own choosing, runs into conflict with all the oppressive and intimidating measures possessed by the system.

DOCUMENT No. 52
(POLAND)

Deposition: Appeared editor Wacław Gwizdak, of Warsaw-Grochów, Komorska 22a, temporarily residing in a camp for refugees, who says as follows:

"... I finished my legal studies at the University of Warsaw, as well as my journalistic studies at the Faculty of Arts in the same university. By profession I was a journalist until my flight and I worked for newspapers in Warsaw from 1949, including 3 years on the evening paper of Warsaw, 'Express Wieczorny'.

"As a member of the editorial committee of this newspaper, I wrote in 1952 a chronicle devoted to the cultural needs of the population in the country. Here I particularly mentioned a fact with which I was thoroughly familiar, namely, the noticeable lack of schoolbooks for the rural population. It was a question of an established fact.

"This article arrived, as was customary, before the censor. This office is located in Warsaw at Bracka No. 6 occupying there a building where must be submitted all the proofs from every Warsaw newspaper for what is called 'preliminary censorship'.

"The next day the editor-in-chief, Rafael Praga, since dead, ordered me to his office and informed me that the censor had raised some objections against my article. It was objected that I had neglected to inform myself sufficiently on the largest aspect of the plan for publishing schoolbooks. But this was merely a pretext. The truth, however, was that I had mentioned painful and compromising facts, and that these, in any case, should not be set before the public. This was confirmed, though in a totally unsuspected way, when I presented myself at the Ministry of Education to defend myself against the complaints of the censor.

"An employee who was most kindly disposed towards me, tipped me off that I had been playing with fire and that I should be extremely careful about not doing so again in the future, if I did not wish to lose my job. The article in question never got into print."

Read, approved and signed.

DOCUMENT No. 53
(ROUMANIA)

Deposition: Appeared Oscar Cernea, born 21 November 1908, in Bucharest, Roumania, a journalist by profession, who says as follows:

"I worked on the Roumanian democratic daily newspapers Dimineata and Adevarul from 1926 until 1938, when these newspapers were closed by the anti-Semitic Government of Goza-Cuza.

"After 23 August 1944, I and many journalists, together with the managing editor of the newspapers Adevarul and Dimineata, began to work for the democratic Roumanian newspaper, Jurnalul de Dimineata. In addition to writing articles I was assigned by the Management Board of the newspapers to obtain news from the Ministry of Information. Through this Ministry the Communist Party used to give instructions as to how to publish the news in the newspapers. My newspaper, however, used to avoid the publication of most of the news received from the Ministry of Information because we knew that it was not true. From August 1944 to July 1947 our newspaper was forced to struggle against great hardships caused by the Roumanian Government agencies

because we did not publish the news which we had received. In the first place, we were not given even a half of the paper we needed for our readers. Secondly, the censorship forbade us to publish articles containing speeches or activities of Western European and American statesmen.

"When a report including a speech of a non-Communist leader was given for publication, the workers of the printing shop were so influenced by their leaders under pressure of repressions and terror that they refused to set and print such speeches.

"It happened many times that because of such things the newspapers could not appear many days in one month. In July 1947 the chief of the censorship, Don Carnes, informed us by telephone, not in writing as prescribed, that the newspaper should no longer be sent to the censorship because it would not be censored. Since a newspaper cannot appear without the approval of the censor, it actually meant that the newspaper was not allowed to appear any more. All attempts to intervene and demand an explanation of the cause of this were futile. Five days later, the Communists occupied the building of the editorial board and pressure was exerted on some of the editors to work on Communist newspapers.

"Some of my comrades submitted to the pressure of the Government agencies and had to begin to write as they were ordered from above. They had to begin to curse and besmirch all the great and revered statesmen at home and abroad who were not adherents of 'people's democracy'. My conscience, however, did not allow me to agree to this dirty pressure to the effect that I should sell my soul and write what I am forced to write and not what I wish myself.

"When I was told through different people that I would suffer the consequences of my decision, I began to look for a way to leave the country. After great privations I succeeded, together with my wife, in crossing the frontier clandestinely and saving us from a regime which is just as dangerous for freedom as was Hitler's regime."

Read, approved, and signed.

VIOLETIONS OF THE SECRECY OF MAILS

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Art. 12. United Nations Universal Declaration of Human Rights.

With the rulers of the Communist-dominated countries imposing the closest watch over the most secret impulses of their citizens, there is naturally no respect for the secrecy of the postal service. Under the direct guidance of the security police, the administration exercises a strict control over the entire correspondence of the population. The post offices themselves have become part of the State supervisory system.

DOCUMENT No. 54

(CZECHOSLOVAKIA)

Deposition: Appeared Andreas N.N., born 22 November 1911, at Sobenov, lately domiciled at Benesov nad Cernou, from where he fled on 20 July 1953, who says as follows:

"From 1945 until I fled, I was post official at Benesov nad Cernou and was employed as a postman as well as on counter duties. All mail going from Czechoslovakia to foreign countries had to be sent to Post Office No. 7 in Prague where a check took place. Regarding mail arriving from abroad, the check took place as follows: the State Security Service (STB) gave the postmistress in charge a list of names. Mail arriving for these addressees was placed in a special box reserved for the STB. This mail went then to the STB for checking. When these letters returned to us for delivery to the recipients, it could be seen that they had been carefully opened and resealed... An acquaintance of mine who worked at the post office of Kaplice — our district center — told me that a certain proportion of the letters were photocopied. I know too that a number of letters were not returned for delivery to their addressees. I often noted, as did several of my colleagues, which letters were placed in the STB box and then checked which letters came back. Persons whose letters were checked were mainly Germans who had remained in Czechoslovakia; there were also elderly people and pensioners sent to our village from Prague, and people whom we knew to have relatives in Western countries...

"The STB controlled us in the following manner: It sent letters to persons under suspicion whose names were known to us. According to the instructions given to us we had to place in the STB box all letters from abroad addressed to such persons. These control-letters of the STB were therefore meant to ascertain whether we did in fact follow our instructions. The letters bore the name of the foreign sender on the reverse side. When for instance a relative of a person living in our village sent often letters, we got to know the sender's handwriting in due course. Now if a letter arrived from the same sender with a different handwriting, we knew that it was a control-letter of the STB. At first sight these letters look exactly like letters from abroad, with postage

stamp and cancellation stamp. *Parcels arriving from abroad went first to the customs office at Ceske Budejovice, from where the municipal office of the district of the recipient's residence received a questionnaire on the financial circumstances of the recipient and whether he displayed a hostile attitude toward the regime.* If the latter question was answered in the affirmative, the custom duty was particularly high. These questionnaires were introduced in the spring 1953. I saw one myself, for the major of the village came to us several times not knowing how to fill out these questionnaires. I know of one case where a railway technician named Saska received two parcels from his daughter who lived in Western Germany and had to pay for them a duty of 600 crowns in new currency which I had to collect. *Saska was considered suspect because his daughter lived in West Germany.* According to my estimate, a duty of not more than 20 crowns in new currency would have been normally imposed in such case.

"I know from a colleague who worked in Kaplice that the STB in that town was in a position to listen in on all calls passing through the local telephone exchange. At one time the control of calls was made by trusted men of the STB, who worked at the post office; later the lines were arranged in such a manner that all calls that went through Kaplice could be monitored at the STB headquarters. The Kaplice telephone exchange was the one for the whole district, so that all calls made in that district went through Kaplice.

"The following happened to me on two occasions, namely in the Fall of 1952 and in the Spring of 1953:

"I lived in the post office building. The mail arrived from Kaplice in the postal van at about 7 a.m. I went downstairs and carried the post bags into the building where they were then sorted. On these occasions a man in civilian clothes who was present at the arrival of the postal vans directed that the post bags should not be opened. When I told him that he had no authority in our post office, he identified himself as an STB official. I then called over the postmistress, and it was decided that the postbags be opened in his presence. He proceeded to look through all the letters and I was able to observe that he put several of them into his pocket. On each occasion it was a different man."

Read, approved and signed.

22 February 1954.

(The name is withheld from publication on security grounds, as there are still relatives of the witness living in Czechoslovakia).

DOCUMENT No. 55

(HUNGARY)

Deposition: Appeared N.N., born 1 January 1932, last place of residence in Budapest, fled Hungary in 1954 and presently living in Vienna, who says as follows:

"From August 1952 to August 1953 following my liberation from an internment camp, I had been imprisoned for desertion from my place of deportation. I was under police surveillance. This explains how I communicated all my correspondence to the police. Then I addressed letters to friends without transmitting them to the police, but sending them to another place and not mentioning my name, neither on the envelope nor in the letter, though nevertheless signing my real given name.

"One day at the beginning of 1953, a police-officer appeared at my place and notified me that I should not longer send off such letters, since I must submit all my correspondence to the police. He threatened me with sanctions if I did not give heed to this warning.

"It is customary that persons subject to supervision by the police should submit to them their correspondence, so that it may be stamped. But I knew of one case where letters were stamped without the above-cited stipulations being fulfilled. A gentleman whom I knew, aged about 70, sent a letter to a friend in which he emitted opinions unfriendly to the communist regime. One day during the summer of 1954

a member of the National Security appeared before him; he was thrown into prison because of this letter. He was not condemned but, according to information I had obtained, he obtained his release from the secret police at the end of three months.

"I am firmly persuaded that it was not his friend who handed this letter to the police, but that it was in exercising its postal censorship that the police became aware of its contents. It is well known that the official stamping is performed not only on letters to foreign countries, but equally on letters exchanged within the national boundaries. For that reason every individual is most prudent about his correspondence."

Read, approved and signed.

In the Soviet Zone of Germany, persons expressing disapproval of the political and economic conditions in a letter that is seized in a mail-check are punished with penal servitude.

DOCUMENT No. 56
(SOVIET ZONE OF GERMANY)

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Judgment.

In the Name of the People!

In the penal proceedings against:

Rudolf Paul Diessner, domiciled at Ottenhain, Kreis Loebau, at present in custody in Prison No. II in Bautzen;

for crimes under Directive 38 and Article 6 of the Constitution of the DDR.

The Higher Penal Chamber of the Land Court in Bautzen, fourth division, at the session of 26 February 1951, at which participated;

Senior Judge Rausch, President

Municipal court judge Mueller, assisting judge,

Gottfried Schmidt, engineer, from Bautzen,

Karl Gerber, pensioner, of Bautzen,

Ernst Krupper, stone mason of Demnitz-Thumitz, lay assessors.

Public Prosecutor Preuss, representing the prosecuting authority,

Law clerk Poetschka, recorder.

has passed the following judgment:

The defendant, who is politically incriminated under Control Council Directive 38,

is sentenced, for incitement to the boycott of democratic institutions and for the invention of tendentious rumours liable to endanger peace, to 18 months of penal servitude, the time spent in custody to be included since 22 April 1950, and to the sanctions provided for under Control Council Directive 38, Section II, Art. IX (3—9) whereof item 7 shall apply for 5 years.

Reasons:

The accused is the former lawyer Rudolf Paul Diessner, born 28 February 1912, in Hoernitz, Kreis Zittau, domiciled in Ottenhain, Kreis Loebau, in custody since 22 April 1950.

The taking of evidence at today's trial and the defendant's full admission give the following facts of the case:

The defendant belonged to the NSDAP, the SA and the NSRB from 1931 to 1945. In the SA his rank was that of Oberscharfuehrer. Because of his political activity during the Nazi regime he was no longer licensed to practice under democratic justice after 1945. After 1945 he did not join any political party or organization.

The accused maintained correspondence with a former colleague in

Western Germany, a certain von Wietersheim. In a letter to von Wietersheim dated 22 January 1950 he indulged in cynical expressions showing the DDR in the worst possible light. The letter said, for instance: "Coal shovels can also be had very cheaply here because there is no more coal to be bought. (One piece for 97 East Pfennig; imagine how much you can get on a shovel for 1 West-Mark)" Later on: "You already know that the word 'fat' has become synonymous with 'rare' in the East Zone language. Your margarine differs from our butter only in that it tastes better and contains no black spots." The defendant wrote further: "At any rate, you still have an appreciable fortune in East-Marks; I only await your orders. How would you like a bust of Stalin, or Lenin's Complete Works, or a collection of atonal music records?" — "I have not seen any more coffee grinders. Mincers, too, have disappeared from the shop windows because we had a meat allocation at Christmas."

There was no doubt for the Penal Chamber that such expressions represent an incitement to boycott democratic institutions. From such descriptions the population of the West gains a completely false picture of the economic conditions in the DDR. It is known that many persons who have lost their daily bread in Western Germany because of the disastrous policy of the so-called Federal Government of Bonn and of the Western Occupying Powers, would like to resettle in the DDR. This is especially the case with physicians and skilled workers because there is plenty of work for them here. Such statements will deter those people from realizing their wish. The defendant had therefore rendered himself punishable under Art. 6, Sec. 2 of the Constitution of the DDR. At the same time he invented tendentious rumours liable to endanger peace and thereby committed an offence under Control Council Directive 38, Section II, Art. III A III. Thus he should be also classed as a politically incriminated individual. The Public Prosecutor demanded a sentence of 2½ years of penal servitude and the compulsory sanctions of Control Council Directive 38 for politically incriminated persons.

In evaluating the evidence the court has deemed it an aggravating factor that the accused, as an academically trained lawyer, could gauge exactly what effect his cynicism would have on the West German population. His own attitude toward the DDR is reflected by the fact that he has not sought any productive work since 1945, although, despite his leg injury, he could have been employed as a workshop labourer, switchboard operator, or the like. Yet — as is shown later — he waited patiently for the readmission of former party members to law practice. He was not prepared to give up his pride of place and to vindicate himself through productive work. In the opinion of the Court, a point in favour of the defendant was the fact that there was only one letter with such provocative statements in the extensive correspondence he conducted with his West German acquaintance. The Penal Chamber therefore concluded that a sentence of eighteen months of penal servitude and the application of the compulsory sanctions of Control Council Directive 38 for political offenders was sufficient, but also necessary, and passed judgment accordingly.

The sentence is based on Sect. 1 of the Penal Code in accordance with Art. 6, Sect. 2 of the Constitution of the DDR, and the sanctions are specified in Control Council Directive 38, Sect. II, Art. IX. (3—9). The time spent in custody was included in the sentence in accordance with Sec. 60 of the Penal Code. The decision on costs is based on Sec. 465 of the Penal Code.

Done at Bautzen,
7 March, 1951
Land Court, Bautzen

(Signed) Rauch, Senior Judge
also for Municipal Judge
Mueller in his absence.

II. RESTRICTIONS ON OR ELIMINATION OF FREE ELECTIONS — VIOLATIONS OF RIGHTS AND DUTIES OF DULY CONSTITUTED LEGISLATIVE BODIES

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Art. 21, United Nations Universal Declaration of Human Rights.

ABSENCE OF FREE ELECTIONS

The Communist rulers of the Soviet Union and of the countries under its domination realize that they would be most certainly rejected by the great majority of the population in any election conducted in accordance with the principles of democratic freedom. That is why such elections are never held in the Soviet orbit. The Constitutions of the respective countries provide that only the so-called public organizations and toilers' associations may present candidates for election. We have already shown in the section on Limitations of Freedom of Association and Assembly that the only tolerated organizations are those whose aims agree with the interests of the rulers and which are controlled and directed by the Communist Party. Furthermore the choice of candidates for Parliaments and other representative bodies rests exclusively with the so-called National Front, to which in fact all organizations and associations have been affiliated. Here too the individual Communist Parties are the "motivators and the driving force of all activities" so that all persons out of favor with the system can be conveniently eliminated at the time of the selection of the candidates.

1. Nomination of Candidates

DOCUMENT No. 57

(USSR)

Article 141 of the Constitution of the USSR:

Candidates are nominated by election districts.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, cooperatives, youth organizations and cultural societies.

DOCUMENT No. 58

(ROUMANIA)

Article 100 of the New Constitution of the Roumanian People's Republic of 24 September 1952.

Candidates for election shall be nominated according to constituencies and following the procedure laid down by law.

The right to propose candidates shall be granted to all public organizations, the organizations of the Communist Party of Roumania, the Trade Unions, the cooperatives, youth organizations, cultural associations and other mass organizations.

DOCUMENT No. 59

(CZECHOSLOVAKIA)

Law on the Elections of the National Assembly of 26 June 1954.

Article 21:

(1) Candidates for the election to the National Assembly are candidates of the National Front, composing a union of workers, peasants and intellectual workers. The National Front — a fighting vanguard of the Communist Party of Czechoslovakia, of the Revolutionary Trade Union, of the Union of Czechoslovak Youth, of the Party for Slovak Renovation, of the Slovak Party for Liberty and other organizations of the working people — propose as candidates the best workers, the members of the United Agricultural Cooperatives (kolkhozes), small and average peasants and members from among the intellectual workers.

(2) The meeting of workers, peasants and other workers in plants, administrative establishments and villages, and the meeting of soldiers and members of other armed units propose the candidates to the National Front.

(3) The candidates are proposed separately for each electoral district.

Article 22:

Candidates for the elections of the National Assembly are announced at the end of registration by the electoral commissions of the district before the day of the elections.

From reading the above articles it is obvious that it is the National Front which designates the candidates. Even if, within the National Front, other parties than the Communist Party are represented, it remains no less true that the decision rests in the final analysis with the "avant-garde" of the working-class — the Communist Party. In certain exceptional cases, if the voters are bold enough to propose their own candidates, the Party functionaries then have recourse to procedures which should not be surprising, as one will see from the following example.

DOCUMENT No. 60

(POLAND)

"... Particularly in the initial stages of the election campaign, reprehensible cases of negligence occurred. Thus, for instance, in Jastrzab, in the Province of Bydgoszcz, a National Front representative came to a parish meeting, attended by 130 peasants, and proposed a list of candidates to the Provincial and District Councils. The peasants submitted their own list, including partly candidates of the representative's list and partly their own candidates. But the district representative would not give way and decided to take a vote on the two lists. When his list was rejected by the peasants, he said 'If this

is so, we shall vote who is for the people's government in Poland'. Of course, everybody voted in favour, since everybody is for this government. Whereupon the man declared that his list is the list of the people's government. The peasants categorically protested and left the meeting".

Source: Alexander Juszkiewicz, Secretary of the Executive Committee of the Peasant Party in Zielony Sztandar, 28 November 1954.

The Communists of all countries in the world have propagated proportional representation, which of all electoral systems appears to them to be the most "just", but it is interesting to note that once in power they do not show the same concern about preserving the appearances of such a system. According to the Czechoslovak Law of 26 June 1954, a deputy is elected by an electoral district (Art. 10, par. 2). The person elected is the one who has received the majority of the votes cast in the district (Art. 44).

It is clear that in practice this system is "corrected" by the presentation of a single candidate in each district. The explanation of this fact is quite simple for a Czechoslovak Communist newspaper.

DOCUMENT No. 61

(CZECHOSLOVAKIA)

"If there were several candidates in an electoral district, the struggle for the election would be conducted amongst them, thus necessarily dividing the workers. To the efforts of getting elected their candidate would be joined regional, nationalist and other interests, which the survivors of the past could rehabilitate. All this would enfeeble the people's democratic regime and in consequence menace the true democratic character of our elections."

Source: Wherein Consists the Democratic Character of Our Regime, in Replies to the Questions of Readers in Rude Pravo, 12 November 1954.

2) Right to Vote

Certain constitutions and legislative arrangements of the satellite States deprive various categories of the population of the right to vote, both active and passive (eligibility as opposed to total voting population). The mere fact that a citizen is the proprietor of a private enterprise or a farm is sufficient justification for him to be deemed "unworthy" of voting or being elected.

DOCUMENT No. 62

(HUNGARY)

Article 63 of the Constitution of the Hungarian People's Republic:

1. Every citizen of the Hungarian People's Republic who is of age is granted the right to vote.
2. The Law withdraws the right to vote from enemies of the working people and from persons of unsound mind.

DOCUMENT No. 63

(ROUMANIA)

*Electoral Ordinance of Deputies to the People's Council of
27 September 1953:*

Article 10:

The following are considered unworthy of voting or being elected:

- a) former landowners, industrialists, bankers and wholesalers;
- b) capitalist elements in towns and villages: owners of private enterprises employing five or more workers and kulaks;
- c) persons condemned for war crimes, of crimes against peace and against humanity.

Source: Scanteia, No. 2776, 26 September 1953.

DOCUMENT No. 64

(HUNGARY)

Deposition: Appeared N.N., born in 1932, last place of residence in Budapest, fled Hungary 14 November 1954, now temporarily resident in Vienna, who says as follows:

"During the summer of 1953, when elections took place, I was again deported. Each voter received a card authorizing him to cast a ballot. We, as deportees, received no voting card; I speak not only for myself, for I know that it was the same for all deportees. We were considered as 'unworthy of voting' and were not authorized to do so.

"At the time of the voting, which took place in November, 1954, we were obliged, when getting the voting card, to give our name. On the official forms which were handed to us were listed the categories without the right to vote:

- (1) persons who had lost their civic rights as a result of court actions;
- (2) those who did not possess Hungarian nationality;
- (3) those who were not in full possession their mental faculties;
- (4) *those whom the government held unworthy.*

"I did, it is true, leave Hungary before the final distribution of voting-cards, but I am sure that neither I nor any of the persons who had been deported like myself and put into category (4) would have obtained a voting card, because we would have been considered unworthy to vote because of our deportation".

Read, approved and signed.

1 February 1955.

3) Conduct of Elections

In the States under communist domination, elections are nothing but massive demonstrations organized by the Communist Party to support the regime. Besides, most of the time the fundamental condition essential for a free election cannot be realized — the population must, above all, cast its vote publicly. For the voting that has taken place up to now, polling booths did not exist or else were installed in such a fashion that their utilisation became impossible. Often one could read in the polling booth: "Reserved for traitors and collaborators". Furthermore, if the result obtained by this system of voting was still not satisfactory enough, the authorities did not hesitate to falsify it.

DOCUMENT No. 65

(POLAND)

Deposition: Appeared N.N., born in 1912 in a village in Galicia (name of the village also withheld), lived in Western Ukraine (formerly Austria) until 1940, fled to Germany in 1940, returned to Western Ukraine in 1941, came back to Germany in 1943, and worked on farms until 1946, repatriated to Poland in 1948 with forged papers, lived in Poland from 1948 to 1953, fled to Western Germany via Czechoslovakia and Austria in June 1953, who says as follows:

"In 1953 the population of the village where I lived decided in favour of a mayor, who was not accepted however, because he was not in the Communist Party. A new mayor, who was a Communist Party member was then proposed to the population at a public meeting. The election of this mayor was not secret, but was effected by a show of hands. Everyone raised his hand from fear of party traps, and thus was the Communist mayor elected.

"Before the elections for the Sejm in 1952 it was said that the polling would, of course, be secret. However, the election was conducted as follows: the electoral committee handed out the ballots at the polling station; there were no polling booths where voters could cross out something or write down anything, but they had to throw their ballots into a box that stood on the same table. The electoral committee claimed that it was not necessary to conduct a secret election, since everyone would be happy to vote for the candidate. I myself took part in this election. Each voter had a personal number, which was checked off on the list at the polling station. It could therefore always be seen immediately who had not voted and thus declared himself against the Government. Simply through fear, everyone came to the poll. The result was 100 per cent in favour of the Government. There were no invalid votes."

Read, approved and signed.

16 November 1953.

DOCUMENT No. 66

(CZECHOSLOVAKIA)

Deposition: Appeared N.N., born on 22 November 1911 at Sobenov, lately domiciled at Benesov nad Cernou, from where he fled on 20 July 1953, who says as follows:

"The election of May 1948 at Benesov nad Cernou, where I lived, was conducted as follows: a few days before the elections everyone received two voting tickets, one showing the candidates of the National Front and the other showing only a large black cross. The latter represented a vote against the Government. On the day before the elections it was stated on the municipal broadcast that the municipality was expected to vote 100 per cent for the Government. Since I, as an old Social-Democrat, did not want to vote for the Government list, I discussed with people of similar opinion the best means for us to vote against the Government. We went to the polling station early in the morning and watched the voting procedure. At the entrance to the polling station the names of the voters were checked off. A little farther on it was ascertained whether each voter had both tickets, handing in the voting envelope at the same time. Those who openly acknowledged the regime placed the Government list publicly in the envelope, which they threw into the ballot box, and laid aside the voting ticket with the cross at the table. The polling boxes stood in the corner, but were roped off so that everyone wishing to use it had to climb over the ropes. We based our plan on this procedure. We made an acquaintance who was very old and said he would not vote

and give us his voting paper with the cross. Towards noon we went to the polls. Some of us diverted the attention of the electoral committee and one put the ticket with the cross into the envelope, kept the paper with the Government list in his pocket and put away at the table the second paper with the cross which we acquired as related above. When I voted there was a Slovak at the ballot box in front of me, who wanted to go to the polling booth. The electoral committee member who sat at the ballot box — a certain Dr. Fischer — then took from him the envelope and both ballots with the remark that he was apparently voting for the first time and did not understand the procedure. He then personally placed the Government ticket in the envelope and threw it into the ballot box.

"I heard the following from an acquaintance who was present when the votes were counted: the counting revealed that eight votes were against the Government. These ballots were at once exchanged by the electoral committee for papers in favour of the Government. The official result was then announced: Benesov nad Cernow had voted 100 per cent for the Government. At least one vote, the one which my friends had inserted into the envelope in the way described above, should have been announced as a dissenting vote. As a matter of fact, not a single vote was recorded against the Government. I know from an acquaintance that she too voted against the Government, i.e., put the ticket with the cross into the ballot box. At least, she said so. But that dissenting vote did not appear in the official election result either ..."

"Every community that had an election result 100 per cent in favour of the Government received a diploma and 20,000 crowns. This promise was announced beforehand."

Read, approved and signed.

22 February 1954.

DOCUMENT No. 67

(CZECHOSLOVAKIA)

Deposition: Appeared Franz Kretschmar, engineer, born 29 November 1926 at Cab, district of Nitra, who fled in May 1953, who says as follows:

"At the elections in May 1948 I voted in Bratislava, at the Dunajska polling station. A few days before the election we received two tickets, one showing the National Front list, and another, on which there was printed a thick, oblique, black cross. The latter paper was meant for those who wanted to vote against the Government, that is, against the single list. At the polling station there was a long table at which the electoral committee sat. As a preliminary, the names of the voters were checked off on a list, next they made sure that the voter had both tickets, and he was then given an envelope; further down the room was the ballot box. *In a corner stood the polling booth, on which was written: "For traitors and collaborators only!"* Many voters demonstrated their loyalty to the regime by not using the polling booth and by publicly placing the voting paper with the Government list into the envelope. Next to the ballot box there was a container into which the unused tickets were thrown: it could therefore always be seen at once which papers were thrown into this container. However, as Slovakia on the whole was not considered as pro-Communist at that time and the country did not yet dread the regime excessively, quite a number of people used the polling booth. It was therefore certain that those voters had polled against the Government, and by means of the nominal roll it could always be seen who they were.

"The result for the whole town of Bratislava was 15 % against the Government. I imagine, however, that this result was not true, and that a substantially greater number voted against the Government, and that therefore the election results were faked after the event. I wish to add the following observation: I knew someone in my hometown of Cab, who was a member of the electoral committee. He told me that, in spite of open pressure on the population when the votes

were counted, 45 % were found to be against the Government. The Communist then claimed that this poor result for the Government was to be attributed to the influence of the parish priest, and announced only 20 % of the votes against the Government.

"I have learned from accounts from friends from two other villages, Banovce and Bytca, that a considerable majority of voters polled against the Government. Nevertheless, the announced result was more than 50 % in favour of the Government."

Read, approved and signed.

22 February 1954.

DOCUMENT No. 68

(CZECHOSLOVAKIA)

Deposition: Appeared B. J., born in 1919 in Slovakia, a lawyer by profession who, after passing his examinations for the Conservatory, became a singer in the Opera; fled from Kosice in the month of April 1954 and is now temporarily living in Austria, who says as follows:

"I participated in the 16 May 1953 elections of the local and regional National Committees. The development of the elections went as follows:

"The voters received the testimonial for their registration on the electoral lists. Supplied with this testimonial, the voter presented himself at the voting office which was the seat of a commission composed of six members; two held the list of names. Names were crossed off the voting-list as fast as a voter came through and they were handed a voting-paper on which appeared the names of two candidates, one of the local National Committee, the other of the regional Committee, both being candidates of the National Front. Theoretically it was possible to strike out these names and to replace them by others; but, even so, I do not think that everybody would have done this, since nobody was ignorant of the fact that in any case the two candidates already designated would be ratified.

"Throughout the city the rumour had been spread that, owing to a water-mark in the paper of the voting-sheet it could be determined precisely who had cast the ballot; I think it quite possible that the Communist Party itself had spread this rumour so as to intimidate the voters. In any case, I verified for myself, while standing in the polling booth, that this guiding-mark did not exist, but I am certain that very few people were aware of this. However, I observed that in the corner of the voting-paper there was a number printed obviously belonging to a series; by means of this number from the list kept by the second checker, one could at any moment know the number indicated on the voting-sheet of each voter, and thereby know who was responsible for each paper which had been corrected."

Read, approved, and signed.

27 November 1954.

DOCUMENT No. 69

(ROUMANIA)

Deposition: Appeared S. F., born 27 June 1899 at M., Roumania, previously living since 1917 in Bucharest, who says as follows:

"In 1954 I was sent to the Autumn Fair of Vienna with the official Roumanian Delegation and I took advantage of this occasion to leave for the West. This occurred in the month of August 1953. From 1927 to 1944 I was member of the Communist Party; my last job was with the management of traffic for the Ministry of Education. I participated in the last parliamentary elections during the winter of 1952-53. There was but a single list at the time, namely the Party of Roumanian Workers. In each electoral district several names figured on

the list and one could mark with a cross the candidate to whom one gave the vote. The voting-papers were numbered in a progressive and consecutive order, and there was a number corresponding to the voting-sheet, which was on the list of voters and which was kept at the polling-station. It was possible to cross out candidates; but the number revealed the identification of the voter who had done so. I also knew which of the voters had not handed in their ballot, and due to the number, one could identify any non-voter. They were not at first subjected to any sanctions, but several months later they were sent off to work in the factories, for example in the 'Lenin' automobile-works, or in the construction of the Danube Canal. Those who set down a hostile vote were deprived of the additional food-supplies handed out by the shops connected with the enterprises, as well as by similar establishments, and had to be satisfied with their food-cards in order to keep alive. Despite the terror which governed the voting, the majority of the population voted against the government.

"Non-voters were punished in 1952, by a fine of 500 lei. I know that in the district of Jilava the peasants who had refused to vote, were conducted by force to the voting-office by soldiers. This occurred in a locality situated about 13 kilometers from Bucharest."

Read, approved and signed.

17 March 1954.

DOCUMENT No. 70

(HUNGARY)

Deposition: Appeared K. J., born in 1931 in Hungary, fitter mechanic by trade, lived first in Budapest, fled 6 June 1954 and temporarily resident in Austria, who says as follows:

"During my military service in 1953, I took part in the elections. As to why this voting occurred, I knew nothing; besides nobody cared in the least about it. When a vote was scheduled one presented himself and handed in his voting-slip. Little was said to us about the candidates before the voting, and I knew nothing of what was going on. On voting-day a special voting-tent was installed and inside stood a box placed on a red cloth. I was one of the first voters; I received my voting-slip and envelope, and, thinking that the polling-booth had been put there for use, I entered in order to place my voting-slip in the envelope, and then handed it to the political instructor seated near the box. I noticed that he fingered the contents of the envelope and consequently I thought that he was trying to find out if the voting-slip was really in the envelope or if it has been torn up. When I left the tent a member of the Voting Commission approached the soldiers waiting outside and said words to this effect: 'The polling-booth inside the tent is obviously at the disposal of everybody, but in using it the process of voting is slowed down. Furthermore, anybody voting for the government can also place his voting-slip into the envelope in public and immediately afterwards throw it into the box.' Insofar as I am correctly informed, I would say that none of my comrades used the polling-booth any longer. We had learned that any person who voted for the list had only to put it into the envelope; those voting against would hand back the envelope empty.

"I also knew that a group of soldiers had voted several times; this, because they were 'devoted' party members. The secretary of the Party, Michael K., and Lieutenant Joseph S.Z. had, of this I am certain, voted at least twice, perhaps even three times. This was indeed possible; when soldiers voted for the first time their names were not checked. Later during the day they would say they had not voted as yet. One could in such a way, in any case, get the desired result, even if a certain number of voting-slips were adverse. Thus the result of the voting was that 100 per cent of the votes were in favour of the Government list, and that there was absolutely no sign of an adverse vote."

Read, approved, and signed.

26 November 1954.

DOCUMENT No. 71
(HUNGARY)

Deposition: Appeared G. K., born 27 September 1910, last living in Budapest, which he fled on 21 September 1953, who says as follows:

"The last time I took part in elections was in the Spring of 1953 at Budapest. There was but a single list, namely, that of the Party of Workers. In the voting-station, once papers of identity had been presented, the name was first checked and then one received the single list. On this list one could indicate the name of the person for whom one wished to vote by marking it with a cross. With this ballot one entered the polling-booth, putting a cross beside the name of the candidate selected, and then the ballot was thrown into the box. Practically speaking, there was no real possibility of voting: one could only choose a candidate from the list of the Party of Workers. If anybody wished to reject the entire list, he crossed out the ballot and then threw it into the box.

"In my electoral district I was a member of the voting-commission, and I therefore know that only about 27 per cent of the validly cast votes were favourable to the government, the others having been completely crossed out. I saw that during the counting of the votes the majority of the ballots completely crossed out were simply thrown out and replaced by other ballots bearing a cross beside somebody's name. The result of the elections for all Hungary was therefore that 98.2 per cent of the votes were for the list of the Government.

Those who could not take part in the voting were: wealthy peasants, priests, nuns, former functionaries, ex-officers, former factory-owners and business-men, further, persons condemned to be punished in prisons and internment camps, former police inspectors and policemen, and finally members of families whose relatives had escaped to the West.

Read, approved, and signed.

16 May 1954.

DOCUMENT No. 72
(HUNGARY)

Deposition: Appeared Z. L., born 22 August 1932 at O. in Yugoslavia, last living at Szeged, Hungary, escaped in October 1953, presently a medical student and temporarily resident in Austria, who says as follows:

"I took part in the last legislative elections: as far as I can remember the date was May 1953. A single list of candidates was presented by the National Front. At the entrance to the voting place one received the voting-sheet which carried the list of candidates. There were polling-booths in the voting-station but nobody used them, myself no more than anybody else. Everybody feared that if he made use of the polling-booth this would be taken as a sign of opposition to the official list of candidates. Thus, in order to express one's agreement with the Government, i.e., the list of the National Front, it was considered preferable to vote in public. We then took our ballots and put them into the box without changing anything. In my district nobody used the polling-booth.

"Very often those responsible for an apartment-building conducted tenants in rows to the voting place. If somebody did not turn up, those responsables asked him why he had not come to vote. To my knowledge no one was forced to vote, yet everybody was afraid not to vote. It was generally known that persons who did not vote would be reported to their employer and would thereby get themselves into trouble."

Read, approved, and signed.

21 September 1954.

DOCUMENT No. 73

(BULGARIA)

Deposition: Appeared Andre Mitrucov, born 5 May 1912 at Selo Iasni, by profession a peasant, first domiciled at Selo Iasni, from where he fled to Yugoslavia on 4 June 1951 and thence to Austria on 19 September 1954, temporarily living in Camp 1002 in Wels, Austria, who says as follows:

"I took part in the parliamentary elections of 1950. There was no list of candidates. There was no opposition if one crossed out the names appearing on the voting-sheet, or if one wrote down others. One could also use the polling-booth situated in the voting place. Almost nobody did use the polling booth for the following reasons: Upon arrival at the polling-place our name was checked up from a list, next, we were given a voting-sheet and an envelope. On the envelope appeared the same number as the one marked down on the list for the voter to whom an envelope had been handed, in order to be able to make out who had deposited what envelope. From then on one could establish who had made a change in the ballot, who had not handed in their ballot, or who had handed in an invalid ballot. A member of the voting commission marked the envelope with a number before handing it to the voter.

"I know that several persons from my town had been arrested by soldiers after the ballot; as I learnt later, some of them, who were not aware of the significance of the numbers on their envelopes, had voted against the government. Officially they were not reprimanded for having voted against the government, but rather for not having sympathized with the government. I know however, that they, for this reason, were imprisoned. Five or six persons of my town experienced this sanction; they were arrested at night 3 or 4 days after the election had taken place. Their arrest was definitely a result of their voting.

"My wife and I received official ballot before the voting which came from the district administration. These ballots were sealed so that we could not know the contents; we had to put them unopened into the box. These sealed ballots were set aside for 'doubtful' voters; the other received open ballots from the polling station. Whether other people besides my wife and I had received such sealed ballots, I cannot say. As soon as I had received this sealed ballot I went to the home of a friend to tell him about it. Shortly afterwards I was summoned by the Mayor and notified that I must put my ballot just as it was in the box next day, which was voting day. I told him that this was not allowed and that I was going to write to the President of the Council, Chervenkov, to ask him for the meaning of this. The Mayor, evidently disturbed, immediately after withdrew my ballot. Next day I was allowed to vote as all the others and they handed me the regular voting-sheet. I voted in the same way as described above. The result of the ballot was 100 per cent in favour of the Government list; there were neither negative nor invalid ballots."

Read, approved, and signed.

26 November 1954.

When territories are re-distributed within individual States under Soviet domination, there are no new elections of representatives. In such cases the Government simply allots a certain number of seats to the approved parties. Vacancies are filled by nominating delegates to the legislative bodies without participation of the population. Thus, after the dissolution of the Länder in the Soviet Zone, the persons who had until then been Land and Kreis Delegates were re-distributed among the newly-founded Districts and Kreise. On the order of the rulers, the representatives of those bodies were then supplemented by carefully selected officials.

DOCUMENT No. 74
(SOVIET ZONE OF GERMANY)

Deposition: Appeared Hans-Joachim Stage, domiciled at 4-12, Fichtestrasse, Berlin SW 29, who says as follows:

"I was Kreis chairman of the Liberal Democratic Party in Kreis Eberswalde from 5 September 1952 onwards. This Kreis was first created at the time when the territorial re-organization of the Soviet zone took place. Before that time Eberswalde belonged partly to Kreis Oberbarnim and partly to Kreis Angermünde.

"The old Kreis Legislatures which had been formed after the so-called elections of 15 October 1950 were dissolved at the time of this re-organization. But only a section of the representatives who served on those elective bodies were taken over in the new Kreis Legislatures. For instance, the Liberal Democratic Party in the old Kreis Assembly Oberbarnim still had seven representatives. Two of them were taken over by the new Kreis Legislature of Freienwalde and one by the new Kreis Legislature of Eberswalde. The remaining four representatives were eliminated for political reasons, as they were distrusted by the SED.

"The new Kreis Assembly of Eberswalde had 50 representatives, more than half of which newly nominated. The formal procedure consisted supposedly in the parties — including the SED — proposing suitable members from their ranks. The number of persons to be nominated was determined by a key agreed upon by the Central Block parties. In reality, however, the SED Kreis Committees in Eberswalde suggested to other parties the names of their own candidates. For instance, the LDP received the word to nominate three persons, two of which were completely unknown in party circles but were in close touch with the SED. The LDP Kreis Committee in Eberswalde protested against the nomination of these two candidates. The LDP was able to substitute two other persons, but only after serious arguments with the Kreis Committee of the SED which did not budge from its demand regarding the nominations. The LDP succeeded only because the SED could not in any way object to these two persons who had already been in office as town councillors. I do not know whether the other parties likewise opposed the persons proposed to them. But I have not heard that they got into such conflict with the SED as the LDP did.

"No election took place for Kreis Assembly representatives. After the final approval by the SED Kreis Committee, the list of proposed candidates went to the Kreis bloc and was there formally confirmed at a meeting. The list was then sent to the National Front which also gave its confirmation and published in the press a few details on the persons nominated by the SED. Without the population being able to exercise any effective influence, a meeting was convened to be attended by the person registered on the list and by the few old representatives of the former Kreis Legislature of Oberbarnim taken over by Eberswalde. This meeting constituted itself as the new Kreis Legislature of Eberswalde and nominated members of the Kreis Council..."

Read, approved, and signed.

7 February 1953.

It is certain that if free elections were to take place in the countries within the Soviet orbit, there would have been no question of 99 per cent of the votes in favour of the regime. For the present it is the equivalent of high treason to speak of free elections.

DOCUMENT No. 75
(CZECHOSLOVAKIA)

"... On 18 and 19 March, the chamber of the court for the region of Pardubice conducted a big trial involving 14 individuals, members of a group hostile to the State, under the direction of the employee Frantisek Novotny, formerly a restaurant-proprietor in Chotebor. Until its arrest, this group had long been exercising a harmful activity in the district of Chotebor. Thus, one of the biggest conspiracies of the broken-down bourgeoisie which had flung its net upon former — and reactionary — members of the Czech Socialist Party, ended in the accused's box. This group constituted a branch of the reactionary plot concocted in 1950 and condemned in the lawsuit Horakova & Co. The defendant J. Hospodka proposed to circulate pamphlets and to paste upon the walls symbolic signs with the letter 'E' (Elections). The accused spoke about so-called 'Free' elections which per force were to be effectuated under the control of the organs of UNO. They were condemned for treason to imprisonment for from 1 to 10 years."

Source: *Zar (Pardubice)*, 26 March 1954.

**VIOLATIONS OF THE RIGHTS OF LEGISLATIVE
ASSEMBLIES**

According to all the Constitutions of the States in the Soviet orbit, legislative power belongs to the organ issuing directly from the "elections". These organs are called "Supreme Soviet", the National Assembly or "Narodno Sobranie" (Bulgaria). Certain of these Constitutions even specified that the Assembly (or Soviet) exclusively exercises legislative power: USSR (Art. 32), Albania (Art. 32), Bulgaria (Art. 16), or that the Assembly is the supreme organ of the legislative power (Czechoslovakia, Art. 5). If, however, one reads the text of the Constitutions, it becomes abundantly clear that we are in the presence of a regime which may apply the principle of the separation of functions, with the executive power being confined to the task of enforcing the laws passed by the legislative power, but all agencies, and especially the legislative, merely a tool of the Communist Party.

DOCUMENT No. 76
(USSR)

Constitution of USSR.

Article 32:

The legislative power of the USSR is exercised exclusively by the Supreme Soviet of the USSR.

Article 56:

The Supreme Soviet of the USSR, at a joint sitting of the two Chambers, appoint the Government of the USSR, namely, the Council of Ministers of the USSR.

Article 66:

The Council of Ministers of the USSR issues decisions and orders on the basis and in pursuance of the laws in operation, and verifies their execution.

The reality, however, is completely different. The violation of the rights of legislative assemblies is certain, regardless of the varied forms it takes in the different countries.

In the USSR, where the Supreme Soviet meets hardly once a year and then but for a few days, the legislative power is usurped and in the hands of the Council of Ministers and the Praesidium of the Supreme Soviet. This Praesidium, which, according to Art. 49b of the Soviet Constitution, "interprets the laws now in effect in the USSR and issues Decrees", has gone so far as to amend illegally the Constitution. Thus, for example, the decree of the Praesidium dated 26 June 1940 introduced the 8-hour working-day and the 7-day week, contrary to the then effective Art. 119 of the Constitution. Only on 27 February 1947 was it considered timely to amend formally the Constitution by the Supreme Soviet. In countries of the people's democracy, the artifice by which the rights of legislative assemblies are violated is less apparent but nevertheless existent.

All the constitutions of these countries stipulate in fact that in the period between sessions of the legislative Assembly, the Praesidium of the said Assembly or its equivalent, as, for example, the Council of State in Poland, issue "legislative" decrees having the force of law.

1. Weakening of the Powers of Parliament

DOCUMENT No. 77

(HUNGARY)

Constitution of 18 August 1949.

Article 14:

- (1) The right of legislation is vested in Parliament.

Article 20:

- (4) When Parliament is not in session, its functions are exercised by the Presidential Council of the People's Republic; that body cannot, however, change the constitution.
- (5) The enactments of the Presidential Council of the People's Republic are legally binding decrees, which must, however, be submitted to Parliament at its next sitting.

DOCUMENT No. 78

(CZECHOSLOVAKIA)

Constitution of 9 May 1948.

Article 5:

The supreme organ of legislative power is the National Assembly of one chamber. It has three hundred members (deputies), elected for a term of six years.

Article 66:

1. At a time when the National Assembly is not in session, because
 - (1) It has been prorogued or adjourned, or
 - (2) ...the Presidium of the National Assembly shall remain in office.
2. The Presidium of the National Assembly shall during this time take urgent measures, including such measures as would otherwise require an Act.

DOCUMENT No. 79

(POLAND)

Constitution of the People's Republic of Poland.

Article 26:

- 1) In the interval between sessions of the Sejm, the Council of State issues decrees with force of law. The Council of State presents the decrees to the Sejm at its next session for confirmation.
- 2) Decrees issued by the Council of State are signed by the Chairman and the Secretary. The publication of a decree in the Law Gazette is ordered by the Chairman of the Council of State.

Since the legislative Assembly normally meets twice a year, for sessions often lasting not longer than two days, it is virtually materially impossible for it to make laws or to verify and ratify properly the decree-laws passed by the Praesidium. It is limited to recording en bloc, without discussion, and by unanimity; it is a rubber stamp.

DOCUMENT No. 80

(BULGARIA)

Resolutions of the National Assembly of the People's Republic of Bulgaria.

"The second ordinary-session of the Second National Assembly of the People's Republic of Bulgaria was opened 1 November at 3 p.m. by the President of the National Assembly, Ferdinand Kosovski.

"On the agenda of the day were:

- 1) a bill approving decrees made from 10 April to 31 October 1954 by the Praesidium of the National Assembly;
- 2) report of the Commission for verification of mandates;
- 3) taking of the oath;
- 4) request of parliamentary groups of the Bulgarian Communist Party and of the Bulgarian Peasant Union for the revocation of two members of the Praesidium and the election of two new members;
- 5) request for the election of judges of the Supreme Court.

Concerning the first point on the agenda, the bill approving the decrees passed from 10 April to 31 October 1954 was unanimously adopted by the National Assembly.

Concerning the second point, deputy Peter Popivanov delivered, in the name of the Commission for the verification of mandates, a report on the regularity of the elections of deputies in the presence of Assen Grokov, Stela Blageova . . . , Metodi Popov . . . , deceased. Newly elected deputies Vassil Christov Raidovsky, Chrissana Poptodorova Gramenova and Stojko Simeonov Donve, took the oath of office as prescribed by law.

"Concerning point 4 . . . , the National Assembly relieves of their functions Dimitri Dimov and Ali Rafiev, previously members of the Praesidium, to call them to other posts, and elects as members of the Praesidium of the National Assembly deputies Dr. Ivan Pachov and Christo Kaladjdziev.

"Concerning the last point on the agenda, the National Assembly unanimously designated Dimitri Augdov Zlatin as a member of the Supreme Court.

Thus was completed the agenda for the Second Ordinary Session of the Second National Assembly. President Ferdinand Kosovski declared the session closed.

Source: Rabotnichesko Delo, 2 November 1954.

DOCUMENT No. 81

(ROUMANIA)

Law No. 1 on the Ratification of Decrees Enacted by the Praesidium of the Grand National Assembly of the Roumanian People's Republic in the period from 22 September 1952 to 22 January 1953.

By virtue of Art. 23 of the Constitution, the Grand National Assembly of the Roumanian People's Republic enacts:

Single Article: The following decrees enacted by the Praesidium of the Grand National Assembly of the Roumanian People's Republic are ratified:

Decree No. 343 of 26 September 1952 on the compulsory collection of debts by the Ministry for Posts and Telegraphs.

Decree No. 331 of 27 September 1952 amending Law No. 5 of 1950 on the establishment of administrative and economic sectors within the territory of the Roumanian People's Republic.

Decree No. 350 of 27 September 1952 on the publication of laws, decrees, ordinances and orders of the Council of Ministers.

Decree No. 363 of 6 October 1952 on the registration of persons who have been prosecuted or condemned under penal law.

Decree No. 370 of 10 October 1952 on the organization and functions of the two-year schools for legal training.

Decree No. 393 of 8 October 1952 on the abrogation of the law on waterways, published in the "Monitorul Oficial" No. 137 of 6 June 1924, including all subsequent amendments.

Decree No. 387 of 13 October 1952 on judicial prosecution for debts of a particular nature.

Decree No. 388 of 13 October 1952 on the coming into force of edict No. 78 of 1952.

Decree No. 394 of 13 October 1952 on the general application of the metric system.

Decree No. 399 of 14 October 1952 on the extended application of the dispositions provided for in Art. 19 of edict No. 36 of 1951.

Decree No. 396 of 4 November 1952 amending the article of edict No. 132 of 19 June 1952, regarding the new versions of the codes for civil, penal and taxation procedure provided in view of the latest legal reform.

Decree No. 398 of 4 November 1952 amending Art. 2 of edict No. 58 of 18 February 1950, on the definition of tax on turnover; and on the freeing from tax of certain packing materials.

Decree No. 404 of 4 November 1952 amending articles 10 and 11 of edict No. 143 of 6 June 1952, on traffic on the public highways.

Decree No. 418 of 31 October 1952.

Decree No. 420 of 4 November 1952 on the remission of arrears in taxation due, and on the cancellation of certain assessments in taxation.

Decree No. 422 of 5 November 1952 on the abolition of delivery districts.

Decree N. 426 of 11 November 1952 on the abrogation of edict No. 86 of 7 March 1949 on the regulation of the distribution of manpower.

Decree No. 428 of 13 November 1952 supplementing Art. 30 of Decree No. 19 of 1951.

Decree No. 431 of 14 November 1952 on the construction, maintenance, and operation of railways for industry and of cable railways.

Decree No. 458 of 3 December 1952 on the extension of the terms of office of representatives of the regional People's Councils, of the

autonomous Magyar territories, of the People's Council of the capital, and of the People's Councils of the districts, towns and rural municipalities.

Decree No. 466 of 8 December 1952 on the definitions of tariffs for the collection of consulate-taxes.

Decree No. 475 of 14 December 1952 on the affiliation of the State lottery to the savings banks and State deposit banks of the Roumanian People's Republic.

Decree No. 496 of 18 December 1952 on the handling of poisonous substances and products.

Decree No. 498 of 20 December 1952 on the extension of the terms of office of lay assessors.

Decree No. 502 of 22 December 1952 on the regulation of transport, purchase and sale of agricultural products subject to compulsory delivery.

Decree No. 503 of 22 December 1952.

Decree No. 504 of 22 December 1952 amending Art. 1 of Decree No. 75 of 1951.

Decree No. 505 of 23 December 1952 on the granting of special funds to the People's Councils for the year 1952.

Decree No. 506 of 23 December 1952 on the regulating of payments and increase of receipts for the period from 1 January 1953 to the approval of the budget for 1953 in the Roumanian People's Republic.

Decree No. 529 of 27 December 1952 on the creation of a teaching staff for advanced studies.

Decree No. 2 of 2 January 1953 amending Art. No. 8 of Decree No. 340 of 20 August 1949; supplementing edict No. 197 of 30 August 1949; and on the dissolution and liquidation of banks and loan-agencies.

Decree No. 5 of 2 January 1953 on the recognitions of titles and distinctions in the Ministry for Posts and Telegraphs for employees in the administrative departments, for the technical personnel, and for other employees.

Decree No. 6 of 6 January 1953 on the organization of the Ministry of Health of the Roumanian People's Republic.

Decree No. 13 of 6 January 1953 on the approval of the ordinance relating to honours awarded by the Praesidium of the National Assembly of the Roumanian People's Republic.

Decree No. 15 of 10 January 1953 on the exemption from taxation on the turnover of products; on coined money; and on currency notes issued by the Ministry of Finance.

Decree No. 17 of 13 January 1953 amending and supplementing edict No. 163 of 26 June 1950.

Decree No. 22 of 14 January 1953 on the collection of taxes on houses and private property for the 1953 budget.

Decree No. 27 of 14 January 1953 on the approval of regulations regarding the existing conditions governing the publication and circulation of laws and edicts.

Decree No. 28 of 14 January 1953.

Decree No. 29 of 14 January 1953 amending edict No. 243 of 1950 on the registration of the population.

Decree No. 32 of 20 January 1953 amending Art. 2 of edict No. 4 of 1952, on income tax, published in the Official Gazette No. 2 of 1952.

Decree No. 40 of 21 January 1953 on the procedure for settling matters of inheritance.

Decrees Nos 350, 351, 352, 353, 385 and 449, on the recall and appointment of ministers.

Source: Buletinul Oficial No. 4, 29 November 1953.

2. Transfer of Legislative Power on the Executive

Evidently, the legislative power abdicated by the Parliament due to the lack of time for its exercise has passed on the Praesidium; yet the major part of this power was in fact seized by the executive branch, i.e., the Government.

The juridical instrument applied for this purpose is usually a law authorizing the Government to take measures necessary for the realization of its plans by way of executive ordinances.

DOCUMENT No. 82 (CZECHOSLOVAKIA)

Article 14:

- (1) Measures concerning the realization of the aims of the National Plan may be enacted by the Government, even though normally a law would have to be passed on them; the signature of the President of the Republic is required to validate them.
- (2) The authorization according to paragraph (1) does not extend to:
 - a) constitutional legislation;
 - b) approval of the national budget;
 - c) disposal of taxes, custom duties, contributions and other public taxes which belong to the province of the financial administration of the State;
 - d) settling of financial matters.
- (3) The Government shall present the acts passed according to paragraph (1) to the National Assembly in the month subsequent to their publication. Should it be rejected by the National Assembly, then the act loses its validity on the 30th day following the date of rejection, unless the National Assembly fixes another date. In the latter case the President of the Council shall immediately make known in *Sbirka Zakonu* (Collection of Laws) that the act has been repealed, and as of what date.

When one bears in mind that in the People's Democracies the plan covers the activity of both collectives and individuals, the field not covered by the law and the competence of the Government will seem insignificant. On reading the official Gazettes it will be seen to what degree the legislative power has passed to the Government. Thus, in the Soviet Zone of Germany, for example, the Official Gazette contains only three laws and two resolutions issued by the People's Assembly.

In the People's Democracies, the Parliaments became mere tools for the propaganda of the Communist regime, their only purpose being to allow these States to keep the appearance of a Parliamentary regime, in order to mislead the uninitiated persons abroad.

DOCUMENT No. 83 (SOVIET ZONE OF GERMANY)

Deposition: Appeared Heinz Spode, domiciled formerly at Kyritz, now living at 4-12, Fichtestrasse, Berlin SW 29, who says as follows:

"There is no comparison between the functions of the Kreis Assembly and those of the Landtag. The Kreis Assembly's tasks are purely political. No expert work is done. *There is no independent legislative work.* No resolutions are passed on any fundamental questions. Following the sessions of the Volkskammer, the Kreis Assembly simply

passes a propagandistic declaration of agreement with each measure decided by the Volkskammer. There is no longer a permanent chairman of the District Assembly: shortly before each session the chairman of the day and two assessors are elected. The District Bloc proposes the persons in question. The chairman of the day always belonged to the SED.

"The District Assembly has formed the relevant eleven standing committees as prescribed in its statutes, but hardly any serious work is done. Particularly significant in the fact that the budget of the Potsdam District has, up to now, not been debated at all in the District Assembly. The budget for 1952 was announced in a speech.

Read, approved, and signed.

DOCUMENT No. 84

(SOVIET ZONE OF GERMANY)

Deposition: Appeared Hans Joachim Stage, domiciled in Berlin, Fichtestrasse 4—12, who says as follows:

"The sessions of the Kreis Legislature were nothing more than pure window-dressing. A large part of the representatives, who were perfectly aware of this state of affairs, were but seldom present. Thus it happened that generally there were no more than 25 to 28 persons present, and often there was not even a quorum. But even in such cases the session was held. *Work of the Kreis Legislature itself consisted almost exclusively of resolutions of approval and of passing "unanimous" resolutions. Factual discussions no longer take place.* If ever an opinion of the members of the Kreis Legislature is required, representatives must be specifically designated for this.

"Neither did things look very much different at sessions of the Kreis Council, although here they had to deal with already prepared individual bills. How this work was done can be seen from the following example.

"The Council Meeting received from the department for trade and supply an application for a victualer's licence to be granted to a private lessee of the restaurant at Altendorf on Werbellin-See. When the application was handed to the chairman at the meeting, he said *the matter must first be passed on to the Kreis committee of the SED.* None of those present said a word against this. A few days later I heard that the HO was to take over this restaurant, and during one of the meetings that followed, the private lessee's application for a license was refused."

Read, approved and signed.

7 February 1954.

3. The Communist Party as legislator

It was after the war that first in the USSR and later in the people's democracies, a practice which clearly revealed the communist concept of a parliamentary regime was developed. It was evident that the Communist Party had become legislator.

DOCUMENT No. 85

(USSR)

"... The principal organs of the State administration are the following: The fusion realized between leading organs of the Party and the higher Soviet administration is of the utmost importance. Certain of the unlimited confidence of the masses, the Party endeavours, with the assistance of the Soviets of workers' deputies, to invest its best officials with the most important public post. Moreover, no important question is ever settled without the organs of the Party having given the necessary directives towards that end. They rely on the wide

experience gathered from their own work by the best workers in industry, transport and agriculture...

"By far the most important decisions concerning legal pronouncement are taken in common by the Central Committee of the Communist Party of the USSR (Bolsheviki) and the Council of Ministers of USSR.

Source: Administrativnoe pravo (Administrative Law), General Part. (German translation by Deutscher Zentralverlag, Berlin-Ost, 1954).

DOCUMENT No. 86
(USSR)

"...For the state organs the resolutions of the Party are used as directives. In order to realize these directives, ordinances, resolutions and decrees, i.e. legal acts, are passed. It may happen that the Party resolutions are at the same time juridical acts. We are now thinking of the ordinances taken in common by the Central Committee of the Communist Party of the USSR (Bolsheviki) and by the Council of Ministers of the USSR, by the Central Committee of the national Communist Parties and by the Council of the Ministers of the Republics of the Union, by the regional committees of the Communist Party and the executive committees of the Soviets of deputies and workers, etc. Not to mention the norms issued by the resolutions of the Party when the rules that guide the ordinary behaviour of the soviet citizen are involved would be to misunderstand the very nature of our state and social organization."

Source: Soviet Contribution to the Theory of State and Law, German translation: Society for the Soviet-German Friendship (Berlin 1953).

The author gives examples of this "collaboration" of the Communist Party with the legislative activity of the Council of the Ministers of the USSR.

DOCUMENT No. 87
(USSR)

"...It is only during the last few years that Acts as important as the ordinances of the Council of the Ministers of the USSR and of the Central Committee of the Communist Party of the USSR (Bolsheviki) have been passed on: 'Application of Monetary Reform and the Abolition of Ration Cards...', 'Plan Concerning Re-Forestation in Order to Protect the Fields', 'Introduction of Seeds Produced by Grass-field Crop Rotation', 'Creation of... Water Reserves in Order to Assure Stable and High Production in the Region of the Steppes and in the Wooded Steppes of the European Part of the USSR', 'Further Reduction of Prices on Articles of Daily Use...', 'Three-Year Plan on the Development of Communal Animal Husbandry on Collective Farms'.

Source: Ibid.

DOCUMENT No. 88
(BULGARIA)

From: Decree by the Council of Ministers and the Central Committee of the Communist Party of the Bulgarian State of 7 July 1954 Concerning Legislative Measures in Order to Increase Production and Quality of Tobacco:

Signature: The Council of Ministers and the Central Committee of the Bulgarian Communist Party.

Source: Izvestia, Volume V, No. 55, 9 July 1954.

DOCUMENT No. 89

(ROUMANIA)

Decree of the Council of Ministers of the Roumanian People's Republic and of the Central Committee of the Communist Party of Roumania on the Preparation and Timely Cultivation of the Fields for the Autumn Crop and on Care of the Soil.

(This decree is signed by Gheorghiu-Dej, Chairman of the Council of Ministers — and General Secretary of the Central Committee of the Communist Party — and by Al. Moghioros, secretary of the Central Committee of the Communist Party.)

Source: *Scanteia Tineretului* of 13 September 1953.

DOCUMENT No. 90

(ROUMANIA)

Edict No. 785 of 30 March 1953 of the Council of Ministers of the Roumanian People's Republic and of the Central Committee of the Communist Party of Roumania on Improvement of the Work of Handicraft Co-operatives.

Source: *Collection of Decisions and Orders of the Council of Ministers of the Roumanian People's Republic*, No. 20, 30 March 1953.

III. VIOLATIONS OF THE SECURITY OF PERSON

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Art. 4, United Nations Universal Declaration of Human Rights.

No one shall be subjected to arbitrary arrest, detention or exile.

Art. 9, United Nations Universal Declaration of Human Rights.

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.**
- (2) Everyone has the right to leave any country, including his own, and to return to his country.**

Art. 13, paragraphs 1 and 2, United Nations Universal Declaration of Human Rights.

DEPORTATION AND DOMICILE DETERMINATION BY THE SECRET POLICE

In a constitutional State, loss of liberty ordered administratively is unthinkable in peace time. Personal freedom and the inherent rights of the individual are in theory recognized in the Constitutions of the USSR and the satellite States. These liberties, however, are ruthlessly curtailed in order to bolster up the absolute dictatorship of the Communist Party. The violation of the rights guaranteed in the Constitution is not confined to the interference of individual police or administrative bodies, this abuse of power by the State is even expressly laid down in legal regulations and ordinances without those concerned having the opportunity of defending themselves against such measures.

The individual citizen is bereft of any security. He lives in constant fear and is supervised by a cleverly worked out system of informants. At any hour of the day he must reckon with the possibility of arrest, deportation for years to other parts of the country or confinement to a forced labour camp, without any guarantee, or any legal safeguard whatsoever against this sort of treatment.

DOCUMENT No. 91
(USSR)

*Collection of Laws of the Government of the USSR, No. 36
of 10 July 1934.*

Article 283:

- (8) Under the People's Commissariat for Internal Affairs, USSR, a special council is to be organised, which, on the basis of regulations laid down for it, is to have the power of applying, as an administrative measure, expulsion, exile, imprisonment in corrective labour camps for a period of up to five years and expulsion beyond the confines of the USSR.

Source: Sbranie Uzakoneni i Rasporiazhenii Raboche-Krest'ianskogo Pravitel'stva (Collections of RSFSR Laws).

DOCUMENT No. 92
(USSR)

Collection of Laws of the USSR, No. 11, of 7 March 1935.

Article 84:

Addition to Art. 8 in the Instructions from the Central Executive Committee of the USSR. . .

- (1) The People's Commissariat for Internal Affairs of the USSR has the power to take the following measures against people deemed socially undesirable:
- a) expulsion to a supervised residence in a place designated to this end by the NKVD, for a period not to exceed five years;
 - b) relegation to supervised residence, for a period up to five years, with denial of the right to sojourn in the capitals, large cities or industrial regions of the USSR;
 - c) imprisonment in a camp for re-education by work, for a period not to exceed five years. . .

Note: The above-mentioned arrangements will be found in: "The Large Soviet Encyclopedia" (in Russian), Volume 52, p. 523 (1947 edition), and are cited in the "Manual of Administrative Law" by Evtichjev and Vlasov (Moscow, 1946, pp. 244, 255).

Even in the satellite States, following the installation of the Soviet dictatorship, certain administrative authorities have been authorized to exile citizens in forced labour camps for a number of years, to inflict heavy fines upon them and to confiscate the major part of their belongings. Legislative arrangements have specified that in such administrative procedure the defence would not be heard and no appeal could be taken from this decision. Thus in Poland, the decree of 16 November 1945, amended by several later laws, was a model of its kind. Although it was abolished in January 1955, it will serve as an example of a typical institution.

DOCUMENT No. 93
(POLAND)

Promulgation by the President of the Council of Ministers of a text of 31 August 1950 unifying the arrangements of 16 November 1945 on the Organization and Function of the Special Board to Combat Abuses and Acts Harmful to the Nations Economy. (Legislative Bulletin of the Polish Republic of 19 September 1950, No. 41, p. 374).

Decree of 16 November 1945

Article 1:

The Special Board to combat abuses and acts harmful to the national economy, referred to henceforth in this Decree as "The Special Board".

shall be appointed to try cases involving offenses characterized as detrimental to the economic and social life of the country, in particular those in which the cause of prosecution shall be the misappropriation of public property, corruption, bribery, speculation, and creation of panic in order to harm the interest of the working masses.

...

Article 7:

(1) ...

- a) they may confine the offender to a labor camp for a maximum term of two years and impose a fine not to exceed 150,000 zloty, or apply one of these penalties;
- b) they may order the forfeiture of goods involved in the offense of a business establishment owned by the offender, of objects derived directly or indirectly from the offense and owned by the offender, as well as order the forfeiture of tools which served or were designed to serve in committing the offense;
- c) they may close down the offender's business and deprive him of his right to trade or manufacture and, in addition, deprive him of the right to occupy the premises used;
- d) they may restrain the offender for a term not to exceed five years from taking up residence in the province in which he has had his domicile.

Article 9:

Proceedings in which the confinement to a labour camp is imposed are conducted without a defence counsel.

...

Article 11:

- (1) Sentences of the Special Board or of the provincial agencies of the Special Board shall be final; no legal remedy shall lie from these sentences.

DOCUMENT No. 94

(BULGARIA)

People's Militia Act.

Article 52:

The People's Militia may arrest and send to labour and education communities or to new places of residence persons guilty of fascist activities and activities directed against the people, persons who constitute a threat to public order and the security of the State or, finally, persons who spread pernicious and false rumours.

Article 53:

The People's Militia shall take similar action against:

- a) blackmailers, swindlers and habitual offenders;
- b) procurers, pimps and other persons constituting a threat to public morals;
- c) gamblers, beggars and other persons guilty of scandalous conduct;
- d) speculators and black-marketeters.

Article 54:

Decisions to arrest persons such as those defined in Article 53 and to send them to labour and education communities or to assign them to a new place of residence shall be taken by the Minister of Interior or by such persons as he may designate for that purpose. Decisions to arrest persons such as those defined in Article 52 shall be taken by the Minister of the Interior with the agreement of the Prosecutor-General of the People's Republic.

The term of detention in a labour and education community shall not exceed one year, unless prolonged by a new decision taken in accordance with the procedure described above.

The assignment of a new place of residence may be definitive or temporary.

Persons assigned to a new place of residence shall not be allowed to leave such place of residence without authorisation. If necessary, they may be required to report and register periodically at the local militia commissariat. Whenever persons so assigned have no means of subsistence and are unable to find employment themselves the local militia commissariat shall take steps to find work for them.

Source: *Durzhaven Vestnik*, No. 69, 25 March 1948.

In Czechoslovakia, Law No. 247 of 25 October 1948, which officially set up the forced labour camps, has been rescinded (Art. 151, Law No. 88/1950); this did not prevent deportation into forced labour camps with a new title. Administrative Penal Code anticipates deportation as a secondary punishment, for example, in Article 12, par. 3; only the names of these camps have been changed by Law No. 67/1952 and the "transit camps" became the new forced labour camps.

DOCUMENT No. 95
(CZECHOSLOVAKIA)

Code of Criminal procedure, Law No. 67/1952.

Article 3:

par. 3: When mention is made of camps of forced labour... one must understand by this the Institutions of Transition of the Ministry of National Security.

DOCUMENT No. 96
(CZECHOSLOVAKIA)

Lessons Drawn from the Application of the Law on Camps of Forced Labour:

"The application of the Law on Camps of Forced Labour (Law No. 247/1948) permits the drawing of the following lessons: these camps play a most important part in the re-education of persons who as much by their convictions as by their hostile behaviour to the people thwart the development of Socialism in the Republic. The results obtained, particularly with reference to the re-education of these persons by work and their preparation in view of constructive labour once they have quit the camp, lead to the conclusion that these camps should be utilized so as to submit to a gradual punishment those whose conduct has been inimical to the existing social order. That is why this institution will be incorporated in the Administrative Penal Code despite the formal nullification of the law on forced labour camps. The camps of forced labour will continue for *the enemies of — i.e., the classes hostile to — the working people*. As a result, the first condition necessary for putting an individual to work or under detention in a camp of forced labour is that in the eyes of the Commission for Administrative Crimes his behaviour should appear hostile to the present social order. The degree of the crime committed means little. In a similar fashion the law should remain flexible and allow no softening in the pursuit of *class-enemies*. Nevertheless, the experience acquired, thanks to the camps of forced labour, proves that as a general rule hostility to the people's democratic order manifests itself by a negative attitude towards constructive work. That is why the international refusal to work is often the element to be taken into account, and on the basis of which it is next decided that the punishment incurred for a minor infraction should be expiated in a labour camp."

Source: Ferdinand Bilek, *The New Administrative Penal Code (in Czech)*, in the *Bulletin of the Ministry of Interior*, No. 2-3 (June 1950), p. 136.

DOCUMENT No. 97
(SOVIET ZONE OF GERMANY)

From: Order For the Issuance of Identity-cards by the Democratic Republic of Germany, 19 October 1953:

- "(4) The identity of the Democratic Republic of Germany are equivalent to a residence permit in the German Democratic Republic. The German people's police can deny the right of residence in any territories or precisely determined cities to persons committing misdeeds liable to severe punishment (murder, a crime coming under Article 6 of the Constitution or No. 38 in the Directives of the Control-Council, sabotage, violation of the Law for the Protection of Peace, economic crimes or immorality)."

DOCUMENT No. 98
(SOVIET ZONE OF GERMANY)

Council of the District of Neubrandenburg.
Division: Work and professional formation.
Section: Housing Administration.

Neubrandenburg 19 May 1953.
Tel. 401—406
Qualified civil servant
Heuer

Madame Kraage.
Bargensdorf
(district Neubrandenburg).

Dear Madame Kraage,

Since you are not qualified to manage your business properly and to raise the living-standard of the population, you are ousted from your premises in conformity with Article 8 of the texts adopted for the application and the subsidiary clauses of the ordinance dated 19 February 1953.

A room is reserved for you at Hochkamp, in the Kolfin section, at Mr. Schroder's.

You will have until 31 May 1953 to complete your change of residence.

By proxy
Signed: Heuer,
Section - director

In certain cases the communist authorities do not deem it even necessary to use a legal text to deport a suspected person into a labour camp. If the person in question is a male, he is called to the colours, regardless of age, and is assigned to one of the numerous "military work-units" which are not different from penitentiary colonies.

DOCUMENT No. 99
(CZECHOSLOVAKIA)

Deposition: Appeared J. B., born in 1919 at... (Slovakia) lawyer by profession, who says as follows:

"After following courses in the conservatory of music I became a tenor at the Opera and first sang from 1 December 1951 to 19 October 1952 in the National Theatre of Bratislava. Next I was deported at the precise moment of 'B-Action'. From 1 December 1952 until 27 April 1954 I was an opera tenor at Kosice, from where I eventually fled. I lived for a time in Austria.

"There exist in Czechoslovakia certain so-called 'military labour-

units'. These people worked in a brick-kiln at Kosice. The members of these units were of every generation up to the age of 55. The object of this 'service' was political re-education as it is understood by the regime. The average length of stay was 8 months, but could be prolonged if the purpose of re-education had not been attained. These people were cooped up in private barracks, they wore green-khaki uniforms like other soldiers, but without signs of rank and their epaulettes were black. Their wage was identical with that of free workers. At Kosice I saw in one of these units a person named Landar whom I knew. Formerly he had been a deputy of the Democratic Party, and his age was 55. He also worked in the brick-kiln."

Read, approved and signed,
27 November 1954.

DOCUMENT No. 100
(BULGARIA)

Deposition: Appeared K. G., born 27 September 1910, last living in Budapest, from which he fled 21 September 1953, who says as follows:

"Among those called, i.e., kulaks, former industrialists or other persons displaced as suspects by the political commissar, are treated in the following manner: either they are placed directly in work-units requiring all sorts of labour, or in construction, or in mines, or else in regular units where they perform their military service. In the latter case, however, they can be kept under the colours for more than three years — for four years, five years or even longer, which means until their political instruction officer frees them, which he will do when he deems their political re-education sufficient. Older persons until the age of 55 can likewise be called to serve in these units if they have the stigma of being enemies of the people's democracy. These units are destined to work in the conditions described above.

"On 5 October 1952 I was called up although at that time I was 42. The length of the period of enlistment was not mentioned. Besides, I know that there is no length to the limit of service. Actually there was no need for me to perform my military service since I had been declared unfit because of my illness. In September 1953 I received a new summons. Sometime later I fled.

"The units composing these work-brigades wear the same uniforms as the other units, except that they have no insignia of rank.

"If one of these units is called to work at the construction of a house or a factory, it is lodged in a place bordering upon the place of work, the shelters being barracks which are girdled with barbed-wire and watched by armed guards. The people are taken both to and from work in close ranks; they must work for 8 hours like any other labourer and must then perform exercises for 4 hours. No leave of absence is granted; in urgent cases, as, for instance, in family events, these people can leave only if accompanied by a guard. The members of these units therefore live practically as prisoners."

Read, approved, and signed.
16 March 1954.

DOCUMENT No. 101
(HUNGARY)

Deposition: Appeared H. G., born 24 April 1935, gardener by profession, last domiciled at ..., from which he fled 12 May 1954, now living at... in Austria, who says as follows:

"I know that there exist in Hungary military working-units. Certain units are occupied with work of a purely military nature, for example in the barracks, aviation camps, etc. Others, on the contrary, work in mines. The members of these units were enlisted directly the moment

came for them to do their military service. One of my friends from my home town was directly called to serve in a work-unit, as I saw with my own eyes on his travel-document. Although the length of military service is generally three years, the people must then pass three years at work. They receive a wage, as soldiers do, i.e., 60 forints per month, not including quarters and food. I was told by an acquaintance who had been condemned for political reasons and had worked in a mine, that the members of the work-units worked in the same mine, right alongside the free workers. I know that the norms of production were the same for the members of the military working-units as for the free workers. As already stated they received smaller salaries.

"Other persons called to serve in these work-units were those deemed unfit to carry arms, i.e., those who were politically suspect. My friend, the one of whom I spoke earlier, was called to serve in the work-units because his brother had fled to the West in 1950. I have just heard from my parents that in a similar manner my brother — who had to perform his military service — was called to serve in a work-unit, and surely because I had fled to the West. I am ready to affirm the truth of my testimony under oath."

Read, appeared, and signed

30 October 1954.

In addition to these individual measures of deportation to camps of forced labour which can be executed in conformity with the above-mentioned texts, there are collective measures of deportation. One can recall from 1941 the gigantic deportation of Germans from the Volga and the disappearance of entire national groups. Less is known, however, concerning the case of inhabitants in the Republic of the Chechen-Ingush and the Republic of Crimea and their deportation in 1944. Only two years later, in 1946, was confirmation given of this national liquidation in *Izvestia* (26 June 1946).

DOCUMENT No. 102

(USSR)

Law Concerning the Abolition of the Chechen-Ingush Autonomous Soviet Socialist Republic and the Changing of the Crimean Autonomous Soviet Socialist Republic into the Crimean Oblast.

"During the Great Patriotic War, when the peoples of the USSR were heroically defending the honour and independence of the Fatherland in the struggle against the German-Fascist invaders, many Chechens and Crimean Tatars, at the instigation of German agents, joined volunteer units organized by the Germans, and together with the German troops, engaged in armed struggle against units of the Red Army; also at the bidding of the Germans they formed diversionary bands for the struggle against Soviet authority in the rear; meanwhile the *main mass of the population* of the Chechen-Ingush and Crimean ASSR took no counter action against these betrayers of the Fatherland.

"In connection with this, the Chechen and the Crimean Tatars were resettled in other regions of the USSR, where they are given land, together with the necessary governmental assistance for their economic establishment. On the proposal of the Praesidium of the Supreme Soviet of the RSFSR, the Chechen-Ingush ASSR was abolished and the Crimean ASSR changed into the Crimean Oblast by decrees of the Praesidium of the Supreme Soviet of the USSR..."

Source: *Izvestia*, 26 June 1946.

The Soviet of Nationalities in the USSR supposedly has representatives of all the National groups in the USSR. On the

published list of the deputies for the year 1940, there were: 10 Volga Germans, one representative of the Ingush-tatars, five deputies of the Chechens. On the issue of 15 June 1950 of *Izvestia* none of these nationalities were listed as having representatives in the Soviet of Nationalities.

The tribulation of the inhabitants of the Baltic States, who have suffered tremendous deportations in 1941 and 1944, is generally well-known. Unknown is the fact that the deportations have not stopped with the end of the war.

DOCUMENT No. 103

(USSR)

Deposition: Appeared Enno Kustin, who says as follows:

"I live at Idunvägen 3, Hallsthammar, Sweden.

"I was born on 3 March, 1928 in the municipality of Rägavere, district of Estonia, the son of August Kustin, railway worker. In May 1948 I completed the course at the Third Marine School at Tallin, and served subsequently as able seaman aboard various Soviet-Estonian commercial vessels of the inland waterway and coastal fleets. My last employment was on the oversea steamer 'Tosno', from which I fled on 31 March 1950 in the harbour of Västerås in Sweden. At present I am working at the AB Bultfabriken at Hallstahammar.

"From December 1948 till the end of March 1949 I lived with my father at Vackula, in the district of Virumaa, because of the unemployment in shipping at the time. My father was a level-crossing keeper at a place two kilometres from Vackula in the direction of Narva. As I lived with my father quite near the railway, I had a good opportunity to observe the trains and was therefore in a position to observe closely the deportations that took place between 23 March and 28 March 1949.

"On 19 March suddenly there came large numbers of Red Army lorries from the direction of Russia. They were American Studebakers, International, and Russian ZIS lorries. About 150 of them drove through Vackula. Nobody had any idea why these empty lorries came to Estonia. On 22 March, long empty goods trains arrived from the direction of Russia. Each one of these trains had from 35 to 40 freight-cars. Twelve of these trains ran through Vackula, at thirty-minute intervals. The windows of the freight-cars were newly boarded and for this reason people began to fear that a deportation might be about to take place. The deportation became a fact in the early hours of the following day, 23 March. Groups of four to five MVD men and coastguards arrived in the villages with lorries. In a few cases they used horse-drawn carts instead of motor-lorries. The families earmarked for deportation were brought to the nearest railway station, where goods trains from Russia with boarded windows waited for them. The way the deportation was conducted gave definitely the impression that it had been carried out on the basis of lists prepared beforehand. About 35 deportees were placed into each freight-car. The twelve trains returned to Russia with their load of deportees between 24 March and 28 March. According to my estimate about 15,000 people were transported out of Estonia on these trains. I heard from other people that a still greater number of deportees, namely people from southern and central Estonia, were transported on another railway line via Petseri. I cannot say how many people altogether were deported in March 1949, but it was rumoured that the total amounted to about 100,000. In any case, it is certain that a far greater number of persons were deported in March 1949 than at the time of the first deportations in 1941. For example, I know for certain that in 1941 only one family was deported from the village of Rägavere, as against seventeen in 1949. Among those deported in 1949 I knew personally the miller Kipper, of Rävagere-Rahkla, who was deported with his wife and a son aged between 14 to 15 years. An old

woman, whose husband had died a few days before, was taken away from the manorial estate in Vackula. When they came to fetch her, her dead husband still lay in his coffin, unburied, and the wife begged for permission to have him buried first. She was not granted this permission. Pastor Varik of the Congregation of the Holy Trinity in Rägavere was also deported at that time.

"Later I heard from seamen whom I knew that deportees from the islands had been brought to the mainland on board three ships, namely on the 'Läänemaa' from the port of Jaagurahu, on the 'Sõmeri' of the shipping firm of Kärddla, and on the 'Vishera', an auxiliary vessel of the Red Fleet, probably also from Jaagurahu. In the opinion of my acquaintances 3,000 to 4,000 persons were deported from the islands.

"The deportees were allowed a few hours in order to pack their most essential belongings. The deportation groups advised them to take axes, saws and water pails with them. The deportees' domestic animals were later handed over to the nearest sovkhos or kolkhoz, and the rest of their property was handed over to the executive committee of the municipality, which sold it. But I also heard that some committee-members simply appropriated certain things themselves.

"People who happened to be present when certain families were taken away told later that no court judgment had been read to the deportees: they were simply told to get ready and come along. Some people said that on the way the deportees were made to sign a declaration to the effect that they were travelling voluntarily to Siberia in order to settle there. Some months later a few letters reached Estonia from the deportees, which said that the writers had been given work in Siberia in kolkhozes, sovkhos or timber yards in the district of Krasnoyarsk. Such letters came only from a few people. Nothing transpired as to where the others had been taken to.

"The majority of those deported in 1949 were people from the land, and it was assumed on the whole that the object of the deportation was to scare the people into joining the kolkhozes. The deportees were mainly owners of large farms, also the wives of men who had been deported in 1941, and persons whose sons had been called up by the Germans and later disappeared. Among the last class were many poor and simple agricultural labourers. The deportation gave the people a great fright and, as I heard, many of them offered no more resistance to collectivization.

"Apart from deportations on a large scale, individual arrests also took place all the time. These were most frequent in 1945, at the beginning of the second Soviet occupation. As far as I know, the number of those arrested equals that of the deportees. Persons who had been in the Home Guard, or who had taken part in the war of liberation of 1918—1920, policemen and former officials of the local self-administration agencies, were all arrested. In 1945 two of my personal acquaintances, Edgar Saarman, a house owner, and Edgar Liima, a farmer, both of Viru-Kabala, were arrested. They had been in the Home Guard; I learned later that they both died in a forced-labour camp during the first winter. After her husband's arrest, Liima's wife worked in a dairy, to which she also brought her small child born after his father's arrest: during the mass deportations in 1949 this woman and her child were also deported.

"The arrests always took place on an individual basis. Only during the mass deportations were entire families removed. Those arrested are taken at first to a prison in Tallinn, where they await their sentence. This sentence generally means more than ten years' forced labour. When enough prisoners have been assembled to fill six or seven freight-cars, they are taken to Russia. Normally no special train is formed for them, but the six or seven freight-cars are included in a couple of goods trains. Such a train is then accompanied by a very strong guard, which is generally much stronger than the guard accompanying the deportees' trains. The train is lit with searchlights on both sides and on the roof, and beneath the last freight-car there is a barbed-wire net to catch those who may have dropped between the rails after breaking the floor

of a car. I saw a considerable number of such trains passing through Vackula and Kabala on their way to Russia, because my father was a level-crossing keeper at Kabala until the autumn of 1946 and then had a similar position at Vackula. At both places his house was not more than ten metres from the railway. In the summer of 1945, at Kabala, my father saw with his own eyes his brother Julius Kustin being deported to Russia in such a train. My uncle Julius was foreman in the slate quarry at Kivioli and was sentenced to 25 years' forced labour — as his wife learned later — probably as a result of a denunciation. His wife learned later also that he had been sent to Norilsk, a town in the wild country of the lower Yenissei. In the summer of 1949, after one of these trains had passed Vackula, the railway workers found a match box on the tracks: it contained the judgment of a military court condemning one of our acquaintances, the railwayworker Aleksander Raik, to 25 years' forced labour. Raik lived in a house that belonged to the railway and stood between the stations of Vackula and Kabala. He had been decorated with the Estonian Cross of Liberation for bravery in the war of liberation and was a member of the Home Guard. His wife was left behind with eight children.

"Russians were brought in to take over the place of the deported Estonians. For instance, when I was last in Tallinn, on 16 December 1949, more Russian than Estonian could be heard in the streets. In 1947 there were as many Russians as Estonians at the Kivioli quarry where I worked at the time. I heard at the time that the Russians were already in the majority at Kohtla-Järve, another quarry. All my superiors were Russians at the Kivioli quarry as well as at the Estonian State Shipping Company. Only the lower posts in the administration were filled by Estonians, who had jobs that necessitated direct contact with the workers.

"While making this deposition I have not exaggerated any detail and have purposely omitted facts and descriptions which, in my opinion, represented atrocities that were exceptional."

Read, approved and signed.

13 September 1950.

We, the undersigned, Heinrich Marks, head of the office of the Estonian Committee, of Gimmerstavägen 20-2, Älvsjö, Sweden, and Illmar Mikiver, secretary and translator of the above-mentioned office, of Vasavägen 25, Saltsjöbaden, Sweden,

on behalf of the Estonian Committee in Sweden, certify herewith the accuracy and authenticity of the above copy of the deposition signed by Mr. Enno Kustin, of Idunvägen 3, Hallstahammar, Sweden.

Office of the Estonian Committee,

Smalandsgatan 42, III,

Stockholm C,

Sweden,

February 9, 1954.

Head of the Office

(Signed) H. Marks,

Secretary and Translator

(Signed) I. Mikiver

Even when a person condemned on political grounds has finished his sentence, it is often impossible for him to return to his country, in the case of a foreign national, or to his village, in the case of a national from the State in question. He is obliged to establish himself in the outskirts of the camp where he was sent after his sentence. It is hard not to see in this fact full confirmation of what has often been said about communist forced labour camps: these camps constitute a factor of first importance for industrial and agricultural production in communist countries.

DOCUMENT No. 104

(USSR)

Deposition: Appeared Manfred Franz, born 9 April 1926 at Stettin of German nationality, now living in Munich, Schaferstrasse 134, by profession licensed hotel-manager, who says as follows:

"I was arrested 11 November 1948 at Leipzig, my last residence, by the MGB, in my apartment. I remained for 21 months in the MGB prison at Dresden, Munchener Platz.

"Next I arrived in the prison-van at Brest-Litovsk. Here I stayed for a month and then came directly to Vorkuta, arriving on 25 October 1950. . .

"The 'free' workers living outside the camp were practically all of the same nationality as those detained within it. Many 'Volksdeutsche' were here, as they had been forced to reside here. The great majority of those 'liberated' was composed of former prisoners, who, after having served their sentences, could not return to their homes but were forced to stay in the neighbourhood of the camp. If these 'liberated' people were citizens of the USSR, they could have their families come there. I am quite certain that those 'liberated' could not leave the area assigned to them. And I directly know of a 'liberated' person — a Volksdeutsche named Nebel — who asked to be allowed to live in the Ukraine again but who waited in vain for a reply. The 'free' workers represented approximately 3 % of the manual workers in the day-shifts: they were mainly technicians."

Read, approved and signed,

17 November 1954.

DOCUMENT No. 105

(USSR)

Deposition: Appeared Kunno Herzo, born 3 December 1908, at Berlin-Adlershof, of German nationality, now living at Munich-Allach, Augerlohstrasse 20, by profession a salesman in industry, who says as follows:

"Starting 1 May 1940 I worked in Erfurt as head salesman and as Abwehr officer in the factories of Erfurt for manufacturing the machines of Henry Pels & Co.

"On 12 July 1945, I was arrested by the Soviet occupation authorities. I remained in prison at Erfurt under the MGB, until 15 February 1946. . . Late in September 1950 I came to camp No. 8 at Vorkuta. This camp was intended exclusively for condemned criminals and included 3500 prisoners, nearly 600 being Germans. In this camp were representatives of all nationalities, including, as far as I can remember: an Italian priest, two Frenchmen, a certain number of Poles, Hungarians, Roumanians, Chinese, Koreans, Czechs, Finns, Ukrainians, citizens of the Baltic States, also Uzbeks, Cossacks, Georgians, Armenians and 'Volksdeutsche'. Included among the last was a certain number of 'free' workers who had been forced to stay in the neighbourhood of the camp and generally worked as mechanics. Outside the camp I knew certain former German war-prisoners who had completed their sentences and were obliged to remain there. They were declared stateless. I knew one German who, until the war ended, was director for the printing-firm Ullstein at Berlin and who was condemned by the Russians to 7 years of forced labor under the pretext that he had worked for the capitalists. When he had served his sentence and should have been freed, he could not go back to Germany. This man received a passport as a stateless person and worked outside the camp — he was well considered after his liberation — in a store for foodstuffs."

Read, approved and signed,

28 October 1954.

The people's democracies have not hesitated to follow the example of the Soviets. In Hungary gigantic deportations started from Budapest the night of 20 May 1951. The newspaper of the Hungarian Communist Party, *Szabad Nep*, of 6 August 1951 gave the following list of deported persons:

- 21 Horthy ministers;
- 25 former under-secretaries of State;
- 190 Horthy generals;
- 1,012 officers from the General Staff of Horthy;
- 274 former field officers of the police;
- 88 officers from the gendarmes;
- 812 high office-holders from the Horthy regime;
- 176 industrialists;
- 157 bankers;
- 392 businessmen;
- 391 big landowners;
- 347 proprietors of non-nationalized factories.

This represents a total of 3,785 persons, a number which does not include the families of the deported persons. In taking as a basis the figures given by *Szabad Nep*, it can be said that at least 10,000 persons have been driven away from their homes.

In 1953 the Hungarian government authorized the victims of these measures to come back to Budapest, but under the condition that they first obtain a residence permit from the city authorities.

DOCUMENT No. 106

(HUNGARY)

Deposition: Appeared N. N., born 1 November 1932, last place of residence in Budapest, fled from Hungary 14 November 1954, now living in Vienna, who says as follows:

"I was deported, together with my mother, from Budapest in the huge-scale deportations of 1951. We were only allowed to bring along 250 kilograms of personal effects per person. We would have left all personal effects and furniture surpassing this weight with friends or acquaintances, but this was practically impossible because we were only permitted a delay of 24 hours. In certain cases the parties concerned were only allowed an hour for leaving Budapest. We received from the Ministry of Interior the deportation order indicating our new place of residence. The name of the peasant designated to receive us was also plainly indicated on this order. However, when the deportations decree was cancelled in 1953, we could not return to Budapest, and thus we did not differ from all the rest who had been deported from this city. Afterwards I found work in Budapest and was obliged to get a residence permit from that city. But, for no reason whatsoever, this was refused to me, as well as to all those wishing to return to Budapest. In my case the question of a dwelling-place played no part in this refusal, as I could prove that I might stay with my aunt, or eventually with a friend. My employer also tried to get a residence permit for Budapest, but again in vain. The denial was noted in a decree of the Ministry of Interior, dated either 3 or 4 November 1954. As I indicated, the denial had no motivation and there was no means of recourse.

"The personal goods the deportees could not bring along were confiscated without any indemnity. Even in our home all the furniture we had left, and certain other objects, placed in a large attic, were for

the greater part sold by the State without the slightest compensation. "The group of deportees included people from all social classes. Members of the old nobility, former capitalists, ex-officers, all these stood alongside 'little men' such as manual workers, for example. In the village to which I was deported, there was a former barber whose shop had been seized. I already knew that the denunciation of an individual as anti-Communist, even without any information, was sufficient cause for deportation. Many people whom I knew told me that they had to give up their shops at once and without being able to take anything whatsoever with them. Even small sums of money were confiscated. It was evident that what was involved in these cases was that the State intended to appropriate all this. Even these persons received no compensation, nor could they get permission to return to Budapest following the end of the deportation-period, not even in the capacity of labourers in communal works or nationalized enterprises of whatever description."

Read, appeared and signed.

1 February 1955.

DOCUMENT No. 107

(HUNGARY)

Deposition: Appeared N. N., born 22 August 1923 in Yugoslavia, first resident at Szeged, Hungary, from where he fled in October 1953, by profession a medical student and now living in Austria, who says as follows:

"At the time of the 1951 deportations there was also deported from the village of Ujszentivan in the region of Szeged a peasant family whom I know but cannot name. They came from the vicinity of Debrecen. A truck was put at their disposal and thus they could cart away their furniture, horses and agricultural implements. I do not know the reason for this deportation, they were not kulaks in the strict sense of the word as they only possessed 15 arpents of land, while the name of kulak is given to peasants holding more than 20 arpents of land. As soon as they arrived at the place assigned to them, these people saw their vehicles and horses taken away, and they were given a compensation. In 1953, when Imre Nagy declared deportations null and void, they returned, but they could not return to the village of their old farm: they had to stay with people whom they did not know at Szeged; they were given no dwelling-place and they lived in a hut in the middle of a vineyard. I know that these people received no compensation, neither for their land, their buildings, nor the furniture they had been obliged to abandon.

"A son of these peasants, who had started his studies and no longer lived with his parents, chanced to be staying with them when the deportation occurred. On that occasion he, too, was deported and did not return again to Szeged. Nor could he continue his studies, the authorities not having allowed him to leave the place of residence to which he had been assigned."

Read, approved and signed.

21 September 1954.

In September 1952, Czechoslovakia became likewise engaged in massive shifts of population from its principal cities (Prague, Brno, Bratislava) to the country. Although these measures were cancelled a year later, the returning persons still do not get back their apartments which, in the meantime, had been allotted to the "favoured" of the regime.

DOCUMENT No. 108

(CZECHOSLOVAKIA)

Deposition: Appeared Franz Kretschmar, engineer, born on 29 November 1926 at Cab, district of Nitra, a refugee since May 1953, who says as follows:

"I had lived in Bratislava since 1943 and was latterly employed as an engineer in a State welding plant.

"In 1952 about 15,000 persons were evacuated from Bratislava. The evacuation order came from a special commission of the local national committee. The evacuees were divided into three groups. The first group consisted of old age pensioners and pensioned persons, as well as of artisans who had voluntarily given up their trade. They were given two or three weeks' time and were able to take their entire belongings with them. They were assigned to a definite locality, mostly in thinly inhabited areas, where they were also allotted a dwelling. The second group consisted partly of artisans who had not voluntarily given up their trade, and the rest of former civil servants and ex-officers. They were given three days' notice and were allowed to take with them only essentials such as clothing, furniture and household goods. They were assigned to a definite locality, mostly in areas of heavy industry, where they were sent as factory workers. The accommodation allotted to them was mostly poor and cramped. The third group consisted of political suspects, as for example, relatives of persons who were in custody or in prison, former lawyers, former senior civil servants, former merchants and industrialists. This group was given 24 hours' notice. They were only allowed to take with them what they could carry, namely suitcases or briefcases. They were not allocated to a definite locality but only to a definite area, for instance eastern or northern Slovakia. They had to care for themselves regarding accommodation. In most cases they endeavoured to find lodgings with relatives, who also had to support them since they were not assigned any work and did not receive any ration cards for food or clothing.

"As far as I know there was no legal redress against this notice of evacuation. In any case, if there was such a remedy it could have no deferring effect.

"The apartment that had become vacant was taken over mostly by officers transferred to Bratislava or by party officials. As far as I know, those who had been evacuated received no compensation at all for the goods they had to leave behind.

"I know personally five families that belonged to group three and who found accommodation with relatives in Slovakia. Some of them made a living by working for farmers. It was most difficult to find work at a farm, as the farmers were forbidden to employ labour. Therefore, those who worked on farms had to do this in secret in order to obtain some food in this way."

Read, approved, and signed.

22 February 1954.

DOCUMENT No. 109

(CZECHOSLOVAKIA)

Deposition: Appeared J. B., born 9 October 1919 in Slovakia, lawyer by profession, who says as follows:

"During the autumn of 1952, approximately 26,000 inhabitants of Bratislava were deported in the course of the so-called B-action. I too received an order for deportation which had been instituted by an office of the Ministry of Internal Security in Bratislava. In contrast with what happened to others, I was allowed to take along all my belongings as a conveyance had been furnished for this purpose. Others could carry away only about 50 kilograms of luggage. I have

no idea as to what prompted the ruling concerning the amount of luggage each person was permitted to take away.

"Among the deportees were, first of all, the political undesirables, former businessmen, ex-officers, former Civil Servants, etc. . . .

"I know that the people who had to abandon their property received no compensation in return. One month later I was engaged by the Director of the Theatre in Kosice; other deportees could return only at the end of a year, after the annulment of the deportations.

"I was deported to Lisek, a village in northern Slovakia. They assigned me to a room with a peasant. In the same village came six families who also were quartered with peasants. Work was obligatory for all, whether aged or sick. Neither grants nor allowances were provided.

"There could be no appeal against the deportation order. When the Department of Internal Security took similar measures nothing could be done about it."

Read, approved, and signed

27 November 1954.

IV. OPPRESSION OF THE POPULATION THROUGH EMPLOY- MENT AND ACTIVITY OF INFORMERS

Everyone has the right to life, liberty and the security of person.

Art. 3. United Nations Universal Declaration of Human Rights.

One of the most abject characteristics of the Communist system of oppression is incontestably the activity of informers. Certainly the police in all countries are obliged, in relation to their duties, to have recourse to individuals of a low moral standard who lend themselves all too readily to such employment. Nevertheless, in communist countries sneak-informing has acquired high civic status among "patriotic" activities and it has become a duty for all citizens, even for children. It is a duty that the Communist lawmaker does not hesitate to prescribe in so many words.

DOCUMENT No. 110
(HUNGARY)

Decree No. 93—1951.

All caretakers (or, if such do not exist, the person charged with responsibility for the building) — whether this matter falls within their sphere of activity or not — must declare to the police any facts leading to the supposition that a given individual has left, or intends by clandestine means, to leave Hungarian territory, or that he has accepted from a government, political institution or foreign system a job of a political nature.

For members of the Communist Party police-informing is clearly a self-evident matter and is indeed confounded with the "constructive criticism" so much extolled by the regime.

DOCUMENT No. 111
(ROUMANIA)

The Life of the Party: Political Work to Help the Masses Towards the Fulfilment of the Production Plan, by Alexandrina Diner, Secretary of the Basic Organization in the Factory "The Uprising of 1907 — Unity".

"... At present no worker in our factory furnishes an output less than the standard norm; more than 90 % of the members in our 'collective' are swept along by the impulse of Socialist emulation..."

"One of the unresolved problems to the solution of which agitators have brought an important contribution is that of non-discipline in work. This problem was chiefly posed by night-workers. From the very start we were forced to introduce tireless agitators into each group. They managed to develop a decided hostility against those who did not go to their work, who started their work late, or who did not work throughout their entire 8-hour day. It was thus, for example; comrade Elena Suler was accustomed to leaving the room too often. The woman-

agitator Chergina Loser organized a lecture so as to emphasize the ties existing between individual accomplishment and the fulfilment of the plan. This female agitator affirmed that if the work-plan were not fulfilled there would be a serious lack in consumer goods. *Anna Losar and other workers criticized those who showed insufficient alacrity for their work and insisted on the fact that 'their own standard of living was endangered by such absences.'*

"A large number of agitators anticipate the wishes of their fellow-workers. This explains why the workers grant complete confidence to the agitators, revealing to them their difficulties or communicating to them their ideas. The female agitator Elena Braterich informed us, for example, that the carelessness of the section-foreman Ion Iordache was the basic cause for the poor functioning of the machines, as a result of which articles of poor quality were produced by this machine, while the salary of the workers became correspondingly less. When visiting the office the boss took all necessary measures and the problem was settled. The conscientious action of the agitators with a view of satisfying the needs of the workers augments the prestige of our Party and constitutes an important contribution to the strengthening of the ties between the Party and the working masses."

Source: Scanteia, No. 2739, 13 April 1953.

There are regulations in various buildings to facilitate in a considerable measure the work of the secret police and their assistants, whether voluntary or not. Thus the establishment of the institution of "tenants' book".

DOCUMENT No. 112
(CZECHOSLOVAKIA)

Depositor: Appeared Ladislav Sinkora, mechanic, formerly of Prague, 13, Zabehlice 335, now living in a camp for refugees, who says as follows:

"For approximately two years the owners or superintendents of buildings were required, in Prague — my last place of residence — and similarly, I think, in other cities of Czechoslovakia, to keep books in which must be entered the name, profession, address, date of birth, number of identity-card and place of work for residents of the building. All such information was supervised by the police. The requirement for filling out these formalities came into effect as soon as somebody from a foreign country lived in the house, even if for a single night. When, for instance, a young man, having fulfilled his obligation for military service, was absent for several days (for more than three days, I believe), he had to inform:

- 1) the owner or superintendent of the building (so that his description could be filled out on the register);
- 2) the police;
- 3) his employer;
- 4) the local military authorities. He should notify the same persons and authorities on his return."

Read, approved and signed.

6 April 1954.

It would be wrong to think that the informers are recruited solely amongst convinced partisans of the regime. Sometimes they become "stoolpigeons" because an appeal has been made to their "patriotism" or their self-interest. Still others do so because they are not aware of the consequences of their action like children, for example. Finally, others who become involved regard life more dear than liberty.

DOCUMENT No. 113

(HUNGARY)

Deposition: Appeared: K. J., born 6 October 1931 in Hungary, weigher by profession, last resident in Budapest until fleeing on 6 July 1954, at present in Austria, who says as follows:

"During my military service (until November 1953, as a political officer-instructor in my unit), I was asked, as were all soldiers who properly accomplished their service, to make regular reports on the state of mind of the soldiers in our unit. I refused; I could allow myself this because I was in fact the only deep-sea-diver in my outfit and I enjoyed, because of this, a certain immunity. Nevertheless, I knew certain comrades who were doing the work of informers.

"The process of enrollment for an informer was the following: on a certain day I was summoned, with a number of other soldiers — who, for the most part, had been registered to prepare themselves as career-officers — at the political instructor's office. He informed us, in the presence of the secretary of the Party, that it was our duty not only to accomplish effectively our military service, but to work also for the security of the State against 'enemies'. For that reason we had to call attention to any hostile currents we had noticed. Everybody refused, giving as their reasons that they did not wish to set themselves up as informers. The political instructor repeatedly insisted that it was not a question of informing but of patriotic service, even just as being under arms; yet nobody was ready to undertake this work. Later on, the instructor renewed his attempt to persuade me, but I was so angry that I started to shout and to such a degree that the people in my vicinity noticed it and the instructor ceased talking. But I knew that there were plenty of informers in our unit, and we knew them for the most part. I knew, for instance, that one of the officer-candidates had truly become an informer. He later went to the officer's school."

Read, approved and signed.

26 November 1954.

DOCUMENT No. 114

(POLAND)

Deposition. Appeared Jan Henkel, Polish citizen, born 28 January 1930, previously residing in Lower Silesia and briefly in the camp "Am Sandwerder" 17/19 Berlin—Wannsee, who says as follows:

"In 1951 I worked as weigher for the State farm at Rybarzowice (in the constituency of Görlitz), in the Eastern part of Neisse. Before accepting this work I had been promised, as payment in kind, 200 kilograms of dressed pork, flour, etc. . . . These promises were not kept and I had to eat dry bread. In order to break my contract which was to run two years — which could not be regularly done — I volunteered for the ZMP (Youth organization). I became head of the local organization of Opolno Zroj (constituency of Görlitz, in Eastern Neisse). In this capacity I had as mission to set up for action all the members of ZMP (nearly all were adolescents). These young people were required to spy upon their parents and still other people, to point out, for instance, if they were listening to foreign radio broadcasts, and — when it came to the peasants — if they regularly delivered foodstuffs in accordance with requirements or if they hid their wheat and potatoes. They were also required to help the troops in the frontiersguards and to divulge whatever they might have heard of a political nature. Almost every day I was visited by one or two people coming from Gorlitz to question me and besides to give me explicit instructions: I was, for example, expected to watch Dr. Jarmala, who was living at Opolno and practising his profession in the hospital of Bogatynia (since he was suspected of helping people to escape across the frontier)."

Read, approved and signed.

21 September 1954.

DOCUMENT No. 115
(HUNGARY)

Deposition: Appeared N. N., born 1 November 1932, last place of residence in Budapest, fled Hungary 14 November 1954, now living in Vienna, who says as follows:

"Among my acquaintances there are several persons who were imprisoned by the the secret police because of their correspondence with foreign countries, or simply because their name made them suspect or also because they had talked once or several times with foreigners in Hungary. Unanimously these people agreed in telling me that the Secret police had told them that they should become informers. If they did not agree to comply with this offer, they might well expect never again to come out of the prisons of the secret police. Invariably they explained to me that they had declined this offer, but I know nevertheless that some of them actually did act as informers. After a time, however, one gets to know who of one's acquaintances are informers and who are not and one acts accordingly.

"One of my acquaintances went but once to a meeting, of the 'co-operatives' — in 1954 — and he later on told me that he had met a large number of employees from the Secret Police, some of whom were hired as workers and others as bosses of the co-operatives. He knew these people because he had also been imprisoned by the Secret Police in an internment camp. As a general rule one was not unaware that the Secret Police puts its employees in posts of every description in various enterprises so as to serve as informers. Even in prisons and internment camps there are — a fact that, as I know, is well established — informers who are relatively well paid and whose mission is to snoop upon the activities of their fellow-prisoners, to verify in particular if they start grumbling, if they wish to escape, etc. So it is that in 1952 I went to a police interment camp because I had quit without permission the place of deportation to which I had been assigned. Settled in the same room with us was a young girl who was most kindly to us. As she was sent off each day to work outside she offered to mail any letters destined for our parents or friends. Later we learned through the police that we were dealing with an informer who handed over all our mail to the Secret Police. Through prisoners who had secured their freedom at the same time she did, we also learned that, consequently at the exit of the camp she had been awaited by members of the Secret Police and that she had left with them.

"As everybody feels himself surrounded by spies, it is advisable to be most careful in what one says, even with those whom he knows well since one can never be sure that he might not be dealing with an informer employed by the Secret Police. It should not be overlooked that restaurant employees also, as a rule, are employed as informers. One of my friends found work in a 'Snack-Bar'; a month after she had started this work the Secret Police forced her to keep watch upon her clients: she had to specify how often they came, the money spent by each and the subjects of their conversation.

"It was especially dangerous to go out in the company of foreigners as they, as well as those accompanying them, were the object of a particularly close attention."

Read, approved and signed.

1 February 1955.

Members of the secret police determine most precisely in what way the individuals they have in mind can be recruited as informers. In the Soviet zone of Germany they must even submit a recruitment proposal to their office, showing what they are aiming at and how they want to effect the recruitment. Then the personal circumstances of the selected persons are investigated. In the reports that have to be handed in, the

selected persons are often cynically called "candidates" or "aspirants". If those concerned decline to sign a pledge to act as informers, they are often forced to sign declarations the contents of which will be used one day by the people's police as material for a prosecution against them.

DOCUMENT No. 116
(SOVIET ZONE OF GERMANY)

Görlitz Office
Section IV
Case officer:

Görlitz,
27 January 1953.

VP Sergeant-Major Köhler.

Subject: Proposal for the recruitment of Benno Butz as secret informer in the Görlitz taxi-co-operative.

During a conversation with the taxi driver, comrade Paul Kaulfuss, born at Greulich/Bunzlau 21 August 1904, domiciled at Schillerstrasse, Görlitz, I learned that the person referred to as 'B' is chairman of the supervisory council of the Görlitz taxi co-operative. Further, comrade K. said that B. is under suspicion of having several times taken in his car to West Berlin, people who wanted to move illegally to the west.

The measures taken as a result of this information have produced the following data:

Candidate:

Name: Benno Butz
Domicile: 8, Bahnhofstrasse, Görlitz
Born on: 30 July, 1894 at Grossenhain, Saxony
Family status: married, with 3 children
Citizenship: DDR
Nationality: German
Education: Elementary school, secondary school (Gymnasium)
Original trade: merchant
Present occupation: taxi driver (self employed)
Convictions: none
Party membership: none

Wife of the Candidate:

Name: Ida Butz, née Pietsch
Domicile: 8, Bahnhofstrasse, Görlitz
Born on: 9 January 1897, at Bunzlau
Citizenship: DDR
Nationality: German
Religion: Catholic
Education: Elementary school
Original trade: none
Present occupation: housewife
Convictions: none
Party: none

Parents of the Candidate

Father: Wilhelm Butz, born on 24 September 1863 at Schönfeld near Bunzlau (deceased)
Mother: Agnes Butz, née Otto, born on 13 January 1870 at Kath.-Hennersdorf near Lauban (deceased)

Children of the Candidate

1st daughter:
Name: Gisela Hildebrand, née Butz
Domicile: 33, Bautzener Strasse, Görlitz
Born on: 1 May 1922 at Görlitz
Citizenship: DDR
Nationality: German

Religion: Catholic
Education: Elementary and secondary school
Original trade: none
Present occupation: housewife
Convictions: none
Party membership: none

Husband of 1st daughter:

Name: Werner Hildebrand
Domicile: 33, Bautzener Strasse, Görlitz
Born on: 10 August 1925 at Görlitz
Citizenship: DDR
Nationality: German
Religion: Evangelical
Original trade: technical draughtsman
Present occupation: technical draughtsman
Convictions: none
Party membership: none

2nd daughter:

Name: Dorothea Peller, née Butz
Domicile: 8, Bahnhofstrasse, Görlitz
Born on: 11 May 1925, at Görlitz
Citizenship: DDR
Nationality: German
Religion: Catholic
Education: Elementary school
Trade: none — housewife
Convictions: none
Party membership: none

Husband of the 2nd daughter:

Name: Manfred Peller
Domicile: 8, Bahnhofstrasse, Görlitz
Born on: July, 1926, at Görlitz
Citizenship: DDR
Nationality: German
Religion: Catholic
Education: elementary school
Original trade: technical draughtsman
Present occupation: technical draughtsman
Convictions: none
Party membership: none

Son of the Candidate:

Name: Heinz Butz
Born on: 14 April 1933, at Görlitz
Occupation: apprentice distiller

These personal details were extracted from the administrative information on the candidate and his relatives in the card index of the people's police in Görlitz. Comrade Hoffmann of the Trade Office of the Town of Görlitz, the house supervisor Hilbig, of 8, Bahnhofstrasse, Görlitz, and comrade Kaulfuss of the Görlitz taxi co-operative were also questioned for the compilation of these personal details. The inquiries at the Trades Office and the questioning of the house supervisor were conducted in such a way that they could not know in whom we were interested.

Benno Butz would be assigned mainly to the Spelt and English cases. But there are still other obscure personalities among the taxi drivers and their acquaintances. The candidate has the possibility of providing valuable reports on the suspected circles in view of his position as chairman of the supervisory council of the taxi co-operative. The man himself is a convinced Catholic and is in the know on all affairs of the taxi co-operative, for the suspects in those circles are also Catholics

and form a clique in the co-operative. *Butz himself is incriminated in a certain sense by the statements of comrade Kaulfuss, and must be recruited under pressure in this connection.* I propose to conduct the recruitment in the following way:

After my proposal has been approved, I shall arrange with the Niesky office that a room of that office is kept free for the following three days, so that I can carry out the operation there. I shall then go to the taxi stand at Görlitz station every day after 7 p.m. If it is the candidate's turn to drive, I shall go to his vehicle and ask him to drive me to Niesky. During the journey I shall talk with him about generalities about the taxi co-operation steering the conversation on to a political theme. From this conversation I shall ascertain his actual political point of view. In Niesky I shall guide him to the office and tell him shortly before reaching it that I work for the Ministry of State Security and that I have certain matters to discuss with him. On arrival I shall ask him to leave the car and come into the office with me. In the reserved room I shall ask him to sit down and then ask him whether he knows why I want to talk to him or whether he can imagine why. Depending on his answer I shall then refer to his mysterious journeys. Then I shall submit him to an interrogation, which I shall conduct on the lines of the attached plan. As a result of this interrogation he will have incriminated himself even more. At the end of the interrogation I shall ask him whether he is disposed to *make up for his bad behaviour and shall recruit him in this manner.* If he makes important statements on enemy activities in the course of the interrogation, I shall *make him write these down in his own hand. I shall endeavour to direct the wording of his statement in such a way that his report will become at the same time a pledge against himself.* After receiving his handwritten obligation (to work for the SSD), I shall stress to him the necessity of absolute silence and honest work on his part. I shall show him the consequences of dishonest work by means of a few examples, and remind him of his family and of his house, which is his own property. Finally I shall enter his taxi with him, ask him to drive me to the town hospital and pay the fare. I shall arrange our next meeting immediately after recruiting him. I shall give him the task of bringing me an accurate report on Spelt at our next meeting.

Sergeant-Major of the People's Police
(Signed) Köhler

Görlitz Office

Görlitz, 27 January 1953

Subject: Plan of questions for the interrogation of Benno Butz
Reference: Recruitment of B. as secret informer in the Görlitz
Taxi co-operative

Regarding the person:

- 1) Check the main personal details.

Regarding the matter:

- 1) Give a short account of your life.
- 2) Make accurate statements on your relatives and close acquaintances.
- 3) Describe the organizational structure of the taxi co-operative.
- 4) Give accurate personal details regarding Spelt, Arlt, the manager, the secretary, and other committee members.
- 5) Which drivers do you know, who take to Berlin persons wishing to move to West Germany?
- 6) Which addresses in Berlin or in other towns are known to you as centers for fugitives?
- 7) What do you know about persons in Görlitz who, with the help of taxi drivers, bring people to Berlin or commit other hostile actions?
- 8) What persons have you already become acquainted with through a journey to Berlin, of whom do you know who want to move to the West or who are in touch with agents' centers?
- 9) What are the relations between the taxi drivers and the people's police?

Further question to be put to Butz depend on his answers to the individual questions.

(Signed) Köhler
Sergeant-Major of the People's Police

Görlitz Office

Görlitz, 27 January 1953

Information Report

Subject: Information report on the secret informer proposal
re Benno Butz

Name:	Benno Butz
Born on:	30 July 1894 at Grossenhain, Saxony
Domicile:	8, Bahnhofstrasse, Görlitz
Family status:	married, with three children
Citizenship:	DDR
Nationality:	German
Education:	elementary and secondary schools
Original trade:	merchant
Present occupation:	taxi driver
Place of work:	self-employed
Convictions:	none
Party membership:	none
Organization:	FDGB (Free Federation of German Trades Unions)

Wife:

Ida Butz, née Pietsch, born on 9 January 1897 at Bunzlau; religion, Roman Catholic; not trained in a trade; at present occupied in her own household; without political affiliation. Frau B. is not interested in political developments. There is, however, no direct rejection of the DR. Three sisters of hers live in Görlitz. According to information so far, she has no connections with the West or with West Berlin.

Parents of Benno Butz:

Father: Wilhelm Butz, born on 24 September 1863 at Schönfeld near Bunzlau (deceased)
Mother: Agnes Butz, née Otto, born on 13 January 1870 at Kath. Hennersdorf near Lauban (deceased)

Children of Benno Butz:

Daughters: Gisela Hildebrand, née Butz, born on 1 May 1922 at Görlitz, domiciled at 33, Bautzener Strasse, Görlitz, married since 11 April 1951, to the technical draughtsman Werner Hildebrand, by whom she has a son, Detlev, born on 8 April 1952 in Görlitz.
Dorothea Peller, née Butz, born on 11 May 1925 at Görlitz, domiciled at 8, Bahnhofstrasse, Görlitz, married to the technical draughtsman Manfred Peller, born on 31 July 1926 at Görlitz. No children so far.
Son: Heinz Butz, born on 14 April 1933 at Görlitz; religion, Roman Catholic; single; trade: apprentice distiller in a private firm in Görlitz.

Professional career:

Benno Butz comes from a middle-class family from Bunzlau in Silesia. He attended the elementary school at Bunzlau from 1900 to 1904 and then the secondary school in the same town. He then moved to Görlitz with his parents and learned the trade of textile merchant with the firm Otto Strassburg. From 1913 to 1914 he attended the weavers' school in Chemnitz. After completing this course he was inducted and became a prisoner-of-war of the French; he was released in 1918. He was a prisoner for only six or seven days. He held the rank of private. After returning to Görlitz he bought a transport business and operated it till 1944, when his vehicles were requisitioned for the army. Since 1945 he drives the car registered under the number SL—15 1525 and is a member of the taxi co-operative from its inception.

Political development:

Until now B. has never been in a party or in any of the organizations. It can be said that he has an indifferent attitude to political events. He has never taken part in house gatherings, which can however be explained by his working as a taxi driver. His attitude towards the DDR and the Soviet Union is obscure, almost adverse. He is a convinced Catholic and feels himself easily attracted to his coreligionists.

In February 1945 he was conscripted into the Volkssturm (Home Guard) and saw six weeks of active service. He was not taken prisoner. He belongs to no organization apart from the FDGB and even there he is only subscribing member.

Judgment on character:

B. is a very quiet man, and lives with his family in a very withdrawn fashion. In Görlitz he is in touch only with his children and on rare occasions with his wife's sisters. He leads a regular married life with his wife. His reputation amongst other residents of the house can be described as good. He is always friendly and obliging towards others, and has a clean and orderly appearance. In the taxi co-operative he is on particularly good terms with the drivers Arlt and Schurpfeil, and with the manager Baron and the latter's secretary.

Apart from his car, he owns the property at 8, Bahnhofstrasse, Görlitz. The information was obtained from: people's police Görlitz, trades office, Comrade Hoffman, also in the neighbourhood of his domicile and from the house supervisor Hilbig at 8, Bahnhofstrasse.

(Signed) Köhler

Sgt.-Major of the People's Police

Source: Original documents of the Görlitz office of the Soviet zone Ministry for State Security (now State Secretariat for State Security in the Ministry of the Interior of the DDR).

DOCUMENT No. 117

(SOVIET ZONE OF GERMANY)

Görlitz Office

Görlitz, 14 November 1952

Proposal

Subject: Proposal for the recruitment of Christa Hirsche, born on 15 February 1923, as unofficial agent in the firm VEB-Feinoptisches Werk Görlitz, Fichtestrasse.

I propose to recruit the above-named as unofficial agent against the hostile elements Josef Rücker (commercial manager) and Hermann Fränkel (head of the statistical department).

As the woman Hirsche is not a party member and shows a progressive attitude towards the DDR, and is also the secretary of the commercial manager, she appears most appropriate for this task.

It is further to be taken into consideration that Rücker makes a show of a progressive attitude for the benefit of the other employees and is most cautious, as the others are mostly Comrades.

It must therefore be assumed that he speaks openly to, and trusts, the non-party colleague who works directly with him.

As the commercial and statistical departments of the firm work closely together, it will also be possible to acquire some information about the head of the statistical department through the woman H.

I shall carry out the actual recruitment in the room 158 of the people's police office in Görlitz. I shall introduce myself to the woman H. as a representative of the Ministry for State Security, and talk to her about her private life and about the firm's affairs. In this connection I shall refer particularly to the lapses of the former director of the

firm, Dr. Ertel and his circle of friends, in order to learn her opinion on this economic offence. If the result is satisfactory, I shall develop this theme with examples of sabotage or espionage and ask her what she would do if she knew such facts. If she answers in a positive manner I shall proceed to make her sign the obligation (to work for the SSD).

If she refuses to be recruited, I shall make her write out a declaration that she is not willing to support the Ministry for State Security in the fight against the enemies of our democratic construction.

(Signed) Urbansky
Meister of the People's Police

Agreed — (Signature)
Cover name "Leitner"

The obligation to be signed in
the presence of the head of the office.

Appreciation of character

Fräulein H. is described as a quiet and friendly person with a pleasant and obliging nature. She enjoys a good reputation in the firm as well as in the neighbourhood where she lives. She lives with her mother and brother in easy circumstances.

The information was obtained from the citizens' registration office, from a study of the criminal files and the National-Socialist card-index, as well as from the personnel office of the firm VEB-Feinoptisches Werk. Information was further obtained from the Party secretary comrade Wegehaupt, the chairman of the firm's trade-union committee, Comrade Büchner, and the head of personnel in VEB-Feinoptisches Werk, Comrade Enders. In the neighbourhood where she lives, information was obtained from Comrade Irmner, of 1, In der Aue, Görlitz-Weinhübel.

(Signed) Urbansky
Meister of the People's Police

The following data are lacking in the information report:

- 1) What are her outside interests?
- 2) Who are the people she associates with?
- 3) Has she got a boy-friend?

Please bring this up to date!

Source: Original file from the Görlitz office of the Soviet zone Ministry for State Security (now State Secretariat for State Security in the Ministry of the Interior of the DDR).

The reports received from each informer are collected and evaluated by the secret police — in the Soviet zone of Germany, this is the State Security Service. They are the occasion of new persecutions directed against the persons named in the reports. By their nature and their contents these reports show to what extent an inhuman system seeks to degrade the individuals living on its territory, turning them into tools of State despotism.

Through constant disregard for the liberty of the individual, through banishment and deportation, through forced-labour camps and the distress caused by informers, the population of Communist-dominated countries is held in a continuous state of fear. This feeling of insecurity is the foundation upon which the domination of a small party clique is maintained despite the will of the population.

DOCUMENT No. 118
(SOVIET ZONE OF GERMANY)

• Government of the
German Democratic Republic,
Ministry for State Security
Office/Land: Sachsen-Anhalt
Section:

G.V.S.

Kreis office: Bitterfeld

Working file No. 55

The unofficial agent:

Category: D

Cover name: Riesa

Volume:

Date of recruitment:

Connexion broken on:

File No.:

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3	Walter Teichmann, character study
4	Information report on department Raw Viscose
5	Heinz Kohl, character study
6	" " " " " " " "
7	Richard Scholz discusses negatively
8	Report on specialists back from USSR
9	Paul Berger, character study
10	Heinz Jakob, " " " " " " " "
11	1st plenary session of the new Landtag on Nov. 3, 1950
12	Information report on Walter Eschka
13	Report on tearing down of posters in building 601 Fifa
14	Franz Neumann, undemocratic attitude
15	Franz Neumann, undemocratic attitude
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21	Report on meeting in building 601
22	see report No. 21
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24	Public opinion report on building 700
25	see report No. 13
26	Jehova's Witnesses pamphlet ("Spotlight")
27	" " " " " " " " ("Warning calls")
28	" " " " " " " "
29	and report on buildings 622 & 601
30	one volunteer for the Party school
31	Fuhrmann (CDU), undemocratic attitude
32	Johannes Seyffart, agitation against DDR
33	Public opinion report regarding Collective Works Agreement
34	Max Eckert, suspected of sabotage
35	" " " " " " " "
36	Public opinion report on building 601
37	see report No. 13
38	Irene Schiketanz, suspected of sabotage
39	see report No. 33
40	" " " " " " " " No. 33
41	Application for leave by the confidant
41	Public opinion report on the head and foremen of 622 & 601

42	Information report
43	Eckelmann, "Jehova's Witness", antidemocratic utterances
44	see report No. 43
45	Otto Löschke, agitation against the government
46	Information report
47	"
48	Reichler & Barth, appendix C
49	Attempt at causing trouble, appendix C
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51	Inf. Girsch
52	"
53	Inf. B. Hubert — appendix C
54	Attitude towards the people's army (Margraf)
55	Leipzig Fair, 1952
56	Recruitment for the people's police
57	Vistra-Viscose 601
58	Regarding Kurt Macholt
59	Public opinion report
60	Horst Kalisch, appreciation
61	Appendix C, 601
62	Hubert, appendix C
63	Hubert, appendix C
64	Hubert
65	Evaluation of Margraf
66	Ciesilski, personal particulars
67	Public opinion
68	Report on Ciesilski
69	" " "
70	" " "
71	" " Paul Eckelmann
72	" " Ciesilski (time card)
73	Report on production, Vistra-Viscose
74	" " " " "
75	" " " " "
76	" " Ciesilski (Moser-Löser 17)
77	" " " " "
78	" " " regarding the norm

Wolfen, 11 March 1951

Report

A few days ago, while some posters of the German-Soviet-Friendship were being put up in our firm, the colleague Eckelmann said: "Do stop this! Nobody believes it any longer, anyway."

This colleague works with our firm as liftman. He takes no part in communal activities, and does not want to pay any trade-union dues.

Colleague Eckelmann's attitude probably comes from the fact that he belongs to the "Jehova's Witnesses".

Riesa

Report

The colleague Kurt Schneider, born on 12 October 1901, domiciled at 14, Dübener Strasse, Delitzsch, works in Vistra 700. For a long time he has conducted an insidious agitation among the workers, which has had more and more effect recently, and his colleagues already pay much attention to him. He has such a strong influence on the workers that an atmosphere of strike can be felt. He says literally that the same demands must be made as were made under the capitalist system. Trade-union contributions are far too high and should not be paid. During meetings he always agitates against us. A conversation with him brought out the following conclusions: Schneider does not agree

with our form of society; the old Prussian spirit was much better; he would never depart from it.

30 March 1951.

Riesa

Wolfen, 26 April 1951.

Report

In the plant "Vistra 700" Kurt Schneider is under suspicion of disseminating anti-democratic tendencies. Schneider lives in Delitzsch and is not politically organized. A certain Schey acts along with him. Krause (SED) was instructed to supervise him. Krause however shows himself conciliatory and "wishes to be on good terms" with everybody, which means that he does not fulfil his task.

Counter-currents are noticeable especially in the spinning mill. Schneider is on the day shift and is employed on cleaning the jets, among other things. This means that he does not work at any fixed place, and circulates in the whole mill. From Schneider's neighbourhood come the people who announce their resignation from the trade union, alleging that the dues are too high.

Schneider himself refused to pay his additional trade-union dues resulting from the increase in income brought about by the bonus system, etc. The trade-union committee explained to him that in that case there was no more work for him in "Vistra 700" and that he must seek work on the building site or elsewhere, with an hourly wage of DM 0.76. There, he would only need to pay a correspondingly low contribution. The assistant cashier has reported today that Schneider is prepared to pay a contribution corresponding to his income.

The bad atmosphere in "Vistra 700" thrives on the lapses (misappropriations, allocation of footwear, etc.) of former trade-union officials. Schn. encourages ill-feeling by means of negative discussions and demands which he bring up at workshop meetings. The officials' answers are then naturally met with laughter. Here are a few examples:

- a) What is the use of an increase in wages? We don't get anything out of it at the end because everything is swallowed up again by the higher contributions.
- b) What is the increase in production for, if the workers don't get a corresponding increase in wages? That is indeed profiteering, when everything does not flow into the workers' pockets.
- c) The tax on wages is unfair, for I am assessed as a married man without children because in the meantime my children have themselves become capable of working.
- d) It is unfair that the subsidies compensating for the higher prices of wheat products are paid out of social insurance funds, which means that the price policy of the State is conducted at the workers' expense.

Schneider brought up these arguments at workshop meetings of the workers. It has not yet been ascertained what attitude he assumes in private discussions.

In the "Vistra 700" department a Stalin portrait pinned to the wall-newspaper was disfigured with a swastika.

The leave of foreman Urban (SED candidate) was reduced from 24 days to 20 days in accordance with a new regulation. Urban declared that, if the trade-union did not intervene and see to it that he got back his 24 days, he would pay no more contributions; apart from this, he said, the chairman of the departmental trade union committee was not fit to represent their interests. They should elect Schneider and he would see to it that their demands were met.

Urban was formerly in the NSDAP and lives in Wolfen.

In the weaving mill there works also a certain Eckert. Some time back he had disappeared to the West, and now works again in the same department since his return which took place a few weeks ago. Eckert is about 25 years old, loud-mouthed, and lives in Bobbau. He does not belong to the FDGB.

(Signed) Riesa.

Brief for the agent Riesa:

- 1) Examples of individual discussion by Scheider.
- 2) How does Schn. behave at further meetings?
- 3) General appreciation of Eckert's behaviour.
- 4) Characteristics of Schneider and Eckert from the following points of view:
 - a) social origin;
 - b) professional activity;
 - d) education and profession.
 - c) political activity before 1933, from 1933 to 1945, after 1945;

Herewith the personal details of the above-mentioned:

Max Eckert, of 3, Schäferstrasse, Bobbau, Kreis Bitterfeld, born on 8 May 1916 at Janek/Dux;

Kurt Schneider, of 14, Dübener Strasse, Delitzsch, born on 12 October 1901 at Delitzsch.

Report:

All posters referring to the Volkskammer appeal, to the Day of Activists, etc. were torn down in our department, Vistra-Viscose 622 (skyscraper), during the night of 17—18 October.

The posters were put up and firmly stuck in the stairway (from the ground floor to the fourth floor). My inquiries as to which shift it may have been (2nd or 3rd shift) have so far not yielded anything to go by.

I refer to earlier reports, where the tearing down of posters was quoted almost weekly as a regular occurrence. Until now we had enjoyed almost three months' peace regarding the destruction of posters. My inquiries will be continued in conjunction with the officials, in order to ascertain first of all during which shift the action took place.

Date: 18 October 1951.

Riesa

Letter: Riesa to find out which shift was involved, and what sort of people. — To report on this by 20 October 1951.

Personal particulars

Name:	Max Eckert
Born on:	8 May 1916 at Janek, Sudetenland
Religion:	Catholic
Trade:	porcelain decorator
Father's trade:	miner (SPD)
Education:	elementary school
Domicile:	3, Schäfer Strasse, Bobbau
Present occupation :	worker (spinning mill, building 700)
Political org. before 1933:	none
" " 1933—45:	none
" " after 1945:	none
Military service:	1936—38, private 1st class in Czechoslovakia (Red Falcons) 1939—45, corporal in the artillery in Germany.
Prisoner-of-war:	1944—49 in Soviet Union; attended mountaineering school
Registration number:	506/55 Jessnitz (?)
Wife:	Gertrud Eckert, née Los, born on 9 December 1912 at Grinsdorf, Sudetenland, domiciled at Zieko near Coswig.

A divorce is pending

Riesa

19 October, 21 November 1951

Report on Eckert

Upon my questioning Comrade Krause, who works with the colleague Eckert, he told me that E. is in touch with his parents, who live in

Czechoslovakia. They are alleged to have told him not to take part in anything and that his father was endeavouring to keep his house for him. If things went differently one day, he should go home immediately. He has a good command of Russian, Polish and Czech. Whether he has a perfect spoken and written knowledge of these languages has not yet been ascertained. (His Russian is perfect, both spoken and written). E. has a woman friend, who lives in Bobbau. Her name is Gertrud Bretter.

2 November 1951.

Riesa

Letter: What more does Eckert say about the letters written by his father? — Ga.

Report

A short time ago the colleague Max Eckert lost three jets (used for production of plastic materials), which another colleague found in the canal about one hour later. Eckert was indignant that other colleagues searched his machine for the missing jets, and asked what business the other spinners had with his machines. It is nevertheless a fact that Eckert refuses to tend two spinning machines. He considers this as exploitation and blood sucking, and he endeavours to turn the other colleagues from their ideological conviction. At the same time he has ceased paying his trade-union contributions since May and tries to stop the other colleagues' contributions by means of provocative speeches, for he maintains that they are "voluntary". In any case his colleagues have said that they work better and faster when Eckert is not there. It has not yet been possible to produce evidence of an actual slowing down of production.

He recently lost one jet which was not found again.

I shall be able to report in greater detail when Eckert works on the early shift from 8—13 October, for then I can hear about him from some of his co-workers.

5 October 1952.

Riesa

Any refusal to become an informer often brings with it immediate reprisals on the part of the secret police. Below is a report on Wanda Byc, as it was submitted by the informer on a victim of the informer system.

DOCUMENT No. 119

(POLAND)

"Wanda Byc was at first employed by the regional Office of Security and afterwards by the province of Lublin. At 18, this young girl entered the 'United Party of Polish Workers' (PZPR). She always discharged most carefully her professional obligations, as well as those of members of the Party; as a result, she received the Silver Cross of Merit, which was given by the Ministry of Public Security, Radkiewicz. She was promoted to leader in her particular division. Together with a colleague (working at the same table in her office) Miss Byc rented a room. This colleague fell in love with a man belonging to an illegal organization; he had been condemned to prison for a crime against the regime, but taking advantage of an amnesty, was freed. In 1950, when members of the underground movement had stopped a train between Warsaw and Lublin, the authorities suspected this man and determined to arrest him.

"One day, while Miss Byc and her colleague were at their home, this man came and asked the hand of Miss Byc's colleague; his demand was accepted. He spent the whole night in the room of the two young women; he slept in the bed of his fiancée and she slept in a second

bed with her room-mate. Miss Byc, who until then had been a 100 per cent partisan of the Communist regime, got up during the night took his identity according to the documents she found there. The next morning she informed her chief in the Office of Security of what she found there. This official ordered a systematic spying on the man and recommended that he should not be imprisoned, thus hoping that, with the help of Miss Byc, they could ferret out the entire illegal organization.

"Miss Byc relentlessly spied upon the fiancé of her colleague, but discovered nothing of a suspicious nature. On the contrary, the fiancé would insist in her presence that he firmly intended to lead a peaceful life at the side of his fiancée and to renounce any collaboration with all illegal organizations. But these reports did not help to convince the administration of Security. One day, Miss Byc's boss ordered her to become the mistress of this man so as to bring him to make a political confession. Because she refused to obey this order, Miss Byc was arrested by the revenging administration of Security. She was accused of having violated a professional secret — she was arrested for having sheltered a suspect in her quarters — which in fact was a lie!

"What then was this 'violation of a professional secret' committed by Miss Byc? She had, if but for a single time, written out a sworn testimony from the questioning of a priest and had spoken of it to her colleague from the office who worked at the same table. The law-court was composed of a judge (by profession a lawyer) as president and two legal advisors delegated by the services of Security of province. During the course of the trial the counsel for the defence, Dr. Herrschdorfer, made great efforts to demonstrate that there could be no question of violation of a professional secret unless such a secret had been divulged when one was not on duty. Actually it is unthinkable that an assistant should have had any access to documents placed on the table where she was working with her colleague. Even if Miss Byc had not once spoken with her colleague on the testimony of the priest, her colleague would have been aware of it for the reasons above indicated.

"Concerning the second crime, the lawyer deliberately stressed the fact that, in conformity with the declarations of the accused, she had, on the very next morning, informed her chief, in her capacity as an employee of the office as well as that as a member of the Party, of the presence of a suspicious character in the room shared by the two young women. With respect to the good reputation of Miss Byc, in her capacity as an employee in her office, one could only have complete confidence in her.

"Taking into consideration what the Security Service of the province had communicated, the defending counsel asked during the course of the trial — and especially since a negative estimate had been made upon the accused — concrete proofs of guilt, as he knew well that the estimate of the authorities of Security was biased. During the trial the Security Service repeatedly refused to communicate the proof of guilt, claiming that the personal evidence could be made only by virtue of special authorization from the Minister of Security. And it was thus that a request for the communication of such evidence was rejected for lack of competence. It should not have been addressed to the service of voivodie, but to its chief. Finally, however, the evidence of guilt — the personal dossier of Miss Byc — was communicated to the court: from this it appeared that Miss Byc was a personality of great importance and decorated with the Cross of Merit.

"According to the evidence from the personal dossier it also appeared that the accusation was devoid of all grounds, the complaint being supported solely upon the desire to take revenge on the young woman who had refused to become the mistress of a man completely foreign to her and who, besides, was the fiancé of a colleague.

"Again it was mentioned that, in the course of the trial, another witness, a young woman also employed by the Security Service and a colleague of Miss Byc, had made deposition emphasizing that she had denounced Miss Byc because the latter had hidden a man in her home and had made no report to this effect. But, having made this deposition

the witness would, upon leaving the room, burst into tears. Her pangs of conscience left her no peace.

"The court began deliberations. The officer of the Security Service approached the two legal assistants and conferred with them. It is indeed likely that he reminded them of it that their duty was to declare Miss Byc guilty. In fact, after a short session, the court condemned her to three years' imprisonment. The trial occurred before the military court of Lublin, in October 1954."

Read, approved and signed
by the defence counsel.

PART B

CRIMINAL LAW

I. ADMINISTRATION OF JUSTICE

Everyone has the right to recognition everywhere as a person before the law.

Art. 6, United Nations Universal Declaration of Human Rights.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Art. 8, United Nations Universal Declaration of Human Rights.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Art. 10, United Nations Universal Declaration of Human Rights.

ADMINISTRATION OF JUSTICE

It is abundantly clear, from the administrative laws, by-laws and examples of administrative practice reproduced in Volume I of this collection of documents, that the principle of separation of powers is rejected in the Communist State. Reference is made to a "centralized" supreme power of the State, which is allegedly determined by the will of the working population but which, in reality, represents only the will of a small leading clique within the Communist Party, which is the only party permitted to exist. It is evident that such a conception and organization of the State not only affects the administration within the State, but must also have serious repercussions on justice and on its administration. In the countries of the Soviet Bloc the machinery of justice is considered as one of the most powerful instruments of government, which, however, may be brought into use only in the interests of the State, that is, in the interests of the single, ruling Communist Party. The administration of justice, therefore, cannot be free, but is guided by the aims of the Party. This is shown not only by secret and published ordinances, but it is openly admitted that the policy of the Communist Party determines the functioning of the courts and of all the other instruments of the administration of justice. The Party orders the State and steers Justice on its course — a picture which we have already seen in Germany under National Socialism.

a) THE POLITICAL TASK OF THE JUDICIAL FUNCTION

The political task ascribed to the administration of justice in countries under communist domination is clearly expressed in

the new laws on the organization of courts. These laws do, indeed, still say that the administration of justice shall serve to protect the citizens' interests and legal rights, but prime consideration is given to the task of safeguarding Socialist economy and the social order, in the sense of the communist "peoples' democracies".

DOCUMENT No. 1

(USSR)

"The Soviet Law Court — a Valuable Means of Stabilizing Socialist Justice" by K. Gorshenin (Minister of Justice of the USSR).

"In dealing with the great problems which affect our State in the period of gradual transition from Socialism to Communism the further stabilization of the Soviet socialist justice and the improvement of the quantity of legal decisions given by our courts play an important part. Soviet laws which express the will of the people and the policies of the Communist Party, and aim at producing the further stabilization of the social and constitutional basis of our state, constitute a factor of great importance in the education of our citizens in the true spirit of Communism.

"The Central Committee of the Communist Party and the Soviet Government never cease in their endeavours to stabilize socialist justice which guarantees to the citizen of our country his sacred and inalienable rights, rights which are laid down in the constitution of the USSR.

"The Peoples' Courts play a very large part in protecting the rights of the working class and in maintaining justice. The Soviet court is a real peoples' court as compared with the 'bourgeois' court which, as herein said, is only for money; the Soviet court gives effect to the interests of the people and loyally serves the cause of Communism.

"The Soviet system of law gives our courts the noble and responsible task of defending against attacks of all kinds the social and constitutional basis of our state as it is set forth in the constitution of the USSR and in those of the Union Republics and Autonomous Republics, the socialist economic system, the socialist system of ownership of property, the political rights to work and to have a dwelling as well as other personal rights and rights of property and other interests of the citizens of the USSR, which are guaranteed by law, and further the right and legally protected interests of the state institutions, the state business, the Kolkhozy, the co-operative and other organizations. The socialist legal system is called upon to ensure that all institutions, organizations, persons having official authority, and citizens of the USSR obey Soviet laws to the letter.

"The Soviet court has also important educational functions. Our Party carries on an unceasing battle against the remains of bourgeois thought, against all the relics of capitalism in the consciousness of the Soviet citizen, against what is old and, having outlived its purpose, hinders the Soviet people in its creative task. Examples of these relics are: — The attitude of certain citizens towards work which shows that they have forgotten what is their duty, the endeavour to live at the expense of the whole body of the people, to get more from the state and to give less to the state, the attempts of some people to live a parasitic existence, to indulge in theft affecting socialist property and the personal property of the citizen and speculation and other anti-social activities.

"The whole tendency of the socialist legal system is to educate the citizen to a better fulfilment of his duties towards society."

Source: *Pravda*, 12 November 1954, p. 2.

DOCUMENT No. 2

(USSR)

From: "The Administration of Criminal Justice as a Political Tool of the Party and of the Soviet Government".

"The policy of the Soviet government is always directed towards the same goal, is always a succinct expression of economic conditions and is carried out, in accordance with historical facts, by means of a variety of measures. It is the task of the courts to help carry out these measures.

This is the essence of Soviet policy in general. What then is the essence of the purpose of Soviet justice? It can have only one meaning: the practical realization of the policy of Party and State in the forms that belong to Justice and by using the means at the disposal of the legal authorities.

"The policy of the Communist Party determines the functions of the administration of justice by its own directives and through the special organs of the Soviet regime...

"Whenever a resolution is passed by the Party leaders, all the proposals and suggestions contained in it are completely binding for the officials of all State organs and other public institutions, including the courts...

"The application of the laws in the administration of criminal justice is the main factor which makes the criminal judge the executive organ of the policy of Party and State...

"In the same way as economic conditions are reflected succinctly in policy, so also are political conditions reflected in the laws. Legislation is determined by political aspects, and this gives the entire practice of the courts a political character...

"All higher courts must be on the alert to ensure that the policy of the Soviet government is carried out consistently in the lower courts. The Supreme Court of the USSR has a particular position in so far as the Soviet Constitution delegates to that Court the power to supervise the functions of all other judicial authorities in the Soviet Union, and gives it the right to issue instructions to all courts regarding the administration of justice. The Supreme Court uses this right to bring judicial policy into line with the general aims of the Soviet Union's policy. The Supreme Court will carry out this task principally by watching over the application of the principles laid down in the Constitution of the USSR and in those of the Federated Republics: these Constitutions define the aims..."

Source: Vestnik Moskovskovo Universiteta (Bulletin of the University of Moscow), November 1950.

DOCUMENTS No. 3

(POLAND)

"The Motivation and Pronouncement of Civil Judgments"
by Prof. Jerzy Jodlowski.

"On 1 July 1953, the stipulations of the Decree of 23 April 1953, amending various provisions relating to the motivation and pronouncement of civil judgements (Law Gazette, No. 23, sec. 90) come into force. The decree contains a number of important amendments in this field. These amendments do not deal with the form of procedure only; on the contrary, they have a definite ideological meaning and prove the importance of the courts' decisions in the People's Democracies — both in the social-political and the educational field. The new provisions, according to which judgments are to be motivated and pronounced, place heavy obligations on the courts in realizing people's democratic justice — stipulations are made that they be carried out in full consideration of their fundamental importance.

"Article 3 of the Law regarding the Constitution of the Courts provides that 'it is the duty of the courts to educate the State citizens in their common activity in a spirit of loyalty to the People's Republic of Poland, in a spirit of observance of the law and of labour discipline,

and in a spirit of concern for the common property'. In view of its important educational task, the main instrument in the hands of the court is undoubtedly the judgement. Vyshinsky describes both the criminal and the civil judgement as 'the logical result' of all judicial activity. According to Vyshinsky, the advantages and disadvantages of this activity are bound to influence also the final stage of this same activity. It is the task of the judge, therefore, to carry out the entire judicial procedure on such a high cultural and political level that complete confidence is accorded to the proceedings and judgements of the court. The judge shall conduct the proceedings in such a manner that a particular decision seems the rightful and well motivated result of the judicial examination and proceedings, and the genuine and logical result of the court's activity'.

"In order to fulfil its actual functions and to become an active means for the realization of people's democratic justice, the judgement — as Vyshinsky clearly pointed out — must have the greatest possible force of conviction. Every judicial decision must be convincing and must convince the community of the absolute justness and righteousness of the judicial decision'.

"Only a judgment which is fully motivated can fulfil these requirements. The correct motivation of the judgement, which takes into account all details of the inquiry and the judicial proceedings, is a hypothetical condition to guarantee the convincing power of the judgement which thereby fulfils its educational purposes. Even if the decision formulated in the judgement is rightful, it will be neither sufficiently convincing nor will it satisfy the requirements of the public opinion if the motivation which guided the court is not disclosed. This applies to criminal sentences as well as to civil judgements.

"The convincing power of a judicial decision does not only mean that it should lead to believe that the decision is in complete agreement with the actual circumstances and the lines and principles of the judicial policy expressed in the judgement. The convincing power of a judicial decision furthermore means that it should lead to believe that a complete analysis has been made of all positive circumstances, the belief that, when dealing with the matter, all the circumstances which could be confirmed and elucidated were taken into consideration.' The criterion for the conviction that the judicial decision is really based on these principles, and that the decision is in accordance with the actual state of affairs as well as with the legal regulations and the policy of the People's Democracy, should be found in the motivation of the judgment. Therefore, the significance of the motivation of the judgment cannot be over-emphasized. It is the basic principle of the judicial decision and of decisive importance to its social-educational role."

Source: *Nove Pravo*, (New Law) 1953, No. 6, p. 6 ff.

DOCUMENT No. 4
(CZECHOSLOVAKIA)

*From the Speech of the Czechoslovak Minister of Justice
Vaclav Skoda of 9 October 1953.*

"The real task of those employed in the administration of justice is to be the realization of every word of Party and Government resolutions, but particularly the consolidation of the Socialist legal structure and the modelling of our courts on the shining example of the courts of the Soviet Union. Their first duty will be to carry out, in the field of justice, every principle and every word of Party and Government resolutions laid before the National Assembly on 15 September by Prime Minister Viliam Siroky. It is necessary to put a definite end to our people's courts deviating from, or evading, the policy of Party and Government.

"The functions of the courts and organs of the legal administration have been precisely defined in the political directives of the Minister of Justice. It is necessary to recognize, in a spirit of self-criticism, that the Party line has not always been clearly expressed in these directives,

and that at times they even deviate from it. This is also one of the reasons why the courts have not followed the Party line in the solution of individual important questions."

Source: *Socialistická zákonnost (Socialist Legality)*, 1953, No. 4, special supplement.

DOCUMENT No. 5
(CZECHOSLOVAKIA)

*For better decisions of our Courts, by Major-General
Dr. Jaroslav Kokes.*

"The great majority of the decisions of our courts, be they judgments or orders, are riddled with mistakes, either in matters of form or as to the material issue. Although one can often find extremely good decisions, this is only seldom the case and the vast majority could do with a considerable touching up. That is clearly not a condition to be regarded with satisfaction, and every judge should take to heart the remark of the former Minister of Justice, Dr. Stefan Rais, that every decision of a court should be a miniature scientific work, in every respect, and that false or bad decisions should be the exception.

"What is mostly wrong with the decisions and what does our working population chiefly regard as wrong.

"In the first place it is the task of judgment in the decisions, both politically and in regard to Party matters. Our workers who are thoroughly educated politically and continue to instruct themselves by reading the classics of Marxism-Leninism and make use of their knowledge of practical living socialism, criticize the decisions mainly on the ground that they completely lack the political tone in which the decisions of the government or the Party are given.

"Only a small proportion of our judges, although they all have sometimes considerable knowledge of Marxism-Leninism is able to apply this doctrine of all doctrines correctly in practice and to base their decisions on it. Our workers demand that every decision of a branch of the state machinery should be declared politically. A citizen will accept a decision contentedly, even if it is contrary to what he wants, if one gives political reasons for it and explains it in political terms; if he is told why he cannot get what he wants; if it is explained to him that the interests of the community — the building-up of socialism — do not permit this, or that a just claim of another citizen or one that is recognized by a socialist society stands in the way of the fulfilment of his wishes.

"We find very few really Marxist-Leninist analyses, although very often the decision contains various quotations from Marx, Engels, Lenin, Stalin and Gottwald. These quotations, however, are not analyzed and very often they are brought in at quite the wrong point, only to adorn the argument. It quite often happens that comrades come to me with a judgment in one hand and *Rudé Právo* in the other, and say, 'Comrade, how can it be possible that in *Rudé Právo*, that daily supplies us with the Party line on the building-up of socialism, says this and exactly the opposite appears in the decisions of the courts'. Cases of this kind, for example, the question of the kulaks, have arisen very frequently recently. What does it prove? It proves that our judges underestimate the importance of the leading articles and other important matter of the Party newspaper *Rudé Právo* — in fact they often do not read it — and therefore reach decisions out of touch with the events of the day, with our Party and with our society. Our workers note this immediately and it is only natural that they are then dissatisfied with our decisions. Our workers are therefore quite justified in demanding that a political and legal reasoning should form the basis of every decision.

"The working man is quite justified when he complains of us that we prepare our decisions, as happened in the old capitalistic days "with objectivism", as though the courts were frightened of setting out the reasoning underlying their decisions in clear language intelligible to everyone.

"I believe I need not spend much time in explaining that the fight against objectivism forms one of the first tasks in our labours. All our judges two years ago recognized that this task exists. Yet the results of the fight against objectivism are still very unsatisfactory. The ghosts of a bourgeois upbringing demanding unpolitical law, law courts not subject to the Party, the legal independence of judges etc. are still abroad and influence particularly the older generation of judges. Our judges must bear in mind, whenever they give a decision, that they are really the independent judges of a peoples' democracy. Nevertheless there are other things which they must not forget.

"Our state is a dictatorship of the proletariat and our law is the embodiment of the will of the toiling mass under the leadership of the working class with the Communist Party of Czechoslovakia at the head. This will takes the form of laws and rules. An independent judge is bound by this will, his task is to interpret this will of the toiling masses and by means of his decisions he secures the victory and legal predominance of our toiling masses.

"Another matter which is wrong with the work of our judges is the lack of co-operation with Party organizations and Party institutions. This becomes obvious in the way that the courts underestimate the leading and directing task of the Party, not only in the state as a whole but also in the administration of justice, not only at the centre of things, but also in the counties and parishes. The judge and the courts often do not know what is the decision of the Party, neither the decision of central committee nor that of the county or parish branch committees. They have no close contact with Party functionaries. The judges work isolated from the Party institutions and organizations, and it frequently happens that they arrive at their decisions and orders isolated from the political and economic life of the district affected.

"The decisions of the courts must really take the policies of the Party into consideration, and our judges must base themselves on concrete cases taken from daily life. This must surely aid the building-up of socialism in our state."

Source: Socialistická zákonnost, 15 August 1954.

DOCUMENT No. 6

Law regarding the Constitution of the Courts in the People's Republic of Poland dated 27 July 1950.

...

Article 2:

The Courts of the People's Republic of Poland are charged with the task of

- a) protecting the constitution of the people's democracy and its development towards socialism;
- b) protecting public property as well as the rights and interests of state institutions, of co-operatives, of the state and co-operative undertakings and of mass organizations;
- c) protecting the personal and property rights of the citizen which are guaranteed by the legal system of People's Republic of Poland and protecting the interests of the citizens.

Article 3:

The Courts of the Polish Republic must concentrate all their activities on educating the citizen in the spirit of loyalty to the People's Republic and on preserving the principles of a people's constitutional state, the discipline of the working class and public property.

...

DOCUMENT No. 7
(ROUMANIA)

Decree No. 99 of 4 March 1953, on Some Amendments to the Law on Judicial Organization of the People's Republic of Roumania (Law No. 5 of 19 June 1952):

Article 1:

In the Roumanian People's Republic Justice has the task of protecting:

- a) the social order and the political system of the Roumanian People's Republic;
- b) the basic rights of the workers, and all other rights and interests that are guaranteed and protected by the laws of the Roumanian People's Republic;
- c) the lawful rights and interests of State organizations and institutions, of agricultural production co-operations, of State economic enterprises and organizations, as well as those of any other public organization.

Article 2:

In the application of the provisions, the courts of the Roumanian People's Republic function in the defence of the People's Democracy and, at the same time, in the interests of the offender's re-education.

Through their work, the courts educate the citizens of the Roumanian People's Republic in a spirit of loyalty to the Fatherland, towards the building of Socialism, of respect for the letter of the law of the Roumanian People's Republic, of particular care of Socialist property, of disciplined work, of a proper attitude towards civic and social duties, and also in a spirit of respect for the rules of social community life in a People's Democracy.

Source: Buletinul Oficial al Republicii Populare Romane (hence, Buletinul Oficial), 4 March 1953, No. 8.

DOCUMENT No. 8
(SOVIET ZONE OF GERMANY)

Law of 2 October 1952 on Judicial Organization in the "German Democratic Republic".

Tasks of the Administration of Justice

- (1) In the courts of the German Democratic Republic the administration of justice contributes to the building of Socialism and serves the unity of Germany and the cause of peace.

Its task is

- a) the defence of the social and political system which is based upon the Constitution of the German Democratic Republic, and of its legal system,
- b) the defence and the promotion of the foundations of the Socialist economy, above all of Socialist property and of the national economic plans,
- c) the defence of the constitutional interests of political, economic and cultural organizations,
- d) the defence of the legal rights interests of citizens...

Source: Gesetzblatt der Deutschen Demokratischen Republik (hence, Gesetzblatt), p. 983.

The political nature of the administration of justice is expressed clearly not only in laws, but also in judgments and in declarations by leading members of the judiciary.

DOCUMENT No. 9
(SOVIET ZONE OF GERMANY)

In the Name of the People!

In the Criminal Proceedings against:

- 1) the managing director Felix Rabe, born on December 22, 1877 in Sangerhausen, residing at 4a, Hordorfer Strasse, Halle/Saale

...
for an offence under sections 1 and 2 of SMAD Order No. 160 of December 3, 1945, sec. 1 sub-sec. 1 (3) of the Economic Penal Ordinance of September 23, 1948 and sec. 74 of the Penal Code, it was decided by the second Penal Chamber of the District Court in Halle/Saale in session on April 14 and 15, 1953:

For sabotage and economic crimes the accused Rabe is sentenced to six years' penal servitude and confiscation of his property.

...
Grounds:

The proceedings revealed, as in almost all proceedings before our democratic courts, a struggle of class interests in which one section of the defendants became class-enemies of the working population, and the other section tools of the former. In considering it in its historical perspective and the political situation in which such punishable offences occur, it will always be observed that our democratic court is a court of our new State and serves the interests of the working class, of the manual workers, and that it has to accomplish the great task of assuring the establishment of the foundations of Socialism in our country.

Signed: Dierl Signed: Heinrich Signed: Gawlick.

b) ABOLITION OF THE INDEPENDENCE OF THE JUDGE

In view of the task assigned to justice and judicial bodies, it is only too evident that there can be no question of a truly independent judiciary. The Constitutions of the states under communist domination do indeed all postulate the principle that judges are independent and subject only to the law (e.g. Article 112 of the Constitution of the USSR), but, in fact, this independence for judges does not exist. On the contrary, a judge, whilst administering justice, must follow not only the general directives of government agencies but also those of the Communist Party if he does not wish to lose his office or, even, expose himself to serious personal danger. Here indeed the principle of "conscious partiality" prevails.

DOCUMENT No. 10
(USSR)

From "The Rôle of the Court Under the Dictatorship of the Proletariat" by Vyshinsky and Undrevich.

"... The law of the Soviet Regime is a political directive and the rôle of the judge does not consist in applying the law in accordance with the requirements of bourgeois juridical logic, but in applying it strictly as an expression of the policy of the Party and Government.

"The Soviet State openly rejects the political independence of the judge as conceived in the bourgeois sense, that is, that judges are non-political and above parties, and therefore hold themselves aloof from political life and in a sense are themselves detached from daily life. We frankly demand of our judges that they apply the policy of the

dictatorship of the proletariat, which corresponds to the interests of the Socialist population and finds its expression in the laws of the Socialist State. But the authentic independence of the judge from any influence of the Administration is assured only in the Soviet State.

"It follows that in the Soviet State the removability of a judge — whilst guaranteeing that the court in the Dictatorship of the Proletariat is an effective instrument of State policy — in no way contradicts the practical or personal independence of the Soviet judge, who is bound only by the law of the Soviet State."

Source: *Kurs ugolovnoy protsessy (A Course in Criminal Procedure)* (2d. ed.; Moscow, 1936), p. 331.

DOCUMENT No. 11

(USSR)

From "Soviet Penal Procedure as a Political Tool of Party and of the Soviet Government".

"... The independence of judges guaranteed in Article 112 of the Stalin Constitution is, patently, not identical with political independence. Judges are subject to the law; in this respect the judges are rigidly subordinated by law to the policy of the Soviet Government...

"The stipulations of Article 112 of the Soviet Constitution that the judge is independent and subject only to the law do not mean that he is also independent of the political directives of the Party and of the Soviet Government, but only that he is entitled, and in duty bound, to reach his decisions in each case at his discretion, as well as in full agreement with the concrete facts and with the stipulations of the law. That the judge is independent in deciding cases before him means that policy determines only the broad lines to be followed by him in his functions, and that it is binding for him in each individual case...

"Every experienced bourgeois politician asserts that he is only concerned with protecting the independence of the courts from all political influence, although the courts are in reality no less subject to it than the administrative authorities are; but in our Soviet State the courts have always been considered as part of the machinery of political leadership and care must be taken through appropriate measures that the courts are in fact tools of the policy of the Communist Party and of the Soviet Government."

Source: *Vestnik Moskovskoy Universiteta (Moscow)*, November 1950.

1. People's judges

The destruction of a judiciary believing in the fundamental principles of judicial independence was achieved by various measures. One of the most important of these measures for the "Democratization of Justice" was the introduction of People's Judges. It has been found necessary to fill the courts with persons whose absolute obedience to the Communist Party affords a guarantee that the law would really be executed in accordance with the dictated political rôle.

The scientifically trained, academic judge would either not have permitted himself to be forced into this rôle at all, or would have done so with the greatest repugnance. The People's Judge was to be a willing tool in the hands of the Party, and in most cases this he has become. "Democratization of Justice" by means of People's Judges means the transference of judicial posts from the middle classes to the Communist proletariat. In this way the conditions are created for a judicial system devoted to the Party and the Party's aims.

DOCUMENT No. 12

(USSR)

"The Soviet Law Court — a Valuable Means of Stabilizing Socialist Justice", by K. Gorshenin, Minister of Justice of the USSR.

...
"In the impending elections to the People's Courts the Communist Party, as has happened in previous election campaigns, publishes one party list with the independents. This is again a clear proof of the moral and political unity of Soviet society.

...
"The problems of organization and propaganda which arise in preparing for the elections to the People's Courts must be handled in close connection with the task of raising still further the political activity and the productivity of the Soviet individual. In the field of the political education of the masses we must concentrate on explaining the tasks we face in building up a communist society in our country, and in raising the productivity and standard of living of our workers still more, and we must concentrate on explaining the present international situation, the foreign policy of the Soviet Union and the steps which the Party and the Soviet government have taken to perpetuate peace.

"It is necessary to organize the spread of knowledge regarding Soviet law among the population, to explain to the workers the constitution of the USSR, and particularly those articles which compel every citizen of the Soviet Union to keep the law and to maintain a firm labour discipline, to accept the special duties placed on him in an honourable manner, to obey the rules of socialist community life, to preserve and maintain the commune form of socialist property as the hallowed and indefeasible basis of the Soviet system and the source of the wealth and power of the Fatherland.

"The Soviet citizen knows that People's Courts have a large share in maintaining socialist justice really strictly — which is the prerequisite for the future strengthening of the Soviet State — and in protecting the rights of the workers. For that reason large demands are made on persons offering themselves as people's judges. The electors have a legal claim on the persons offering themselves as people's judges: that they should be persons of authority, persons who possess the trust of the people, that they have experience of life and generally, a legal training, that they have an untarnished reputation, that they have not only the legal right, but also the moral right to judge others.

"Of those offering themselves as people's judges or people's assessors Soviet women will no doubt constitute a due proportion. In the days of the great patriotic war and in the work of peace they showed especial heroism. The policy of the Communist Party in respect to other nationalities guarantees that representatives of all nationalities shall have a share in the exercise of judicial functions and of executive functions within the Soviet system. As has been the custom, the Soviet peoples call on representatives of the various nationalities, who know the language and the conditions of life and labour of the workers to act as judges, in order to strengthen still more the great friendship of the peoples one for another. The election to the People's Courts show moreover the great power of the Soviet form of government and of communal life, the great advantages which the Soviet socialist democracy has over the bourgeois democracy, the triumph of the spiritual forces in our people which is master of its own fate. The elections will no doubt bring about a further stabilization of socialist justice and an improvement in the work of the courts and thus will form an important step in the strengthening of the Soviet State."

Source: Pravda, 12 November 1954.

In the Soviet Union People's Judges are formally elected by the population. In actual fact they are designated by the Party and the Government, and the population is allowed to register

its approval. It is true that proposals can be made by the population for the election of an individual as a People's Judge, but such proposals are pointless from the outset.

DOCUMENT No. 13

(USSR)

Deposition: Appeared Anna Moreno, born on 7 April 1926 in Moscow, who says as follows:

"My father owned a tea-shop in Moscow. After the revolution my parents lost everything; they had to leave their property within 24 hours and from then on my father made a living as an unskilled labourer. I married an Austrian in Moscow who was however a Russian citizen, and I lived in Moscow until 17 November 1947. Then I was employed until March 1952 with the Russian Oil Company in Vienna. In 1952 I spent one month in Moscow, on leave, then returned to Vienna and moved to the West with my family.

"The candidates for the elections of people's judges are selected by the Government, and at meetings the people receive slips of paper showing the names for whom they can vote. From six to ten candidates are shown on one list. At these meetings other candidates may be nominated; but they are never accepted by the Government."

Read, approved and signed.

DOCUMENT No. 14

(HUNGARY)

From: Cabinet Decree No. 4181 of 1949 and No. 277 of 1950 of the People's Republic of Hungary.

The Minister of Justice is empowered:

to establish a twelve-month course for criminal judges and prosecutors in order to make it possible for workers drawn from the ranks of the people — in contrast to the present system — to acquire, after an appropriate preliminary training in sociology, the knowledge necessary to criminal judges and prosecutors and to obtain the corresponding qualifications: thereby can the Minister of Justice hasten the process of eliminating the old judges and public prosecutors and of replacing them with people who are in fuller agreement with the spirit of a people's democracy."

The admission of "elements alien to the working class" to the courses for People's Judges is to be avoided at all costs. For this reason the laws on the establishment of schools for People's Judges contain clauses which exclude persons with an advanced education from attending the courses. This is made clear, for example, in Article 3 of the relevant Roumanian law.

DOCUMENT No. 15

(ROUMANIA)

From: Decree No. 370, 6 October 1952.

Subject: Organization and Functioning of the Two-Year Law School.

"The Praesidium of the Great National Assembly of the Roumanian People's Republic decrees:

Article 1:

A law school with a two-year course of studies shall be organized and conducted under the supervision of the Minister of Justice in order to train judges and prosecutors.

Article 2:

The two-year law school is situated in Bucharest and is a residential establishment.

Article 3:

The students of the two-year law school shall be recruited among the workers of industrial and transport enterprises, and among the peasants of collective farms, agricultural labourers and poor peasants aged from 24 to 38. They must have had an education of not less than four years at an elementary school and not more than four years at a secondary school or the equivalent thereof. Admission to the school is by examination."

Source: Buletinul Oficial, 6 October 1952, No. 3.

The People's Judges describe themselves as soldiers of the Communist Party on the legal front. "They will respect the Party line in all their activities and in this way become a formidable weapon of the Proletariat in the fulfilment of its historical aspirations".

DOCUMENT No. 16

(ROUMANIA)

The Bucharest Law School

Newspaper article by A.D.

"We Must Be Diligent Soldiers of the Party on the Legal Front".

"The courses of the law school started a few days ago at the premises of the Faculty of Law and Administration in March 6 Street. This school, which was established by the Minister of Justice at the same time as those of Cluj and Jassy, has the important mission of training elements selected from the broad ranks of the working classes to become the future cadres and foundations of our legal machinery. Following the introduction of people's judges in the tribunals — a fundamental element in the reform introduced last year — day to day experience has justified this reform, which has brought about a radical transformation of our legal system. This action which gave the administration of justice a new character, thanks to the introduction of people's assessors as an active judicial element, had to be completed. The workers, peasants and employees, who were elected by the people and who will in time be competent to fulfil such legal functions as judges, prosecutors, or presidents of courts, will be able to instil into the Roumanian administration of justice the spirit of labour and above all the class spirit, which constitute real guarantees for the protection and defence of the rights of the millions of workers in the Roumanian People's Republic. Only then will justice be a sure instrument for the protection of the rights of those who are establishing Socialism in our country by their acts and their struggle, an instrument which must be, as A. Y. Vyshinsky says, "... a powerful and active lever by means of which the proletariat ensures the fulfilment of its historical aspirations."

Source: Romania Libera (No. 1322), 10 December 1948.

2. Directions and directives

The creation of the institution of People's Judges, however, was only one of the measures for the destruction of the independence of the judges. The constitutions and laws of countries under Communist domination contain many clauses that make it possible to issue binding instructions to the courts, regarding their functions.

Whereas in a constitutional State it is the concern of the Supreme Court to interpret the laws passed by the legislature and to apply them to every individual case, in the Communist bloc the interpretation of laws can be effected by the legislature itself or even by isolated departments of the legislature, such interpretation being binding for all courts. As there is no court authorized to reexamine the constitutionality of these directives on constitution and application, the existing laws can, in this way, be expanded or contracted at will.

DOCUMENT No. 17

(USSR)

From: Constitution of the USSR.

Article 49:

The Praesidium of the Supreme Soviet of the USSR:

- a) ...
- b) ...
- c) gives interpretation of the laws of the USSR in operation.
- d) ...

DOCUMENT No. 18

(USSR)

Interpretation and Application of Norms of Civil Law.

"1. The legal norms incorporate general rules; when applying them to concrete situations in life, it is necessary to be clear in one's mind regarding the content and meaning of the corresponding legal norm.

"Such an interpretation of the legal norms has no generally binding meaning and is only the necessary condition for their application. But the interpretation of legal norms may become generally binding if effected by certain departments. Such a binding interpretation of legal norms by the competent departments is necessary in the interests of uniformity in the interpretation of legal norms.

"An interpretation is binding if it has been made by the State or administrative department that has formulated the law or other normative legal instruments. The only legislating agencies are, according to the Constitution of the USSR, the Supreme Soviet of the USSR and the Supreme Soviets of the Union Republics and Autonomous Republics. It follows that the interpretation of laws by these organs is binding.

"According to Article 49 of the Constitution of the USSR the right to interpret the laws of the USSR is the prerogative of the Praesidium of the Supreme Soviet of the USSR; the right to interpret the laws of the Republic is correspondingly the prerogative of the Praesidium of the Supreme Soviets in the Union Republic and of the Autonomous Republics. Therefore, the interpretation of the laws by the Praesidium of the Supreme Soviets has also a general binding significance. Every department of State administration can however give a binding interpretation of by-laws made by itself or by a department subordinate to itself."

Source: Prof. D. M. Genkin (chief ed.), *Sovetskoe Grazhdanskoe Pravo (Soviet Civil Law)* (Moscow, 1950), Vol. I, pp. 87-88.

In addition to the legislature and certain of its departments, the Supreme courts in the Communist-ruled countries also have the power to transmit binding directives to all courts. These directives contain instructions for the interpretation of existing laws, and even declare the inapplicability of laws which had come into existence earlier in the constitutionally prescribed

form, but which had not been repealed in the meantime: the Supreme Courts thus themselves become agencies with legislative powers.

Here it is, therefore, no longer a question of Supreme Court decisions which should be respected by the lower courts as in every Constitutional State, but of clear directives with the binding power of law by means of which all judges are committed to a line of action deemed appropriate from a political point of view.

DOCUMENT No. 19.

(POLAND)

Law Regarding the Constitution of the Courts in the People's Republic of Poland, dated 27 July 1950.

Article 22:

The Supreme Court is the highest court in the land and exercises its functions in

- a) giving decisions in appeals of law against judgments of the provincial (voivod) courts when they acted as trial courts of first instance,
- b) giving decisions in special appeals against judgments already effectual,
- c) giving decisions in matters which either under the rules of court or on the basis of a special law have been declared to be within its competence,
- d) laying down rules for the types of matters handled and the procedure adopted by the courts.

Article 24:

Par. 1. All the judges of the Supreme Court acting together or so many judges as constitute a bench of the Supreme Court shall, if so requested by the Minister of Justice, by the chief public prosecutor of the Republic or by the senior president of the Supreme Court, lay down rules for the matters handled by and the procedure adopted by the courts both in civil and criminal matters. The minister of Justice shall publish resolutions containing such rules.

Par. 2. The rules laid down by the Supreme Court should aim at securing that the law is administered on a uniform basis in all courts throughout Poland and that it is compatible with the principles of people's constitutional state.

Par. 3. An appeal may be founded on the claim that a rule laid down by the Supreme Court has been infringed.

DOCUMENT No. 20

(ROUMANIA)

Decree No. 99 of 4 March 1953 on Certain Amendments to the Law on the Judicial Organization of the People's Republic of Roumania (Law No. 5 of 19 June 1952).

Article 41:

The Supreme Court controls the judicial activities of courts, as follows:

- a) ...
- b) through directives which it issues to the courts regarding their jurisdiction, aiming at a just application of the laws.

For this purpose the Supreme Court meets with all its chambers at least once every three months, in the presence of the Minister of Justice and of the Procurator-General of the Roumanian People's Republic, who propose motions.

Source: *Buletinul Oficial*, 4 March 1953, No. 8.

DOCUMENT No. 21
(SOVIET ZONE OF GERMANY)

Law on Judicial Organization of the "German Democratic Republic" of 2 October 1952.

Section 58

Publication of General Directives

"In the interests of the uniform application and interpretation of the laws by the courts of the German Democratic Republic the full bench of the Supreme Court can, in connection with a decision, publish general directives with binding effect for all courts following a motion by the President of the Supreme Court, by the Procurator-General of the German Democratic Republic, or by the Minister of Justice."

Source: Buletinul Oficial, 4 March 1953, No. 8.

DOCUMENT No. 22
(USSR)

On the Application by the Courts of the Decrees of the Supreme Soviet of the USSR of 4 June 1947.

"Regarding the questions that have arisen in the experience of the courts in connection with the publication of the decrees of the Supreme Soviet of the USSR of 4 June 1947, "On Strengthening of the Protection of the Citizens' Private Property" and "On Criminal Liability for Embezzlement of State and Public Property", the Minister of Justice of the USSR has asked the full bench of the Supreme Court of the USSR, in accordance with paragraph "c" of Article 7 of the Ordinance of the People's Commissariat for Justice of the USSR, to issue directives to the courts on these questions.

"The full bench of the Supreme Court of the USSR resolves to issue the following directives:

- "1. The crimes covered by the above-mentioned decrees are to be judged according to the appropriate articles of those decrees, in so far as they were committed after publication of the decrees. Accordingly, the following are no longer applicable: the law of 7 August 1932; article 1 of the decree of the Praesidium of the Supreme Soviet of the USSR of 10 August 1940, "On Criminal Liability for Petty Larceny in Factories and Workshops, and Rowdyism", as well as Articles 59^{3a}, 116, 162, 165, 166, 166-a, 167 and 169 paragraph 2 of the Penal Code of the RSFSR and the corresponding articles in the Penal Codes of the other Union Republics.
- "2. Criminal actions involving offences under Articles 2 and 4 of the decree "On Criminal Liability for Embezzlement of State and Public Property", will, provided that the misappropriations are considerable, fall within the jurisdiction of the provincial, territorial and district courts and of the Supreme Courts of the Union Republics and Autonomous Republics. All other criminal actions relating to crimes covered by the decrees of 4 June 1947, are within the jurisdiction of the people's courts.

- "4. In all criminal actions relating to crimes covered by the decrees of 4 June 1947, a preliminary investigation is compulsory.

"These cases must be brought before the court by the public prosecutor."

Source: Postanovleniya Plenuma Verkhovnogo suda SSSR (Resolutions of the Supreme Court of the USSR), 22 August 1947, No. 12/6.

3. Individual measures

In addition to the Supreme Courts' powers of direction, the independence of judges in the Communist sphere is broken and, to all intents and purposes, eliminated by the cumulative effect

of individual measures. The Communist Party influences the administration of justice not only in general directives or in binding rules issued through the Supreme Courts, but also by direct action through the judiciary of the lower courts.

DOCUMENT No. 23

(SOVIET ZONE OF GERMANY)

Deposition: Appeared Dr. Rudolf Reinartz, born on 10 July 1913, formerly departmental head in the Soviet Zone Ministry of Justice, at present a refugee in West Berlin who says as follows:

"I first witnessed a gross violation of the principle of judicial independence, which is guaranteed in the constitution of the Soviet Zone, in 1950 in the Waldheim trials, where the head of the local operational staff, Frau Dr. Hildegard Heinze, gave the judges concerned clear directions on the punishment to be awarded in individual cases. At the present time a system of passing instructions to the judges has been built up, especially since 17 June 1953. An operational staff was established under Frau Dr. Hildegard Benjamin. It is believed that the setting up of this staff was suggested to Frau Benjamin during her educational trip to the Soviet Union in 1952. As far as I know the following belong to the operational staff:

Dr. Melsheimer,
Ziegler,
Staatsanwalt Wunsch,
Helene Kleine,
Fritz Böhme,
Gerda Grube and
Erna Naumann.

"The particularly infamous Grube and Naumann were appointed as instructors. The remainder belonged to the operational staff at the office. The formation of this staff was an attempt to eliminate somehow Fechner (then Minister of Justice — Ed.) and the Division of Judicial Practice of the Ministry of Justice.

Every Saturday a conference took place in Frau Benjamin's office, one could also call it a briefing. Sometimes these conferences were continued on Monday. During the whole of the remaining time the instructors were travelling in the Zone. Frau Grube, for example, was energetically occupied in Halle, and Frau Naumann in Jena. In the Supreme Court building a permanent night duty was introduced. Fritz Böhme and Helene Kleine were often detailed for this night duty. The instructors rang up from the Zone at night and reported to those on duty cases for their decision. If those on night duty considered the case clear and uncomplicated, they gave the instructors their decision on the punishment to be awarded, otherwise they deferred the decision until after reporting to Frau Benjamin the next morning. The latter then made her decision and the instructor in the Zone was informed accordingly by telephone. I am acquainted with this procedure because I had personal knowledge of the telephone calls of Grube and Naumann, while Helene Kleine described to me her night-duty functions at the Supreme Court. The directives given to the instructors were then passed on by the latter to the judges in the Zone whom the decision concerned.

"No important criminal sentence was passed without such directives. It is self-evident that "directives" were not mentioned officially: they were described as "help for the judges".

"Then Frau Benjamin busied herself with converting the Division of Judicial Practice of the operational staff. The former head officials of this division, Frau Ganske, Reuter and Kelm, were removed, and Gerda Grube, Erna Naumann, people's judge Heimsath and people's judge Eildermann were appointed as instructors. Each of these instruc-

tors will be given a definite district, presumably two administrative Districts (Bezirke) of the DDR. Not all instructors' posts are yet filled. This should be accomplished by April 1954. The instructors are always on the move in their districts, informing themselves at the courts on important criminal actions and issue directives which they first request by telephone from Fritz Böhme at the Ministry of Justice. The latter seldom makes the decision himself.

"In most cases he asks Frau Benjamin for her decision. Frau Benjamin herself, in particularly doubtful cases, turns to the Central Committee of the SED or to Karlshorst direct. Sometimes the decisions by telephone are also deferred until the Saturday conference. In this way, every court action in the Zone that is deemed important is steered. That was already the case from time to time in civil actions, and will become extended in scope as this machinery is built up..."

Read, approved, and signed.

9 November 1953.

DOCUMENT No. 24
(SOVIET ZONE OF GERMANY)

Deposition: Appeared the refugee, Wilhelm Behmel, from Rudolfstadt who says as follows:

"By trade I am a commercial employee... I took part in a course for People's Judges from 3 November 1947 to 18 November 1948. I was first appointed to the prosecuting office in Rudolfstadt and on 15 August 1953 I was transferred to the prosecuting authority at Meiningen..."

"From my employment I know that the SED has directly interfered with court decisions. When the Party was interested in the acquisition of a business property, it discussed the matter with the competent District Attorney, the President of the District Court and the judge presiding in the suit to be brought against the owner of the enterprise. This happened particularly in November-December 1952 in the proceedings against the owners of the Hotel "Zum Anker", an old and respected restaurant in Saalfeld. In this case, the district leaders of the SED in Saalfeld were interested because they wanted to turn the restaurant into a H.O. restaurant. The District leaders of the SED in Gera also intervened. I am informed that Party representatives got in touch with the President of the District Court, Frau Buchaniez, and with District Attorney Schulze or Loeffler and gave them directions as to how the proceedings should develop. The owners, the brothers Rexerot and their sister-in-law, were sentenced to 6, 4, and 2 years penal servitude, respectively. I was told of this action by the former People's Police Inspector Fischer."

Read, approved, and signed.

26 November 1953.

Judges and officials of the court who do not follow the Party line or who deviate from it expose themselves at least to the sharpest condemnatory criticism by Party officials or the press. In this way the remaining judges are intimidated and all efforts at critical thought and personal responsibility are ruthlessly suppressed.

DOCUMENT No. 25
(ROUMANIA)

Press Report on the 12th session of the Great National Assembly of the People's Republic of Roumania.

"At the twelfth session of the Great National Assembly three bills were discussed and adopted unanimously by secret ballot. One deals with the "Reorganization of Justice", the second with the "Establish-

ment and Organization of Public Prosecutors in the Roumanian People's Republic", and the last with the "Organization of Military Courts and Military Prosecuting Authorities".

Reorganization of Justice

"Deputy Dimitro Zaharia said that the bills debated by the Great National Assembly are meant to bring the courts closer to the toiling masses and to strengthen the respect for and defence of revolutionary legality.

"The organization of the judiciary in our country, had, until now, defects which prevented it from playing its full part in the establishment of Socialism in the Roumanian People's Republic.

"It must be pointed out that the former vice-president of the Council of Ministers, Téohari Georgescu, who had been entrusted by the Government with the task of assuring the application of our Socialist legislation in the spirit of the class struggle, was prevented by his tolerance and lack of fighting spirit from accomplishing the tasks allotted to him; these were to ensure absolute observance of the laws of the country, and to punish with the utmost severity any crimes directed against the interests of the State or against the toiling masses and the establishment of Socialism.

"Numerous examples prove to us that judges have shown indulgence towards the gangsterism of the people's enemies.

"The speaker cited a number of examples which show the odious attitude of certain judges, who are not afraid to protect capitalist elements of town and country districts. Kulaks guilty of non-delivery of the cereal quotas due to the State, or of evading their legal obligations, were only punished with very light sentences and sometimes were even acquitted.

"The representatives of the Ministry of Justice have not ensured the strict enforcement of revolutionary legal principles. They have not understood them, nor have they protected our legal machinery from corruption. This spirit of tolerance, this lack of revolutionary watchfulness is explained by the fact that a number of important posts in the central administration of this Ministry were entrusted to former industrialists and property owners...

"The speaker continued with a declaration that there are still judges in the district of Ialomitza who do not represent the interests of the workers vigorously enough. In many cases of serious sabotage committed by kulaks, such mild sentences were pronounced that decent people were rightly indignant. In the municipality of Gura Ialomitzei six kulaks embezzled 5,600 kilograms of cereals during the 1951 harvest. The monstrous crime of the kulaks was discovered by the leader of the collective farm, who informed the militia. The kulaks were brought to trial, but, after the judge had postponed judgment for some time, he referred to a certain section of the law and each defendant was sentenced only to a fine of 1000 lei and one month's imprisonment.

"There have been even more serious cases. Certain judges have not been ashamed to return to the kulak saboteurs the cereals that had been confiscated from them. Whom are such judges protecting? The working masses and the interests of our State, or the saboteurs?

"In conclusion, the speaker quoted examples of purely token judgments pronounced by courts against kulaks. Thus a certain Dragulin, Ion, was sentenced for the sake of appearances, to a fine of 15 lei.

"We have often asked ourselves why the comrade Minister of Justice has not taken any measures to remove from the courts these judges who represent the interests of the kulaks. How is it possible, for example, that one of the judges of the provincial court of Kalarasi is the son-in-law of the kulak Neagu Barascu, of Grindu?"

...

Source: *Scanteia*, 4 June 1952.

DOCUMENT No. 26
(SOVIET ZONE OF GERMANY)

Press Comment on the Decision of a Party Judge in the Soviet Zone of Occupation in Germany: Comrade Hojenski and the "Legal Way", by Wolfgang Nordalm.

"As should be known the labour courts in our Republic were established by the authority of the workers and peasants for the protection of the rights of the workers. And it should also have been known in Merseburg that the fascist provocateurs of 17 June had called upon the population to destroy this might of the workers and peasants, that they had thus turned against the basic interests of the workers of our Republic and had been dismissed from their employment precisely because of this.

"Therefore — so should be the logical deduction — they should have been dismissed peremptorily by the labour court in Merseburg. But things did not turn out this way. On the contrary. The judge of the labour court in Merseburg, Comrade Hojenski, listened quietly to the speeches of these people, then looked through his statutes and gave his decision: in accordance with paragraph 5 of the ordinance on the formation of conciliation boards in factories, all labour disputes should, in the first instance, come before such boards. The conciliation board of the Leuna Works is therefore bound to admit the petitions of these colleagues and to appoint a day for hearing.

"That was exactly the sort of news the provocateurs wanted to hear. Comrade Hojenski supported the efforts of the fascist elements to join an organization outside the works, to force a showdown with the works management, and to collect followers in the works itself and so to spread their Fascist mud-slinging slogans in the works.

"Briefly: after they were denied the possibility of continuing their provocative activities inside the works, they wanted to carry on provocation from the outside. Only a man struck with political blindness would not acknowledge that this is a case of organized action.

"The labour-court judge in Merseburg, however, let himself be guided by the letter of the law instead of allowing himself to be guided by political principles, that is, in accordance with the class struggle: in so doing he actively supported the provocateurs in their efforts...

"What is the explanation of this? We are not by any means implying that Comrade Hojenski consciously supports the enemies of the people; but where lies the cause, what is the reason for this behaviour? It lies apparently in the fact that he has adopted the point of view of Social-Democracy. His Social-Democratic conceptions prevent him from approaching all the problems of life as well as his professional activities from the point of view of the class struggle...

"Right-wing Social-Democracy never faces up to the class problem, that is, the question of power, and replaces the revolutionary class struggle by worship of class harmony.

In reality Comrade Hojenski did nothing else. He similarly failed to face up to the class problem and promptly landed in the camp of the enemies of the working class. Instead of thinking and acting as a revolutionary, he goes about relying on the word of the law without asking himself who in fact published our laws and for whom. Like a stodgy bureaucrat he sees only the formal side of the ordinances, only their words, but not their class meaning.

"He must keep to the 'legal way', he grumbled, when he was criticized for his decision. He said he could not give 'false information'.

"Really, this is capital..."

Source: Freiheit (Halle), 10 October 1953.

The establishment of the ideological-political standard of the judge is indicated as being one of the principal aims of the

personnel-policy within the judiciary. In all cases where such a level does not seem to have been attained, the words "remnants and nests of liberalism and social-democratism" are used and sharp attacks are made against those judges who appear to have such shortcomings.

DOCUMENT No. 27
(SOVIET ZONE OF GERMANY)

From "The Main Tasks of Justice in the Realization of the New Course", by Hilde Benjamin, Minister of Justice in the Soviet Zone of Occupation in Germany.

"Today we are faced with the task of preventing formalism in the administration of the law from surviving in any sphere and thus hindering or endangering the realization of the New Course. The decisive condition for this is the ideological strengthening of our cadres. It is necessary to strengthen and confirm the political ideology of the judiciary by means of open discussion, in which all remaining traces and remnants of Liberalism and Social-Democracy must be exposed. Certain judges (and indeed the very ones who until now were against an unduly severe application of the law for the protection of the people's assets) appeal to 'legality' and reject the recommended application of the law for the protection of the people's assets (namely that it applies *only to serious crimes* whereas lesser offences can come under the Penal Code), and believe that they must demand a new law: what is this, if not an expression of concepts inimical to our order? "... It is one of the decisive tasks of the party organization to assist the comrade-judges in raising their politico-ideological standard to that they are able to induce in the cadres greater security and clarity in lively discussions at judicial conferences — such as the Party organization of the Ministry of Justice has already started."

Source: *Einheit* (East-Berlin), 1953.

4. Removal and Disciplining of the Judge

Such official reprimands and thinly veiled threats do not fail to have the intended effects on the bench. Indeed, not only is the judge not independent, he may also, against his own wishes, be removed from office at any time. This can also happen before expiration of the term for which he was elected and installed in office. Under the continual silent threat of losing his position and his means of livelihood, a judge will, in the end — even if he does not himself agree with the Government's political aims — unconditionally carry out the orders of Party and State and will no longer dare to express a personal opinion. The constant threat of dismissal is not the only danger: there is, further, the threat of punishment and imprisonment. A judge who abides by the constitutional principle of the independence of the judiciary and dares to pronounce a judgment contrary to the will of the Party must, as numerous examples show, expect severe punishment. This is then the strongest weapon of the Communist rulers — the removal of the last survivors of an independent body of judges.

DOCUMENT No. 28

(USSR)

Law Respecting the Constitution of the Courts of the USSR and of the Republics and Autonomous Republics, dated 16 August 1938.

Par. 17. A judge can be deprived of his office and a people's judge suspended from his duties only if his dismissal is assented to by his electors or a finding of a criminal court so provides.

Par. 63. In accordance with sections 104 and 105 of the Constitution of the USSR, the Supreme Court of the USSR is the highest court and the members of this court shall be elected by the Supreme Soviet of the USSR for a period of five years.

DOCUMENT No. 29

(USSR)

Order of the Supreme Soviet of USSR depriving members of the Supreme Court of the USSR of Office.

The Supreme Soviet of the USSR has resolved to dismiss the following members of the Supreme Court of the USSR from their posts:

*Detistov, Ivan Vasilievich
Dmitrijev, Leonid Dmitrievich
Zarjanov, Ivan Michejevich
Klonov, Pavel Tichonovich
Matuljevich, Ivan Osipovich
Pavlenko, Pantel Petrovich*

Signed

The Chairman of the Presidium of the Supreme Soviet of the USSR,
K. Voroshilov.

The Secretary of the Presidium of the Supreme Soviet of the USSR,
N. Pegov.

Moscow, The Kremlin 7 February 1955.

Source: Vedomosti Verkhovnovo Sovieta (Gazette of the Supreme Soviet), No. 2 (820) on 25 February 1955, p. 46.

DOCUMENT No. 30

(SOVIET ZONE OF GERMANY)

Law on the Judiciary of the "German Democratic Republic" of 2 October 1952.

Recall of judges

Article 16:

- (1) Judges of the Supreme Court may be recalled by the Volkskammer before expiration of the term for which they were elected, if they
 - (a) violate the Constitution or other laws, or otherwise grossly abuse their duties as judges,
 - (b) have been lawfully sentenced by a court.
- (2) They may further be recalled if they are physically or mentally unable to fulfil their duties.
- (3) Recall shall be effected after hearing the report of the Volkskammer's committee on justice.

Article 17:

Judges of the other courts may be recalled by the Minister of Justice before the end of their term, under the conditions laid down in section 16. Recall is effected after the Minister has consulted his ministerial staff.

Article 18:

Judges against whom proceedings for recall are pending may be temporarily relieved of their functions; in the case of judges of the Supreme Court, by the Government of the German Democratic Republic; in the case of other judges, by the Minister of Justice.
Source: *Gesetzblatt*, p. 983.

DOCUMENT No. 31
(SOVIET ZONE OF GERMANY)

From a Speech by Hilde Benjamin, Minister of Justice in the Soviet Zone, on 29 August 1953.

"The first four disciplinary actions against judges of District courts have been conducted before the disciplinary committee of the Supreme Court. The judges in question had to answer charges of offences against work discipline. The disciplinary committee of the Supreme Court has given an example for disciplinary proceedings taking place in future and has reached its decision following an exhaustive examination of the actions of the judges in question, and of their personality. The committee has, for example, given different decisions in two apparently identical cases, because it was seen that one judge had honestly endeavoured to discover the correct attitude he should adopt towards Government policy, whereas this was not in the least discernible in the other case. The disciplinary proceedings in this case have, therefore, been discontinued and will be replaced by proceedings for removal. It will now be necessary to draw the inevitable conclusions from these proceedings, so that we may obtain the result aimed at by the ordinance on discipline: namely, a strengthening of the judges' sense of responsibility towards our State and an increase in the standard of discipline towards the State among our judicial officials."

Source: *Neue Justiz*, 1953, No. 19, supplement.

DOCUMENT No. 32
(SOVIET ZONE OF GERMANY)

Deposition: Appeared Lothar Kirsch, born 8 September 1917 at Zechau near Altenburg, now domiciled in West Berlin, and, after being cautioned regarding the obligation of a truthful statement, says as follows:

"I took part in the third course for people's judges of Land Thüringen at Gera from the autumn of 1947 till 30 November 1948. From 1 December 1949 until my dismissal on 5 February 1953, I was employed as people's prosecutor at various courts, lastly, since mid-September 1952, at the Kreis court at Schmöln, which is now attached to the District court of Leipzig. The Kreis court director at that court was the people's judge Willi Sachse, who came from Altenburg. Before his employment in Schmöln, Sachse was employed as a judge at Erfurt and Pössneck.

"Working with Kreis court director Sachse was most congenial. I observed that Sachse took care to avoid unnecessary severity in criminal cases. At the end of 1952 or the beginning of 1953 a case occurred which, under the law for the protection of the people's assets, carried a minimum sentence of one year's hard labour. A baker employed by the H.O. had stolen ten doughnuts from the H.O. store and taken them home. I based my indictment on the law for the protection of the people's assets. It was only during the proceedings that the triviality of the matter revealed itself, and at my request the Kreis court director imposed a fine of 50 DM. East for petty pilfering. He deliberately refrained from applying the law for the protection of the people's assets and gave as his reasons that a law threatening such harsh punishment could not be applied in such a trivial case. Shortly after this, Sachse should have issued, at the request of the state-prosecutor, a warrant for the arrest of a farmer, for having mis-

appropriated about 30 cwt of straw from a nationalized farm. The reason given with the request for a warrant was that, in view of the severity of the penalty — at least one year's hard labour — there was a legal presumption that the accused would try to abscond. Sachse refused to issue a warrant. The accused, however, was still threatened with arrest by the police, but was able to escape to safety in West Berlin.

"On 24 January 1953, I wanted to spend the week-end at my parents' at Zechau. I was fetched back from there to Schmölln in a car by the Leipzig District Attorney Adam and Herr Pfifferling of the Leipzig District judicial office. I thought that I was to be arrested myself. In Schmölln a few files were checked and I had to hold myself at their disposal. After about one and a half hours I was summoned by telephone to the Kriminalpolizei, and was told to bring all forms and documents necessary for the issue of a warrant. At the Kripo office I learnt that the man to be arrested was Kreis court director Sachse. When I arrived, he was being interrogated by District Attorney Adam and Herr Pfifferling in an extraordinarily harsh and sarcastic manner. He was charged with perversion of justice by reason of his non-application of the law for the protection of the people's assets in the Doughnuts Case and by his refusal to issue the warrant for the farmer's arrest. Apart from this, Sachse was reproached with having pronounced excessively light sentences against members of the middle class during his service at Pössneck and Erfurt.

"When his interrogation ended, Sachse was transferred to Leipzig, where a warrant was issued for his arrest. Shortly before my flight to West Berlin on 8 May 1953, I learned that Sachse had been sentenced to three and one half year's hard labour."

Read, approved, and signed 8 July 1953.

5. Abolition of Impartiality of the Courts

What has been said about the dependence and partisanship of professional judges applies also to the People's Judges recruited from the people who participate in the administration of justice. The stipulation regarding the election of these assessors show that care is taken that assessors are appointed only from among persons acceptable to the Communist Party or the Communist-led mass organizations. Only persons who are devoted to the Communist regime in a People's Democracy may be elected. In the administration of justice, these People's Judges, too, must think and act strictly among party lines. There is no room for an impartial and objective appreciation of the case in issue. After their election the assessors draw lots to determine the order of their service on the bench, but deviations may be made for special reasons. Such special reasons arise, for instance, when a case of political significance is on the calendar. Then another selection is made among the People's Judges and only the most reliable sit. It is thus ensured that only sentences acceptable and useful to the Communist regime are pronounced.

DOCUMENT No. 33

(POLAND)

In the choice of candidates for the office of assessors to the court care should be taken to elect to their office only workers, small peasants and middle-class peasants and members of an agricultural co-operatives, that is to say, persons who are class-conscious and devoted to the people's government.

Source: „Rada Norodowa” (*The people's council*), 15 December 1950.

DOCUMENT No. 34
(CZECHOSLOVAKIA)

Observations of the Chief Secretary of the Slovak Committee of the Association of Judicial Workers, Jan Misik.

"The People's judges drawn from the people should be elected in enterprises from the workmen, in uniform agricultural co-operatives from the small and middle-class peasants. By taking part in the court proceedings with the judges, these people's judges drawn from the people form a desired front of genuine class consciousness, in civil and criminal matters.

"The people's judges drawn from the people are appointed by the District National Committees for the district courts, by the regional National Committees for the regional courts, and by the Government for the Supreme Court. Only such Czechoslovak nationals, male or female, can be appointed people's judges drawn from the people as

1. are over 30 and not over 60 years of age,
2. are registered in the permanent register of electors,
3. have not committed any offence,
4. are loyal to the state and devoted to the regime of the people's democracy.

"If one of the above requirements ceases to apply during the period of office of a people's judge, he would unquestionably have to be dismissed."

Source: *Práce* (Bratislava), 20 June 1952.

DOCUMENT No. 35
(ROUMANIA)

Decree No. 99 of 4 March 1953 on Certain Amendments to the Law on the Organization of the Judiciary of the People's Republic of Roumania (Law No. 5 of 19 June 1952).

Article 13:

The people's assessors (judges) are elected on the proposal of the worker's organization, that is, on the proposal of the organizations of the Communist Party of Roumania, the trade-unions, the co-operatives, the youth organizations, and the other mass organizations, as well as the cultural associations.

The people's assessors (judges) at the people's courts are elected at mass meetings of workers conducted by the factories and institutions, the State farms, the agricultural production co-operatives and the communities and villages that lie within the jurisdiction of the court.

Source: *Buletinul Oficial*, 4 March 1953, No. 8.

DOCUMENT No. 36
(SOVIET ZONE OF GERMANY)

Judicial Organization of the „German Democratic Republic” of 2 October 1952.

Article 43

Composition of Chambers

Article 43:

- (1) The chambers of the District courts comprise one presiding judge sitting with two lay assessors. The assessors are summoned by the president in accordance with the priority on the lists. When special reasons exist, deviations from the normal sequence are permitted.

Composition of Benches

Article 51:

- (1) In courts of first instance criminal and civil benches comprise a judge who presides with two lay assessors. The lay assessors are summoned in accordance with the stipulations of art. 43 (1), second sentence.

Source: *Gesetzblatt*, p. 983.

c) POSITION OF THE PUBLIC PROSECUTOR

In Communist countries the public prosecutor enjoys an extensive authority. He is "the protector and keeper of Socialist legality". He not only conducts criminal investigations, but also supervises the manner in which the courts apply the law and controls the activities of the entire administrative machinery. It is true that the individual can appeal to the public prosecutor with a complaint if he believes himself wronged by any illegal measures, but whether the public prosecutor takes any action depends entirely upon his own discretion. Administrative courts to which a citizen may appeal in a constitutional State do not exist. The public prosecutors could perhaps fulfil similar functions, but they act exclusively in the interests of the Communist regime from the position of power that has been granted them.

The legal principle that a person may only be held in custody by reason of a judicial decree has been reversed in favour of the body of public prosecutors in the People's Democracies — not yet in the Soviet Zone of Germany.

DOCUMENT No. 37

(USSR)

From "The Soviet Administration of Criminal Justice as a Political Tool of the Party and of the Soviet Government".

"The public prosecutor ensures that the courts sustain the policy of Party and Government. It is undoubtedly part of his duties to make sure that the courts have a constant regard for the laws and that they further the realization of the policy of Party and State... A judgment is wrong or inadmissible, not only if it openly conflicts with the wording of the law, but also if the court has failed to grasp the political meaning of the law or to judge rightly the political significance of the act of the accused.

"Soviet attorneys have the task of contributing to the realization of the policy of Party and State, not only by protesting against judgments that are politically wrong, but also by calling criminals to account judicially, and by means of their pleading and motions, which often have the character of a challenge. The prosecutor's platform often becomes a political platform."

Source: Vestnik Moskovskovo Universiteta, November 1950.

DOCUMENT No. 38

(USSR)

Constitution of the USSR of 25 February 1947.

Article 113:

The supreme supervision over all ministries and the institutions subordinate to them as well as over individuals holding office and the citizens of the USSR to secure that they observe the laws punctiliously rests with the Chief Public Prosecutor of the USSR.

DOCUMENT No. 39

(POLAND)

In order that the judicial machinery may be capable of fulfilling the tasks which fall to it as part of the machinery of the people's democracy, that is to say in order to make a reality of the dictatorship

of the proletariat, it was necessary to fit it in with the other departments of government and to place the functions of the public prosecutor on a new but uniform basis.

Source: H. Chmielewski, „Nowy Charakter Sądów” (The new character of the courts), Katowice 1951, p. 6/7.

DOCUMENT No. 40

(POLAND)

Law respecting the Public Prosecution of the Polish Republic of 20 July 1950 as amended on 1 September 1950.

Article 3:

The Chief Public Prosecutor of the Republic has the following duties:

1. to exercise general supervision that all departments, official bodies and offices of the provincial, county and parish administrations and the undertakings of the socialist industry, the public institutions and the individual citizens observe the law punctiliously,
2. to watch that the official acts and any other activities of the official bodies designated in point 1. (above), of any offices or of institutions and of the individual enterprises of the socialized economy are in harmony with what the law prescribes,
3. to protect the rights of the citizen,
4. to exercise general supervision over the courts to secure that they apply the law contained in the rules of procedure properly and uniformly,
5. to commence criminal proceedings to conduct the legal supervision of the enquiries and to provide the prosecution in court,
6. to carry out the punishments awarded on convictions and to supervise the carrying out of the punishment in the penal institution,
7. to act officially as necessary to the protection of public property and to the checking of crime.

DOCUMENT No. 41

(POLAND)

Code of Criminal Procedure of the Polish Republic dated 20 July 1950.

Article 151:

Par. 1. Provisional arrest can only be effected on the order of a court or of the public prosecutor.

Par. 2. The public prosecutor can only order a provisional arrest in the course of an enquiry.

Article 155:

A suspected person who has been detained, must be brought before the public prosecutor immediately, who should examine him and the public prosecutor shall either order the arrest of the suspected person or that the suspected person should be set at liberty after he has investigated all the grounds for suspicion put before him.

Article 158:

Par. 1. The arrest of a person suspected can only last for a maximum of three months. A note of this should be made on the document ordering the provisional arrest.

Par. 2. The provincial public prosecutor can prolong the arrest to six months.

Par. 3. The chief public prosecutor of the Republic can order a further prolongation of the arrest for a specified time if having regard to the special circumstances of the matter the enquiries cannot be brought to a close within the period laid down in par. 2.

DOCUMENT No. 42

(ROUMANIA)

*Constitution of the People's Republic of Roumania of
24 September 1952.*

Article 73:

The Procurator-General of the Roumanian People's Republic enjoys supreme supervisory power to ensure the observance of the law by all Ministeries and central bodies, by local State and administrative organs, as well as by officials and other citizens.

DOCUMENT No. 43

(CZECHOSLOVAKIA)

*Report on Motives of the Czechoslovak "Law on Public
Prosecutors".*

"When the machinery for the Procurator-General's office was established, it was possible to graft it upon the existing organization of the public prosecutor's office. It is now necessary, however, to reinforce this organization, and to define the powers of the Procurator-General so that he can also exercise supreme supervisory power to ensure the observance of the law within the State administration. In doing this it is necessary to make use of the boundless experience of the USSR.

"Comments on the individual stipulations:

Article 1:

The Procurator-General's main task is the supervision, enforcement and consolidation of Socialist legal principles. The protection of Socialist legal principles is the main safeguard of the Republic, of the form of our society and the political system and assists the buildings of Socialism.

Article 2:

The means of enforcing Socialist legal principles are described in Article 2 of the draft law. In no case does the Prosecutor-General require a request before he intervenes. He can intervene if he learns from any source that Socialist legal principles have been infringed.

"Supervision by the Procurator-General is no longer confined to the courts as it was hitherto: the Procurator-General ensures that the laws and other regulations are respected by all offices and authorities, including the Ministries, and by all State organs, particularly administrative bodies, institutions, officials as well as by individuals.

"In this way the protection of legal principles is ensured in the administrative domain, this makes possible the abrogation of the obsolete law on the administrative court, which aimed, principally, at the protection of personal interests of the individual...

"A further guarantee for the observance of legal principles is the Procurator-General's right to intervene in civil proceedings when the protection of the interests of the State or of the workers demands it.

Articles 5 and 6:

Details as to the nature of collaboration by the Procurator-General and his subordinates with other authorities, institutions and departments will be determined by the Procurator-General himself.

"The Procurator-General has the right to take over any criminal action that is of particular importance either because of the nature of the act or because of the person concerned. In such a case the matter will be dealt with by the Supreme Court as a court of final instance."

Source: Tisky Narodniho Shromazdeni Republiky Ceskoslovenske, Record of the Czechoslovak Parliament, 1952.

DOCUMENT No. 44
(CZECHOSLOVAKIA)

*Code of Criminal Procedure in Czechoslovakia dated
12 July 1950
as amended on 29 January 1953.*

Article 78:

During the enquiries the public prosecutor must do everything in his power to ensure that the enquiries are carried through successfully; above all he must,

- a) ...
- b) make arrangements that the accused can appear before the court and that he does not disturb the enquiries. In particular he has the power to decide upon arrest pending trial.

Article 81:

- 1) If there is a reasonable suspicion that any object which is of importance for the purposes of the enquiries is to be found in the dwelling place or in any other room and that the accused has hidden it there, the public prosecutor can have a search made.
- 2) If there is a reasonable suspicion that anyone is holding back an object which is material to the enquiries, the public prosecutor can have a search made.

Article 83:

If it is necessary, in order to clear up matters material to the enquiry, to examine the contents of telegrams, letters and other communications not passing through the post-office, which probably emanated from the accused or were addressed to him, the public prosecutor can order the undertaking which delivers the communications to deliver them to him, but he can only do so where he would have grounds for ordering arrest.

Article 105:

It is permissible to appeal against the decision of the public prosecutor ordering arrest, but this does not defer the arrest.

Article 36:

- 1) The Chief Public Prosecutor deals with appeals from the county public prosecutors. The county public prosecutor deals with appeals from the district public prosecutors.

DOCUMENT No. 45
(BULGARIA)

*From: "Obsijat nadzor na prokuraturata" by Christo
Dionisijev.*

"In a People's Democracy, as is our Republic, it is one of the State's most significant duties to observe Socialist legal principles meticulously and without exceptions.

"In a Socialist State legal principles constitute a powerful weapon for the consolidation of the dictatorship of the proletariat, the elimination of the resistance of the remnants of the capitalist exploiting classes and for the building of Socialism and Communism ...

"In contrast to the other instruments of the State, which realize their control in lower or higher instances the Attorney General has according to the Constitution, "the supreme control over the correct observance of the law". The Attorney-General's main function is the supreme supervisory power of the observance of legal principles by all State and administration organs, by the courts, by public officials, and by citizens. By fulfilling this main task the Attorney-General ensures the fulfilment of the people's will, as expressed in the laws.

"The supervision exercised by the Attorney-General expresses itself in two ways: in supervision of the activities of the investigating author-

ities and of the courts, and in supervision of the legality of the activities of the administrative organs of the state, of local authorities, of social organizations, and of citizens.

"General supervision, which goes much further, forms the second aspect of these powers.

"Legal control of the State administration takes tangible form in general supervision. The only bodies the legality of whose activities the Attorney-General is not empowered to supervise are the National Assembly, the Presidium of the National Assembly and the Council of Ministers . . .

"What are the Attorney-General's main tasks of general supervision?

"First of all there is the protection of the assets of the State and of the co-operatives . . .

"A further important task of the Attorney-General lies in carrying out general supervision in the fight against breaches of the model statutes of the agricultural co-operatives and of the Resolutions of the Council of Ministers and of the Central Committee of the Communist Party of Bulgaria on the organizational and economic consolidation of the agricultural co-operatives.

"The Attorney-General has an extraordinarily important task in exercising general supervision of the legality of the resolutions of the executive committees of the town, district and regional national councils, as well as of workers' councils.

"A further task is the supervision of the strict observance of regulations regarding the safety of workers . . .

"Supervision of the quality of production is also one of the tasks of the Attorney-General".

Source: "Sotsialisticheskoe pravo" (Socialist Law), 1953, No. 3, p. 29

DOCUMENT No. 46

(HUNGARY)

Extract from the Hungarian Code of Criminal Procedure.

Par. 99 — II. Arrest during the preliminary enquiries can be ordered or assented to by the public prosecutor and can last until the meeting to review the preliminary position, but not longer than one month. If the complicated nature of the case justifies it, arrest during the preliminary enquiries can be prolonged by the provincial (Komitat) public prosecutor for a further month.

Source: *Magyar Közlöny*, 10 July 1954, Appendix.

DOCUMENT No. 47

(USSR)

Law Regarding the Public Prosecution in the German Democratic Republic, dated 25 May 1952.

Article 10:

Art. 10. The Chief Public Prosecutor of the German Democratic Republic constitutes the highest supervising authority charged with securing that the laws and orders of the German Democratic Republic are strictly adhered to.

This supervision operates in respect of all ministries, offices of state and the departments and institutions subordinate to them, of enterprises and of all functionaries of the state bureaucracy and of citizens.

Source: *Gesetzblatt*, 1952, p. 408.

II. PROSECUTION FOR POLITICAL REASONS

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Art. 7, United Nations Universal Declaration of Human Rights.

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom either alone or in community with others and in public or private, to manifest this religion or belief in teaching practice, worship and observance."

Art. 18, United Nations Universal Declaration of Human Rights.

Every State must subject its citizens to some measure of compulsion to maintain internal order and peace. The State must establish legal criteria according to which it proceeds against people who will not co-operate in this task. It must also develop proper procedures for the application of these norms of criminal law.

Criminal provisions protecting the State against internal attack belong to the domain of "political criminal law". Like all other criminal norms, "political criminal law" must specify concretely and precisely every punishable offense. This is the case at least in countries where State authority reflects the will of the population. But when the State authority realizes that in order to maintain its power it must do so against the majority of the people, then it will establish political criminal standards of an increasingly general and flexible character. It will finally arrive at a general clause sanctioning prosecution of every political dissident. Hitler made ample use of his version of such a general clause: "Right is what benefits the people, wrong is what harms the people."

In countries under communist domination, various general clauses have been devised to ensure, in effect, that any person who adopts a political opinion different from that authorized by the State is liable to punishment. One of the most widely used stereotypes is the emphasis on the degree of "social danger" inherent in a criminal action.

The criminal law of the Soviet Union and its satellites affects the citizenry at large to a greater degree than does the law of the countries of the free world. Instead of the usual definitions

of political crimes as acts against the political form of government, a broader concept of "counter-revolutionary crime" is contained in the criminal laws of the Soviet Union and some of its satellites (Criminal Code and supplementary legislation). Counter-revolutionary crimes constitute a category which covers not only political crimes, but also includes many others. Individual counter-revolutionary crimes are defined in very broad terms such as for example "conscious failure to perform duties, or intentionally careless performance of the same with the purpose of weakening the authority of the Soviet government or the functioning of the machinery of government" (RSFSR Criminal Code, Sec. 58). Broad as they are, the provisions relating to individual counter-revolutionary offences are supplemented by a general group-definition of a counter-revolutionary crime. Thus any act coming under such group-definition is considered a counter-revolutionary crime and penalized accordingly, although the accused is not guilty of any specific counter-revolutionary crime.

The law of procedure is also weighted against those suspected of counter-revolutionary crimes.

DOCUMENT No. 1

(USSR)

General Principles of the Penal Policy of the USSR.

Article 6:

Every act or omission is considered socially dangerous which is directed against the Soviet regime, or which violates the order of things established by the workers' and peasants' authority for the period of transition to a Communist regime.

Note: An act shall not be considered a crime if, although formally showing the elements of crime set out in the section of the Special Part of the present Code, it is nevertheless devoid of a socially dangerous character because of its insignificance and the absence of harmful consequences...

Article 46:

Crimes provided for in the present Code are divided into:

(a) Crimes directed against the fundamentals of the Soviet regime established in the USSR by the authority of the workers and peasants, and considered therefore to be the most dangerous;

(b) All other crimes.

For crimes of the first category, the Code has fixed the minimum which the court may impose as a measure of social defence.

For all other crimes the Code has fixed only the maximum penalty available to the court.

Article 47:

The main question to be decided by the court in each case shall be the question of the social danger of the particular crime.

As aggravating circumstances in this respect, there shall appear in the selection of one or another measure of social protection the following:...

(b) If by the commission of the crime harm might have been caused to the interests of the State or the toilers, although the crime was not immediately opposed to the interests of the State and the toilers...

Source: *RSFSR Criminal Code, edition of 1 October 1953.*

a) RELIGIOUS PERSECUTION

According to statements made by witnesses, even the possession of church literature is regarded as socially dangerous and liable to punishment.

DOCUMENT No. 2

(USSR)

Deposition: Appeared Mikola Kostka, born 3 March 1914, in the village of Federioko, near Kharkov, who says as follows:

"I have personal knowledge of the following: My wife's uncle, Gregori Korotetzki, of Stara Vodolaya, near Kharkov, was sentenced to ten years imprisonment in 1933, for being in possession of books which came from a church. At about that time the Communist Party plundered the churches and threw orders of service, hymn books, and prayer books into the street. My wife's uncle picked up some of these books and took them into his house. So far as I know he was tried under Article 58 of the Criminal Code. He was then 40 years of age, and later returned from prison."

Although freedom of religion, belief, and conscience is guaranteed in the Constitutions of the Communist countries, members of individual religious communities are persecuted by every means available to the criminal law. Under the pretext that there is no issue of free religious activities, punishment is meted out on the allegation that the defendants have indulged in espionage and sabotage on behalf of "Western agents". For example, "Jehovah's Witnesses" as well as believers of other minor sects were subject to prosecution and sentenced to long terms of penal servitude; equally harsh treatment has been administered to high dignitaries of the Catholic Church, as is evidenced by the trials of Cardinal Mindszenty in Hungary, the Polish Bishop Czeslaw Kaczmarek of Kielce, and by the arrest of the Polish Cardinal Wyszynski. Different Protestant denominations have also suffered persecution of their leaders and regular members.

In most such cases the charges are espionage and conspiracy against the State; yet the real motive of the persecution is the victim's firm and unshakable profession of faith.

DOCUMENT No. 3

(CZECHOSLOVAKIA)

Press Report

"On 26 and 27 June 1953, the heads of the Baptist Church of Czechoslovakia were tried in Chrudim by the Bench of the Pardubice circuit court.

"Charges were preferred against Dr. Jindrich Prochaska, former Director of the Baptist Training College in Prague, Jan Ricar, President of the Baptists of Bratislava, Cyril Burget, Secretary of the Baptist central office in Prague, and Michael Kesiar, chairman of the Baptist communities in Slovakia.

"All these accused have betrayed their priestly function. Out of hatred for people's democracy, for the Communist Party of Czechoslovakia and for the Soviet Union they have, since 1945, under the guise of religious practices and under the instructions of the World

Union of Baptists in the USA, carried out spying and parasitical activity in an underhand and despicable manner.

"The accused Prochaska was in the USA during the war. Before his return to Czechoslovakia he received from the officials of the World Union of Baptists instructions to form an espionage network in Czechoslovakia, which was to supply the American center with information of an economic and military nature. Immediately after his return to Czechoslovakia, Prochaska went to work. He won over more collaborators from the ranks of the Baptists and diligently sent espionage reports to his employers.

"His closest collaborator was Ricar, President of the Baptist Church in Czechoslovakia. His spying activities were mainly directed at obtaining information about the building of the new Ostrava. He was in close touch with the White Guardist Marie Selody, who had been sent to us from the USA to take over a Baptist orphanage. Selody had the further task of insinuating herself into the USSR in order to form anti-State groups from religious sects there.

"The third person in the group, Cyril Burget, is a blind admirer of the "American way of life". He collected espionage reports and handed them over directly to spies who were sent from the United States as "missionary workers".

"Furthermore, he sent slanderous contributions to an American Baptist publication which was published in the USA in the Czech language.

"The last accused, Kesiar, built up an espionage network in Slovakia from among members of the Baptist community. He personally handed over espionage reports to the President of the World Union of Baptists, Johnson, when he visited Slovakia in 1948.

"The guilt of the accused was proved by the testimony of witnesses and by extensive documentary material. The court found them guilty and sentenced Jindrich Prochazka to 12 years' deprivation of liberty, Jan Ricar to 10 years, Cyril Burget to 7 years, and Michael Kesiar to 5 years."

Source: „Construction and Peace" (in Czech) (Prague), 10 July 1953.

In 1953, in the Soviet Zone of Germany, Wilhelm Kiesel and Gunther Zippel, members of the Baptist Church, had distributed Baptist periodicals for 1930 and 1931. They had, furthermore, conducted religious discussions with other citizens of the Soviet Zone and also discussed the position of the church in the Soviet Union. Because this subject was referred to in the particular periodicals they distributed, Kiesel and Zippel were sentenced for the dissemination of tendentious rumours likely to endanger peace.

DOCUMENT No. 4
(SOVIET ZONE OF GERMANY)

1 Ks 533/53

In the Name of the People!

In the proceedings against

- 1) Wilhelm Kiesel, electrician, born 1 September 1923, in Bitterfeld, resident at 10, Rudolf-Breitscheid-Str., Bitterfeld, remanded in custody since 29 April 1953,
- 2) Guthern Zippel, labourer, born 21 January 1930, in Bitterfeld, resident at 67, Karl-Marx-Str., Bitterfeld, remanded in custody since 20 April, 1953,

for an offence under Article 6 of the Constitution of the DDR, in conjunction with Control Council Directive 38, Part II, Article III A 3.

The 1st Criminal Chamber of the District Court in Halle/Saale, at its sitting of 14 August 1953, in the presence of

District Court Judge Henke, as President,
Rohrig, Brohna,
Steinmuller, Neumark, as lay assessors,
Public Prosecutor Werner,
representing the District Public Prosecutor,
Legal Clerk Piel,
Clerk of the Court,

passed sentence as follows:

the accused Kiesel to six months' imprisonment,
the accused Zippel to fourteen months'
imprisonment for a crime under Control Council Directive 38,
Part II, Article III A 3.
Furthermore, both accused are subject to the sanctions provided
for in Control Council Directive 38, Part II, Article IX (3-9),
item 7 to be applicable for a period of 5 years.
The time spent in custody is to be taken into account in the case
of both accused, namely, since 29 April 1953 for Kiesel, and since
20 April 1953 for Zippel.
Costs to be borne by the accused.

From the Findings:

Both accused had for years been members of the Baptist Church and were both very active in the religious community of Bitterfeld. In Bitterfeld the main task of the accused Kiesel was looking after young people and educating them in the spirit of their faith. The accused Zippel assisted him in this activity. The religious community held regular services in their own chapel in Bitterfeld. Apart from this, meetings of the community were also held at Delitzsch, Raguhn, and Radefeld. Furthermore, the accused Kiesel also organized regular meetings of the sect at his parents' house. These house meetings were not publicized and participation was by personal invitation. On these occasions, hymns were sung, bible texts read, prayers said, and music played. These house meetings were attended by adults, young people, and even a few children. No police authorization was obtained for the house meetings. In addition to this, the members of the community still endeavoured to use every occasion to enlist new followers. Thus, the accused Kiesel once went to the apprentices' hostel of the Elektro-Chemisches Kombinat at Bitterfeld, where he discussed religious matters with the witness Hallmann and another young man, and wound up by inviting them to his house. Hallmann and his friend visited the accused Kiesel and so came to participate in several house-meetings of the community. Once the accused Kiesel gave each of them a copy of the religious publications "The Golden Rule" and "Morning Star". Both youths took these booklets with them to the apprentices' hostel and glanced through them. In doing so, the witness Hallmann ascertained that these publications were of religious content only. In 1949, the accused Kiesel had received a considerable quantity of Baptist publications from a certain Rogalski, including well over 100 copies of a journal "Witness to the Truth". In these publications there were occasionally articles containing the most slanderous statements on conditions in the Soviet Union: for example, among other things, some articles stated that there was very little freedom in the Soviet Union, and that the followers of religious groups were exposed to serious persecutions. The copies of "Witness to the Truth" dated back to 1931. Once, when the witness Muller visited Kiesel, the latter showed him, among other things, Baptist literature, and they both read the periodicals "Witness to the Truth". The accused Kiesel also conducted Bible instructions for children within his religious community and for this he used the Baptist "Guide for the Sunday School Teacher". In addition, the accused Kiesel also conducted youth meetings in the chapel, during which he took the opportunity to read from Baptist periodicals. All these periodicals dated back to the pre-1933 period. In canvassing young persons for the Baptist religious community, the accused Kiesel ex-

pressed the opinion that youth could not free itself by democratic activities, but that true freedom could only be obtained through a deep belief in God. About 2½ years ago, the accused Kiesel received from a nurse between 60 and 80 pamphlets which had been brought into the DDR in welfare parcels from Switzerland. Among other things, these pamphlets dealt with the so-called refugee problem in Europe. They stated that refugee streams were still pouring from East to West and from North to South, and that the question arose whether these people, homeless, uprooted, hungry, freezing and rightless, would ever be allowed to return, or whether they must die in a cold, merciless foreign country. These pamphlets were distributed by the accused Kiesel.

Some time ago, the accused Zippel received from the witness Senft, after repeated requests, a few copies of the periodical "God With Us". This periodical was issued in 1930 and contains contributions on the persecution of Christians in the Soviet Union. Among other things, it reports that in the Soviet Union, Christians have their hands cut off and are buried alive because of their faith. The accused Zippel read these articles on the persecution of Christians in the Soviet Union to a few members of his community in their own homes, as they could not attend the Bible classes. He also read from these articles at the homes of the woman witness Bönoff and of a certain Puschmann, and again at a third place. Bönoff disagreed with the reading of such provocative articles, the accused Zippel endeavoured to defend the contents of the articles in an effort to increase the Christians' perseverance in their faith. The accused Zippel also lent the periodicals containing the articles on persecution of Christians in the Soviet Union to several people. While canvassing for young adherents he expressed the same point of view regarding the Free German Youth (FDJ) as the accused Kiesel.

This statement of the case rests upon the admissions of the accused, who made partial confessions after being indicted, and on the depositions of witnesses. In his defence to the charge concerning the distribution of pamphlets, the accused Kiesel admits that he had several sorts of pamphlets at the time and therefore no longer knows today whether they included special pamphlets concerning refugees. The court could not accept this plea, as it was put forward for the first time at the trial; the court had no reason to doubt the statements of the police, according to which the accused had admitted distributing pamphlets with such contents. There is no proof, however, that the accused, in discussions with young people, described our Government and our democratic institutions as the works of the Devil, which God must surely destroy.

It is therefore proved that the accused Kiesel has distributed pamphlets strengthening in the minds of refugees thoughts of return to their former homeland. This action of the accused is all the more odious as a new country has been created for the refugees right here in our DDR. Furthermore, to effect the return of these former refugees to their former homes would entail a violation of the principles laid down in the Potsdam Agreement and would also mean a violation of the treaty on the Oder-Neisse peace frontier. To awaken or to strengthen such hopes in the refugees' minds is tantamount to conducting propaganda for a new world war, for, in accordance with the ceaseless propaganda of the western imperialists and warmongers, a change in the present conditions can only ensue as the result of a war. The propagation of such rumours is tendentious and liable to jeopardize the peace of the German people. At the same time, as to the arguments of the defence counsel, it is not necessary that our former refugees should have been truly alarmed, for in an offence likely to cause danger, it is sufficient that the act committed is objectively liable to endanger peace. From the subjective point of view the accused was fully able to recognize the possibility of thus endangering peace. Even though it could not be proved that this was his wish, he demonstrated by his action that he was at least conscious of the risk of endangering peace and therefore acted recklessly. In doing so the accused Kiesel rendered himself guilty of an offence against Control Council Directive 38, Part II, Article III A 3.

The accused Zippel had disseminated the contents of publications disparaging conditions in the Soviet Union in a particularly despicable and slanderous manner. This slandering of the Soviet Union implies at the same time the fabrication and propagation of tendentious rumours of a particularly dangerous sort. Such rumours are also liable to jeopardize the peace of the German people and of the world in view of the active and leading part played by the Soviet Union in the camp of democracy and peace. Whoever indulges in provocation against conditions in the Soviet Union supports those who favour war and brute force, and therefore makes his own contribution to the jeopardizing of peace. From the subjective point of view what has already been said about the accused Kiesel, applies equally to Zippel.

Accepting the arguments of the public prosecutor, the court decided against punishing the two accused under the terms of Article 6 of our Constitution. There was, however, no question of an acquittal, since both laws had been violated by the same actions. The two accused were therefore to be punished for an offence against Control Council Directive 38, Part II, Article III A 3.

As to the sentence, the court, rejecting the prosecutor's demand for 18 months, considered 14 months imprisonment sufficient in the case of Zippel, and agreed with the prosecutor that Kiesel be sentenced to 6 months imprisonment. The accused deserve these sentences mainly because they most grossly abused the constitutional right of religious freedom and made themselves tools of the enemies of our people.

The accused are furthermore subject to the sanctions of Control Council Directive 38, Part II, Article IX (3-9), item 7, for a period of 5 years.

The time spent in custody is taken into account in accordance with Section 129 sub-section 2 of the Rules of Criminal Procedure and the decision as to costs is based on Section 353 of the same Rules.

(Signed) Henke, Rohrig, Steinmüller.

The Supreme Court of the People's Republic of Poland declares articles of faith and religious views to be punishable when loosely defined "State interests" are violated. It declares that the transmission of religious information is punishable if the person circulating it does not himself believe in its truth. The decision as to whether or not this is so rests solely with the court hearing the case, for it is well-nigh impossible to prove to a man that he did not believe in the truth of information that he has passed.

DOCUMENT No. 5
(POLAND)

Judgment of the Supreme Court of the People's Republic of Poland of 10 April 1951 (AZ: I.K. 82/51).

Extract from the Findings:

The Court of Appeal has established in the contested judgment that the accused had already heard, before seeing his alleged "vision", similar alleged miracles had occurred throughout the whole district and in the neighbouring districts, and that this was an action harmful to the State in the highest degree. The Court of Appeal has further established that the accused wished to be one of those to whom such a miracle happened; that, however, the alleged miracle did not materialize at all; that the accused knew this perfectly well but nevertheless spread news of this miracle pretending it was true; that he spoke about it not only to his wife, his daughter, his sister-in-law, and the local priest, but also to his friends K. and S., and offered no objection to these persons spreading the news in the village. The Court of Appeal has further established that the dissemination of this report could substantially damage the interests of the State, as it was in the middle

of July when the harvest was in full swing. It also found that the news distracted people's minds from the harvest, and it gave rise to much wandering about to visit the sites of the alleged miracles. There was thus a real possibility that substantial damage might be caused and in these conditions sufficient reason to indict the accused for offence under Section 22 of the Criminal Code.

Regarding this exposition, Article 1 of the abovementioned decree *) guarantees all citizens freedom of conscience and of belief. This means that it protects the religious convictions and notions of citizens, and as a consequence belief in the existence of miracles, and that nobody can be penalized for proclaiming his religious principles and convictions, unless such person abuses his freedom so that it conflicts either with the interests of the State or with the personal interests of individuals or groups belonging to another confession or holding different convictions. These cases are covered by articles 3 to 12 of the decree referred to, which also stipulates the relevant penalties.

Article 1 of this decree is based on the fact that all personal convictions and religious notions, and the freedom to confess and proclaim them, must be protected. In this connection, the concept of "faith" implies an element of subjective conviction of the truth of what one believes in and what one proclaims. If, on the contrary, the person concerned does not himself believe in what he proclaims, and knows the information spread by him to be false, then, depending on the existence of further subjective or objective conditions foreseen either in the relevant provisions of the decree of 5 August 1949, or in other criminal laws, he can be brought to trial. In such a case he can not invoke the provisions of Article 1 of the decree..."

b) THE CONCEPTION OF ESPIONAGE IN THE ADMINISTRATION OF JUSTICE

One result of the fact that the Communist State rests, in the last analysis, not upon the will of the majority but upon armed force, is that Communist rulers' endeavour to prevent by every means any leak of information from their domain. Everything that happens in those States is considered "top secret", the divulgence of which entails heavy penalties. The simplest information on actual happenings within the State administration or among the people is designated "espionage" and subject to heavy penalties.

An additional particularly aggravating circumstance arises if any opinion or standpoint critical of the State is expressed in connection with the information in question.

DOCUMENT No. 6

(POLAND)

*From: "The Defence of State and Official Secrets" by
Jacek Machowski.*

"A State is an instrument of power in the hands of the ruling class and it is incumbent upon it to protect all information the publication of which would threaten its security and its interests and thereby also the interests of the ruling class..."

The safeguarding of secrets has an especially important significance for a Socialist State and for a People's Democracy...

In a People's Democracy the Government, which carries out the

*) Decree of 5 August 1949 on freedom of conscience and confession.

functions of a dictatorship of the proletariat in the interests of the working masses, is called upon to fight all attempts at penetration made by the internal and external class enemy.

"One of the means at the disposal of a people's government in this domain is the issue of adequate legal directives intended to foil the enemy's intentions... Apart from this, however, an effective protection of State and official secrets depends primarily on the extent to which the conscience of the broad mass of the workers is developed and on how far the enemy's manner and method of operating are known...

"During the time between the wars, State and official secrets were not kept as well as they should have been... Although the protection of secrets was dealt with in Article 289 of the Criminal Code, which was abrogated by the decree of 26 October 1949, these legal stipulations applied exclusively to Civil Servants. Its effect was therefore restricted to a very small group of persons and many violations of secrecy remained unpunished...

"In order to improve this state of affairs and to anticipate dangers resulting from it, a decree was published on 26 October 1949, on the protection of State and official secrets. This decree dealt for the first time with the question of the protection of secrets in a way that satisfied the needs of the working masses and of the People's State in its present phase of development.

"Regarding the extent to which it is binding, this decree has considerably broadened the field of the protection of secrets in comparison with legislation in force hitherto. It is necessary to realize that the stipulations of this decree have a binding effect on all persons and that they are not directed against spies and diversionists (for whom there are other legal prescriptions) but against all those who, by their attitude, make it easier for the enemy to acquire State and service secrets...

"Article 1 of the decree defines a State secret... It shows that not only documents can constitute State secrets, but also material objects and information...

"Section 1 further particularises the information, documents and objects referred to above. It treats them for what they really are: matters essential to the defence, security, or economic or political interests of the Polish State or of States allied to Poland. It shows that the standards for determining a State secret are the defence, security, or a vital interest of the Polish State or even of other States that are allied to Poland. This definition is the expression of true internationalism, of true friendship and co-operation by the people's democracies with the country of victorious Socialism...

"In his speech at the Third Plenary Conference of the Central Committee of the Polish Workers' Party, President Bierut mentioned examples of a few items that constituted State secrets. He mentioned among other things: information on the extent and trend of production, information on the extent, trends, and location of investments, on technical production methods and new inventions, on price policy, on the financial situation, on the currency situation and bond issues, on imports and exports. Naturally this enumeration is only exemplary. As judicial proceedings against agents of imperialist secret services have shown, the extent of their interest is enormous...

"The limits of secrecy can extend very far and in certain circumstances they need to include not only information as to specific facts or ordinances but also information on general matters, such as the general conditions in a firm, the moral of the employees, etc. In a system of Government based on the dictatorship of the proletariat the domain of State functions is extensive and the limits between economic and military espionage disappear... Economic information is of equal importance with military information for the security of the State."

Source: The Defence of State and Official Secrets (Warsaw, 1951, in Polish), published by the Ministry of Justice.

DOCUMENT No. 7

(POLAND)

Decree of 26 October 1949 on the Protection of State and official Secrets.

Article 1:

- (1) State Secrets are all information, documents or other objects which from the point of view of national defence, security, or other vital economic or political interests of the Polish State or of allied States, can be made accessible only to properly authorized persons.
- (2) The Council of Ministers can by means of a decision determine the exact scope of the type of information or documents or other objects that constitute a State Secret.

Article 2:

Official Secrets are any information, documents or other objects which, having regard to the interests of the service, can be made accessible only to properly authorized persons.

Penal Provisions

Article 3:

- (1) Whoever collects, keeps, passes on, discloses or publishes information, documents or any other objects that constitute State Secrets, without proper authorization, shall be liable to a maximum of 10 years' imprisonment...
- (3) If the perpetrator of an offence under pars. 1 or 2 has acted unintentionally he shall be liable to a maximum of 3 years' imprisonment.

Article 4:

- (1) Whoever divulges, collects, keeps, passes on or publishes without proper authorization any information, documents or other objects constituting a State Secret relating to the national defence or the security of the Polish State shall be punished with imprisonment.
- (2) If an offence under par. 1 is committed by a Civil Servant with respect to information, documents or other objects to which he has access in his official capacity, the offender shall be liable to a minimum of 3 years' imprisonment.
- (3) If the perpetrator of an offence under pars. 1 or 2 has acted unintentionally he shall be liable to a maximum of 5 years' imprisonment...

Final provisions

Article 13:

- (1) Jurisdiction over offences under Articles 3—8 belongs to the military courts.
- (2) The military courts may impose up to 15 years' imprisonment.

Source: *Dziennik Ustaw*, 2 November 1949, No. 55, item 437.

DOCUMENT No. 8

(ROUMANIA)

Decree No. 202. On the Amendment of the Criminal Code of the Roumanian People's Republic.

The Praesidium of the Great National Assembly of the Roumanian People's Republic decrees as follows:

Article 1:

The Criminal Code of the Roumanian People's Republic is amended as follows:

1. Articles 194 (1) to 194 (4) shall be inserted after article 194, as follows:

Article 194:

- (1) Communication of State Secrets to aliens, counter-revolutionary organizations or to private individuals in the service of a foreign Power, procuring or collecting information or documents which constitute State Secrets, and the retention of such documents in order to communicate them to the above mentioned persons, constitute espionage and are punishable with hard labour from 5 to 25 years together with total or partial confiscation of property. When these offences have, or might have particularly grave consequences, the penalty is death with total confiscation of property.
- (2) Offences under Article 194 (1) shall be punished by hard labour from 5 to 15 years, with total or partial confiscation of property, when they relate to documents or information which, although not themselves State Secrets, were not intended to be published. When these offences have, or might have particularly grave consequences, they are punished by hard labour from 10 to 25 years with total or partial confiscation of property.
- (3) Offences under par. 1 of Article 194 (1) shall be punished by corrective imprisonment from 3 to 10 years when they relate to documents or information which are not State Secrets or not meant for publication, when they have been committed with a purpose to undermine the people's democratic regime.
- (4) Offences under Articles 194 (1), 194 (2) and 194 (3) committed by Roumanian citizens, constitute high treason and are punished according to the respective provisions.

Source: Buletinul Oficial, 14 May 1953, No. 51.

DOCUMENT No. 9

(ROUMANIA)

On the Amendment of the Criminal Code of the Roumanian People's Republic.

Article 14:

After article 506 there shall be inserted Articles 506 (1) and 506 (2) as follows:

Article 506:

- (1) Negligence resulting in the destruction, loss, theft, or disclosure of secret documents shall be punished by corrective imprisonment from 2 to 7 years.
If the offence has had grave consequences it shall be punished by hard labour from 5 to 15 years.
- (2) The documents and facts that constitute State Secrets are those defined as such by the Ordinance of the Council of Ministers.
The documents and facts which do not constitute State secrets but which are not intended for publication shall be expressly indicated by the laws or ordinances of the Council of Ministers, or by the orders of the leaders of the central or local organs of the State power as well as, those of other public agencies and organizations.

Source: Buletinul Oficial, 14 May 1953, No. 51.

Furthermore, in Hungary, an enquiry by letter written by a merchant to an acquaintance in Vienna to ascertain the possible uses of a process for the production of vanadium, was regarded as espionage and punished with 10 years imprisonment. The "expert" called in at the hearing of this case did not even know what vanadium was.

DOCUMENT No. 10

(HUNGARY)

Deposition: Appeared Y. Y., who says as follows:

"I was born in Budapest on ... and was practising in ... as lawyer and defence counsel in criminal matters.

"At present I am residing in Germany.

"In February ... there appeared in my office in Budapest the wife of Budapest merchant A. Z. and asked me to take charge of the defence of her husband. She told me that her husband — who was 65 years old, had a clear record, and had never had anything to do with politics or criminal offences of any kind — had been taken away from his home by five unknown men at 2 a.m. one morning in November ..., i.e. four months ago. The men, who wore civilian clothes, entered the flat holding their revolvers at the ready. The wife also had to leave her bed and then the men pounced on the cupboards and drawers. All the inmates of the flat had to stand in a corner during that time, with arms raised. The "intruders" proceeded "in a professional manner" to throw everything on the floor. Then they gathered up their loot indiscriminately — all sorts of notes, papers, personal documents. A. Z. had to get dressed within five minutes and then they took him away. They would not identify themselves nor could they show a warrant for arrest. The wife remembered at the last minute to give to her husband — who suffered from a disease of the heart and who had experienced two world wars and revolutions and the siege of Budapest — his medicines to take with him. But she was rudely rebuffed and the old man was forced into the car waiting down below and driven away.

"Months of uncertainty passed in spite of feverish investigations. At last the family heard in a roundabout way that the merchant had been detained by the KAT-POL (military-political department of the Hungarian counter espionage). After four months the family received a postcard. As a special favour the detainee was allowed to give a sign of life. The sender's address was given as Martirok Utja 54, (Martyrs' Street), the Headquarters of the Military Tribunal. This is the place whereto, after interrogation, the KAT-POL send their detainees to be suitably convicted. According to rules obtaining in the People's Democracy, people detained there may receive neither visitors nor parcels. The relatives may not even know what the charge is, so that they should not be able to dig up any favourable evidence. The choice of defence counsel is equally denied. The Tribunal appoints a defence counsel *ex officio*, chosen from a special list, who undertakes a strictly formal defence. Thanks to a friend who was similarly minded, my name appeared on this list, and friendly colleagues used to trust their clients in suitable cases to me. In the case of A. Z. I succeeded in getting myself appointed defence counsel *ex officio*. Defence counsel at the court-martial are only allowed to look at the indictment. The denunciation, the statements during interrogation, statements of witnesses and written evidence is not shown to them. But I was granted a single five-minutes interview with my client.

"Z. was already wearing prisoners' clothing (striped), and his head was shaved although he was merely imprisoned pending investigation. The following story emerged:

"An acquaintance of Z.'s introduced him to a chemist who was reputed to have invented a process by which vanadium could be produced from bauxit (of great importance and use in steel refining). His process however was said to be not yet fully developed and he needed capital for further experiments in the amount of 2,000 Forints (the monthly salary of an average employee) for which sum he would be willing, at the moment of exploitation of the process, to share the profits with Z.

"Z. first wanted to clarify two things: firstly, whether the invention really was worth anything and, secondly, whether he would not be offending against any regulations in case he decided to participate. The Patent Office, the Chamber of Commerce and the competent Ministry all agreed; only in case of exploitation abroad would it be necessary to adhere to the Foreign Exchange regulations of the National Bank.

"In order to ascertain whether the process was any good, Weinstein addressed himself in writing to an old business friend in Vienna. His letter contained seven full pages and this was presumably why it became suspect to the officially nonexistent censorship department, which opened it. It was because of this letter that he had been arrested by the KAT-POL.

"The charge is the attempted crime of sending abroad information relating to an invention important in time of war. The case came up for hearing at the beginning of ...

"The Court was composed of a Major of the Legal Branch ... as President, and of two younger officers as assessors. The name of the Military Prosecutor is unknown to me. Z. was brought into Court handcuffed, his handcuffs fastened to his foot.

"Only during this hearing — at the beginning of April — did I discover that besides Z. only his acquaintance, the go-between between himself and the chemist, was present as a defendant. The chemist, whose name was never allowed to be mentioned and was not known even to Z., was not brought into Court either as a defendant or as a witness, although he was the only one to know the alleged importance in time of war of this invention and had also collaborated in the writing of the above-mentioned letter. It was rumoured that he had succeeded in making the agent of the KAT-POL believe that his invention really was worth something and that he was at present reputed to be continuing work on his invention with State funds. In the course of the hearings Z., myself, and defence counsel *ex officio* of the other defendants, tried in vain on several occasions to have him at least heard as a witness, as he could have proved the decisive fact that the defendants had no knowledge whatsoever of the essence of the process since he, the chemist, had always kept silent on this point for well-known reasons vis-a-vis his financial backers. We also wanted to prove through him that the process was still in its far from final stage. But the Tribunal rejected all these requests without assigning reasons.

"Z. protested his innocence.

"While adducing evidence, the Military Prosecutor quoted from the defendant's above-mentioned letter — which, incidentally was only made public in short quotations — that the defendant Z. even transmitted the chemical formula of the invention 'Va O5' to enemy countries abroad. I was at great pains to convince the Tribunal that 'Va' was the chemical sign for Vanadium, 'O' stood for Oxygen, and the whole for vanadium pentoxyd. This means, that in his experiments the chemist only succeeded in producing vanadium pentoxyd, from which it is still a long way to the production of vanadium. The 'secret sign' of the Military Prosecutor simply meant that Z., in order to make a greater impression, instead of naming the chemical matter, gave the chemical formula, just as one would say H₂O instead of saying 'water'.

"Captain — name unknown — was heard as expert witness. These permanent experts are regularly called in in similar proceedings, in order to state whether the matter in question is important from the military point of view. The expert did not even know what it was all about. The President explained to him the facts of the case in a few words in the course of the hearing. The expert did not even know what Vanadium was. He asked the defendant, who answered: 'A metal-like element'. The expert further enquired: 'And for what purposes is it used?' Answer: 'For steel refining'. After this his opinion was quite ready: 'Everything is a military secret which may be of interest or

of importance to the enemy or a potential enemy. Especially important is everything connected with steel'. In answer to questions: "Even an unfinished process, about which nothing further is indicated, can serve the enemy as a pointer and inform him what we are working on. Therefore everything is a secret and more especially a strictly military secret".

"Speeches for the defence were put off until the next day. At home I took out the 40 year old Pallas Lexikon (a Hungarian 'Brockhaus') and found under the word 'Vanadium' a detailed description of the various ways of producing vanadium from bauxit. These processes therefore seem to have been known for decades. The relevant technical data were also precisely given in the Lexikon, so that every specialist could make use of them. I took the Lexikon along to the next hearing and showed it to the Tribunal in the course of my speech for the defense.

"Judgment was not delivered until six days later. As we were leaving the Court, my colleague who defended the other defendants turned to me and said: 'In this case I feel certain that the defendants will be acquitted'. Behind us walked the two assessors. One of them turned sarcastically to my colleague: "Are you so sure of it, Comrade Defence Counsel?"

"The verdict was — full consideration having been given to extenuating circumstances such as age, lack of previous convictions and the fact that no particular harm was done — 10 years' imprisonment for both defendants, as well as a 10,000 Forint fine and loss of civil rights for 10 years on the basis of Law III/1921, paragraphs 60 and 61, offence involving violence to the State and social order) and of Law VII/1947 (offence against the order and security of the People's Democracy). As a special favour I was allowed to communicate the verdict to the relatives — without giving the facts or the reasons, of course.

"In the course of the following week, the President — who was well known to me — had me appear before him and asked me privately for my opinion of the verdict. Upon my indignant reply he acknowledged that it had been a miscarriage of justice and excused himself saying that the two assessors simply forced him to give this very severe verdict. He begged me to appeal and was helpful also in some technical matters. The appeal was transmitted to the Supreme Military Tribunal where I had occasion to talk over the matter with the rapporteurs of the case, on the several occasions when I called on them to obtain an early date for the hearing of the appeal. Up to my escape, however, no hearing had been fixed so that nothing is known to me about the further course of the matter."

Read, approved and signed (Signature)

Munich, 16 August 1954.

In the Soviet Zone of Germany the meaning of these legal stipulations is even more clearly expressed in the practice of the Criminal courts. The public prosecutor Schiebel found himself on trial as an alleged spy simply because he had made available bills of indictment, copies of sentences, public and official circulars and information on the composition of individual courts. In this case of alleged espionage it was not a question of passing on documents of State importance considered as secret, but of documents which, in any constitutional State, are circulated or even printed openly and without any security restriction. The fact that a public prosecutor who is concerned with the maintenance of constitutional principles reports violations of the law to other organizations can be accused and heavily punished, shows with what anxiety the rulers of the Communist regime are seeking to prevent the true facts of their administration of justice from becoming known.

DOCUMENT No. 11
(SOVIET ZONE OF GERMANY)

The Public Prosecutor
of the Dresden District
I 15/53
Detention Case

Dresden
17 March 1953

In the District Court,
Criminal Chamber,
Dresden.

Indictment

Sworn by Public Prosecutor Schille
The following is accused:

- 1) Schiebel Hans Joachim, born 4 April 1923 in Dresden, public prosecutor, resident at 105, Bautznerstrasse, Dresden, N. 6, married, with one child 8 years of age, German, without previous convictions according to his statement, remanded in custody since 2 October 1952 at the Volkspolizei prison, Dresden,

...

- 1) to 5) Crimes against Article 6 of the Constitution of the German Democratic Republic in conjunction with Control Council Directive 38, Part II, article III A 3, in that since 1949 he has indulged in espionage in the German Democratic Republic as an agent of the organization known as "Investigating Committee of Free Jurists", which is guided and financed by the American Secret Service.

Material Results of Investigation

I.

The stronger the camp of peace becomes in the world and the more solidly the Soviet Union, the People's Democracies and the German Democratic Republic establish themselves, and the more obvious their success in building Socialism, the more do the imperialistic warmongers, the enemies of peace-loving humanity, try to prevent the constructive work of the progressive countries and to paralyse the fight for peace. The activities of the enemies of world peace extend particularly to Germany, one of the vital spots in the international political area.

In order to achieve their criminal aims of world dictatorship and an increase in their profits by way of a new world war, the imperialistic forces have established a number of their own, as well as of German spies and agents, which they instruct, direct and finance. One such organization is the notorious so-called "Investigating Committee of Free Jurists" in West Berlin which camouflages itself outwardly as an information center.

The accused, Hans Joachim Schiebel, Richter, Brigitte Schiebel and Kelling were in contact with this center for agents. Schiebel and Richter were registered collaborators, and are unscrupulous individuals who have worked as sworn enemies against the German Democratic Republic...

- III.

The accused Hans Joachim Schiebel has always been an enemy of the German Democratic Republic. As a follower of subjective idealism, a completely reactionary ideology, he camouflaged himself cunningly behind his clever activities as public prosecutor and behind his activity as district chairman of the Liberal Democratic Party, with whose aims and tasks he found himself fundamentally in opposition. Behind this outward façade as a democratic citizen and state official he carried out his criminal activity.

In the second half of 1949 the accused Schiebel was recruited to collaboration with the so-called "Free Jurists" by Dr. Nollau, a lawyer, who already operated as an agent for that espionage organization and has since fled to West-Germany...

Schiebel thereupon went of his own to West Berlin, where he met the agent Nollau. He gave him verbal information on the administration of justice in the German Democratic Republic and handed over to him written material on the establishment of the code of economic criminal procedure. The accused Schiebel had stolen this material from his immediate superior, the then chief public prosecutor of Dresden. At this meeting the accused Schiebel also gave the agent Nollau his personal details so as to be registered with the "Free Jurists" as a collaborator. He was given the pseudonym "Burgomaster".

Until the beginning of 1951 Schiebel brought the agent Nollau various files, bills of indictment and copies of sentences which had come into his hands in the course of his duties as a public prosecutor. In addition he reported regularly on various criminal proceedings which he himself considered as politically interesting. Before the agent Nollau moved to West Germany in 1951, he arranged a meeting between Schiebel and another agent called Rosenthal. Schiebel introduced Rosenthal to his wife as "Walter". From then on Schiebel had meetings with the agent Rosenthal and with another collaborator of the "Free Jurists" of West Berlin, named Hildebrand. He remained in contact with both these agents until his arrest. In order to be able to meet the agents of the imperialist espionage center unobtrusively, Schiebel often illegally attended horse races in West Berlin and once even in West Germany. On these occasions he contacted by telephone a former fellow-student, who arranged the meetings with the agents. Usually these were held in the fellow-student's flat. In the course of his career as an agent the accused Schiebel took to the West Berlin espionage center, inter alia, the bill of indictment against the former public prosecutor Schober and the file concerning the lawyer Nollau who was suspected of murder. Furthermore, he passed on a steady stream of information on personal affairs, official orders and guiding directives, which were meant only for internal use by the prosecuting authorities. His pseudonym was changed in 1951 to "Jürgen Schneidewind". In recognition of particularly good espionage activities he received a testimonial stressing his special activity. On the strength of this testimonial he obtained an air passage for himself and his wife to attend the Hamburg Derby.

The accused Schiebel was informed that the accused Richter also indulged in espionage and acted as an agent for the "Free Jurists". He did nothing about this, but continued his own criminal activity with determination. ... The wife of the accused Hans-Joachim Schiebel, Brigitte Schiebel, had been informed by her husband that since 1949 he had been collecting documents on the administration of justice for Nollau and had handed them over to him. She also knew that when he visited Berlin, her husband often took documents with him to West Berlin. In 1951 the accused Brigitte Schiebel was instructed by her husband to go to his fellow-student in West Berlin and give him a report on the case against the former public prosecutor Fohrmann. This report was originally to be given to the agent Walter, but, as he was not available, the accused Schiebel's fellow student received it and gave it to Walter later.

From 1949 to 1952, the accused Brigitte Schiebel visited the accused Schiebel's fellow-student in West Berlin some five times, usually with her husband. There she also met the agent Walter. She was accurately informed of the activities of the accused Schiebel, her husband, which were dangerous to the State.

...

signed

Public prosecutor Schiebel was sentenced to hard labour for life and his four co-accused to a total of 38 years' hard labour.

A judgment of the Supreme Court of the Soviet Zone of Germany reveals that the transmission of any type of information from Communist countries, no matter what aspect of life it deals with, is regarded as espionage and punished accordingly.

DOCUMENT No. 12
(SOVIET ZONE OF GERMANY)

...
Article 6 of the Constitution,

Control Council Directive 38, Part II, Article III A 3.

- ...
4. Espionage as warmonger within the meaning of article 6 of the Constitution.
Supreme judgment 1 ZSt (I) (3/52)

From the findings:

...
The unity of actions defined as "espionage" is to be considered as a particularly dangerous form of criminal attack against our order and against peace. The Supreme Court has already ruled in its judgment against the "Jehovah's Witnesses", and fully justified this ruling that actions defined as "espionage" constitute warmongering within the meaning of Article 6 without any need whatsoever to refer to the abrogated prescriptions of the Criminal Code dealing with high treason.

...
This applies not only to all spheres of public life and to all state agencies but also to the machinery of the parties and of social organizations, as well as to the persons employed therein. It applies, furthermore, even to the personal circumstances of citizens, to information regarding production, transport and cultural activities. From the point of view of criminality, it is immaterial whether the information in question is true or not. The decisive factor is, rather, that in the present state of Anglo-American preparedness for war, any information coming from our State is of vital interest to them."

The Communist regime endeavours to retain power by means of the heaviest sentences. It does not confine itself to dealing with its own territory, but also attempts to lay its hands on political opponents outside this territory and, if possible, to victimise them. Everything serves to strengthen the protection and the maintenance of "popular democracy".

Whenever a court, in weighing the facts of a case, finds that the accused is hostile towards the Communist system, this is considered as an aggravating circumstance. It always entails an increase in punishment, sometimes considerable, whereas a defendant who is loyal to the regime can get away with a light sentence, even though he may have committed a serious offence.

The labourer Rudolf Krause wanted to make use of the right of freedom of movement which is also guaranteed in the Communist constitutions and to go to West Germany, because conditions in the Soviet Zone had become unbearable for him. In West Berlin he would have had to go through the official center of the emergency admission procedure. This official section of the German Federal Government is described by the Communists as also are many other organizations, as an "espionage center". Rudolf Krause never reached West Berlin.

The intention itself and the eventual possibility of passing through the camp for emergency admission were evaluated as a consummated crime of espionage.

DOCUMENT No. 13
(SOVIET ZONE OF GERMANY)

4 Ks 33/53
B 1 8/53

Judgement

In the name of the people!

In the criminal action against

Rudolf Heinrich Krause, carpenter, married, born 14 July 1932 at Oltaschin, Kreis Breslau, resident at 81 Ostsiedlung, Oberschlema, at present in custody at the Remand Prison II in Chemnitz,

for a crime under Article 6 of the Constitution of the German Democratic Republic and Control Council Directive 38, Part II, article III A 3,

the 4th Criminal Chamber of the District Court of Chemnitz, at its sitting of 3 March 1953 in the presence of

Senior Judge Weichel, president,
Housewife Dora Ludwig, of Chemnitz, and
Employee Oskar Hammer, of Chemnitz, lay assessors,
Public prosecutor Uhlig, representing the prosecuting authority,
Legal clerk Knorr, clerk of the court,

has pronounced judgment:

The accused Krause is sentenced to one year's imprisonment for a crime under Article 6 of the Constitution of the German Democratic Republic in conjunction with Control Directive 38, Part II, article III A 3. Costs to be borne by the accused. The time spent in custody since 2 November 1952, is taken into account. Furthermore, the accused is subject to the sanctions provided for in Control Council Directive 38, Part II, article IX (3—9), item 7 for a period of 5 years.

From the findings:

...

The following has been ascertained on the basis of the defendant's own statements:

The accused was last employed with the Wismut A.G., Oberschlema. He reported sick from 17—19 October and spent this time with his family. Shortly before this, his wife had, so it was said, received a letter from her mother who lives in West Germany, asking her to go to West Germany. Influenced by this letter, the accused says, he decided with his wife to go to West Germany for good. The couple sold all their goods and on 2 November 1952 took an express train bound for Berlin. During a passenger check on the train it was found that the accused was still in possession of his Wismut identity card. The accused admitted to the official of the people's police who questioned him that he wanted to go to West Berlin with his family. He still had about DM 76 with him.

The true character of the so-called refugees' center in West Berlin is known to all in the German Democratic Republic. Everybody knows that espionage, etc., is conducted under cover of help for the so-called refugees from the East. Naturally, the accused knew it too. Although he denied having read newspapers or listened to radio broadcasts, he admitted that he knew of trials of this kind that had taken place before the Supreme Court. It is clear to the Court that the accused was fully aware of the significance and particularly of the consequences of the step he was taking. The accused claims that he heard of the notorious refugee center in Kuno Fischer Strasse in West Berlin for the first

time when he was detained on remand. He admitted however that he was planning to go to a certain "reporting center". The accused must have known, and did in fact know exactly what was the character of the reporting center he was about to visit. In the last few months, especially, the newspapers and the radio have repeatedly and emphatically drawn attention to agents' centers in West Berlin. It is impossible to believe the defendant's claim that he wanted to ask his mother-in-law to send him air tickets from West Berlin. If that were so, the accused would have had to live at least one week in West Berlin with his wife and child on DM 76 of the Deutsche Notenbank. This is quite impossible at the nominal rate of exchange. The accused knew that too and it must be assumed that he would have visited an agents' center in any case.

...
When the accused boarded the train bound for West Germany with his Wismut identity card he committed an act preparatory to a crime according to the sections quoted above. The Supreme Court has stated unequivocally in its judgment I ZSt I (3/52) that acts preparatory to a crime under Article 6 of the Constitution are, in criminal proceedings, to be dealt with in accordance with this same article. (Published in *New Justice*, pp. 276 et seq.) In view of the dangerous character of the action of the accused it would have been irresponsible and against the aim of article 6 of the Constitution to let it go unpunished. In conclusion, the court considers it as proven that the accused has rendered himself guilty under Article 6 of the Constitution of the DDR in conjunction with Control Council Directive 38, Part II, article A 3.

...
At the same time, it is particularly abominable that the accused was prepared to betray the workers of our Republic and to stab them in the back in order to obtain a residence permit for West Berlin or West Germany. The court, however, considered the punishment of eighteen months hard labour demanded by the prosecutor as somewhat excessive. The court believes that its sentence of one year hard labour is both a necessary and just punishment.

signed.

In Poland, "illegal frontier-crossing" into the Soviet-occupied Zone of Germany carries a uniform sentence of three years' imprisonment.

DOCUMENT No. 14
(POLAND)

Deposition: Appeared the driver Czeslaw Marian Sygnecki, from P. G. R. Bizorowo, pow. Kamienz Pomorski, at present resident in the transit camp for refugees from Eastern Bloc countries, hereinafter called "the witness".

The witness produced Certificate No. 2062 issued by the U.S. Refugee Screening and Placement Service, Berlin-Lichterfelde West, Manteuffelstrasse 31. This proved the identity of the witness before the undersigned.

There are no doubts as to the mental capacity of the witness, but as the witness is not fully conversant with the German language, Mr. Fenske was called in as an interpreter.

The witness then makes the following statements:

"From 1948 I was a storekeeper with the Polish Railways in Bydgoszcz (Bromberg). In July 1951 I had a political discussion with my chief, Norymbinski, in consequence of which that convinced communist denounced me. That is why I decided to escape.

"I crossed the frontier of the Soviet Zone of Germany near Stettin

on 11 July 1951. On the following day I was arrested by the German People's Police near Pasewalk. I was taken to Uckerunde, and four days later, in spite of my repeated protests, handed over to the WOP, the Polish Frontier Guards.

"For six months I was imprisoned pending investigation by the UB in Stettin.

"My case came up for trial in February 1952. The charge was attempted illegal frontier-crossing. I was sentenced to three years' imprisonment. The hearing only lasted about 10 minutes. On that day fourteen accused were heard in short succession, all of whom were accused of illegal frontier-crossing. All fourteen accused were sentenced to three years' imprisonment. Already during my imprisonment pending investigation it was rumoured that was so to speak the usual rate. That is why I did not even appeal.

"On 13 January 1953 I was discharged before my time was up, but I had to promise to work in the coalmines for two years. The document containing this promise stated that I shall have to return to prison should I fail to carry out my work in the coalmines.

"During the numerous examinations which took place in the course of my imprisonment pending investigation I was often illtreated. I was struck in the face with fists. At this, I fainted on several occasions and fell to the ground, whereupon I was kicked all over. In this way 14 of my teeth were kicked in. I take it that the cause of these ill treatments was that they wanted me to confess to espionage. The man mainly responsible for my beatings in this office was the Chief himself, a Major called Jakubowski, who is thought to come from Grodno and who is working in Stettin, in the prison in Kaszubska Street No. 48, Bloc 2. Department 3. Major J. always smells of very cheap perfume."

Read, approved and signed.

In Hungary, as much as the transmitting of an old road-map counted as "aiding and abetting" an escape and a punishable offence and as such was liable to a sentence of five years' loss of liberty.

DOCUMENT No. 15

(HUNGARY)

Deposition. Appeared: Alice... She is sufficiently conversant with the German language and states as follows:

"My name is Alice... and I was born on... in Budapest; my last place of residence was Budapest. I escaped from Hungary on November 14, 1954 and am living at present at...

"My cousin's fiancé, named Egon..., had an acquaintance who, in 1952, wanted to leave Hungary secretly together with his wife and other members of his family. My acquaintance simply gave them a pre-war road-map so that they might find out about the way to Austria. The fugitives were however apprehended before they reached the frontier and proceedings were taken against them and also against my acquaintance, who was sentenced to five years' imprisonment for his help in their escape, consisting in his passing on to them the road-map. The fugitives themselves were sentenced to five and six years imprisonment respectively. The wife of the fugitive was sentenced to "only" four years imprisonment because she was pregnant at the time."

Read, approved and signed.

Munich, 1 February 1955.

A political party which held the loyalty of the overwhelming majority of the population before the Communist seizure of power is simply banned by the new rulers and declared to be

"a nest of spies and traitors of the fatherland." This ban is put into effect by means of the criminal law: members and leading personalities of such party are severely punished by the application of laws specially devised for this purpose. Even the slightest attempt to continue the free expression of political opinion within such a party is punishable.

DOCUMENT No. 16

(BULGARIA)

"On Crimes Against the People's Republic of Bulgaria."
by Colonel Nikola Takov.

"In this reference great practical importance is also given to the prosecution of crimes under section 5 of the Ordinance With Force of Law on the Dissolution of the Agrarian Party. It is indeed necessary to settle the question of how to punish under the criminal law attempts by the defeated remnants of the bourgeois-kulak opposition to bring their organization back into being on a central or local level. It must be decided whether, for the punishment of the Nikola Petkoff groups under Art. 70 of the Criminal Code, it is necessary to ascertain that these groups intended to fight against the People's State with the means described in that section. The answer to this question is in the negative. This can be deduced from Art. 5 of the ordinance referred to. With regard to the punishment of this crime, Art. 5 does indeed refer to the Law for the Protection of the People's State which has since been abrogated but reappears in the Criminal Code, into which it has been incorporated. According to this law, an attempt to re-establish the Agrarian Party — which had already isolated itself from the people in 1946 to 1947 and become a band of spies and traitors to our fatherland in any form — is enough to punish the founders or members of this group under Art. 70 of the Criminal Code. In this case "attempt" is not to be understood in the sense of section 16 of the Criminal Code (i.e., a criminal action that has been initiated but not consummated), but as a particular offence which is no less socially dangerous than a crime against Art. 70 of the Criminal Code, regardless of the fact that the aims of re-establishing the dissolved Agrarian Party have not been achieved. Apart from this, the re-establishment of the Party is quite impossible in practice, as our people have long been well aware of the danger into which they were to be plunged by these ruthless enemies in order to force them under the yoke of a capitalistic and semi-colonial slavery. This interpretation, which does justice to the meaning of Art. 5 of the ordinance referred to, is also reflected in decision No. 246 of the Supreme Court of 21 March 1952, which states that the formation of any group or organization for the re-establishment of the Agrarian Party is in itself a consummated crime and not merely an attempt, and that, when considering the facts of a crime under Art. 5 of the Decree on the Dissolution of the Agrarian Party, the manner and form of its commission is of no importance...

"With the publication of Art. 5 of the Decree, the legislator aimed at the heaviest punishment of any attempt by these traitors to re-establish an organization which, by its very nature and independently of the form of its disguise, is evidently a most dangerous reactionary organization which depends exclusively on foreign military intervention for the realization of its intentions. This is confirmed by the experience acquired so far in the fight against the attempts of the beaten remnants of the kulak opposition to re-establish their organization...

Source: *Sotsialisticheskoto Pravo (Socialist Law)*, 1953, No. 8, p. 1 ff.

c) DENIAL OF FREEDOM OF EXPRESSION

DOCUMENT No. 17
(CZECHOSLOVAKIA)

Criminal Code of the Czechoslovak Republic of 12 July 1950.

Article 129: Hostile actions against the Republic.

Whoever jeopardizes public interests by an action hostile to the constitutionally guaranteed popular-democratic form of State or social order of the Republic shall be punished with deprivation of liberty for from 6 months to 2 years.

In the Soviet Union unwelcome political expression of opinion is punished under Article 58 of the Criminal Code of the RSFSR.

DOCUMENT No. 18
(USSR)

Deposition: Appeared Mikola Kostka, born on 3 March 1914 at the village of Federioko near Kharkov, who says as follows:

"I know the following from my own observation: Sachko Karamuschka was my neighbour in our village. He was a State auditor. In this capacity he carried out a check of our village co-operative accounts in 1950. The head of the district co-operative, a Communist Party member, asked him whether everything agreed. To which he replied: "It all agreed like Trotsky". By this he meant that everything did not agree, at least not in the sense the Communists wished, for it was indeed generally known that Trotsky rejected the Stalin Government. He was sentenced to 10 years' deprivation of liberty under section 58 of the criminal code because he had expressed contempt for the Stalin system by using the word "Trotsky". He died in the forced labour camp Bamlag in Siberia."

Read, approved, and signed.

In other criminal laws, any political expression of opinion or propaganda that appears to be directed against the Communist system is labeled as "fascist" and "anti-democratic", or "propaganda in favour of imperialistic aggression". With these definitions it is possible to prosecute any private expression of opinion under the criminal law.

DOCUMENT No. 19.
(BULGARIA)

Criminal Code of the People's Republic of Bulgaria.

Article 91:

Whoever indulges, openly or secretly, in fascist or anti-democratic propaganda, or propaganda in favour of imperialist aggression, and whoever keeps or conceals fascist or other anti-democratic literature with the intention of circulating it, shall be punished with deprivation of liberty for up to 5 years.

Ludwig Klingelhöfer, a building technician, was sentenced to 2 years' imprisonment by the district court in Halle (Soviet Zone of Germany) because he wanted to send a letter to a relative living in West Germany, describing his despondency and great worries; the letter was not even sent.

DOCUMENT No. 20
(SOVIET ZONE OF GERMANY)

I Ks 123/53
I — 133/53

In the Name of the People:

In the criminal proceeding against
Ludwig Klingelhöfer, building technician, born 12 July 1883 at
Rosenthal, residing at 6, Moritzstrasse, Dessau, remanded in custody
since 16 December 1952
for an offence under Control Council Directive 38, Part. II,
article III A3
the 1st Criminal Chamber of the District Court in Halle/Saale, at its
sitting of 2 April 1953 in the presence of
District Court Judge Henke, president,
Kurt Rehahn and Hermann Enke, lay assessors,
Public Prosecutor Fehse representing the District Public
Prosecutor,
Law clerk Forzubek, clerk of the court,

has given judgment:

The accused is sentenced to two years' imprisonment for an offence
under Control Council Directive 38, Part. II, article III A 3. He is subject
to the sanctions provided for in Control Council Directive 38, Part II,
article IX (3—9), item 7 for five years. The time spent in custody
since 15 December 1952 is included in the sentence. The accused to bear
the costs.

From the findings:

...

In December 1952 the defendant's wife was serious ill. On 12 December
1952 the defendant wrote to a niece living in West Germany. He
did not send this letter, but carried it in his breast pocket whilst
travelling to Berlin. On the same day this letter was taken from him
in the course of an identity check conducted on the train by members
of the people's police. In this letter the defendant wrote to his West
German relatives, among other things:

"I hope we shall be able to repay you for everything some day, if
we survive the things to come. Yes, it is very sad here, everything is
awfully expensive and food very short..."

The defendant wrote further on:

"Apart from this we are well, only we earn too little to be able to
buy anything in the State profiteer-shops."

The defendant then asked that his relatives in West Germany should
find a job for him there and concluded:

"Here they only give employment to young, very young people. They
may be stupid, provided that they are Communist — then everything
is fine. The prisons are overcrowded."

This statement of the case is based on the defendant's answers, in so
far as the court chose to admit them, and on the seized letter, the
contents of which were produced as evidence at the trial.

It is proved that the defendant was agitating in a most ugly way
against the conditions and institutions in our DDR. This letter was meant
to be sent to West Germany. The provocation contained in the letter
would thus have been transmitted to the defendant's relatives and
further, presumably, to still more people in West Germany if our
people's police had not thwarted the defendant's intentions. The de-
fendant's action amounts therefore to assisting the efforts of the
Western warmongers to discredit social conditions in our Republic and
to make propaganda on the need to disrupt our new order by force.
Furthermore, the incitement against our democratic institutions and
organizations and the discrimination against our progressive people

constitute, at the same time, propaganda for Nazism and for the neo-fascist intrigues of the Western warmongers. The defendant's action, that is writing the letter with these provocative contents, is to be judged as a crime under Control Council Directive 38, Part. II, article III A 3. The defendant acted deliberately, knowing that our conditions and institutions were disparaged in his letter. His objection that the letter had not yet been sent is not worthy of attention, as Control Council Directive 38 already provides punishment for offences that are a source of danger. It is therefore not a question whether anyone has put his intention to endanger peace into practice. The decisive factor is rather — as in the instant case — that the defendant's action is liable to jeopardize the peace of the German people, for the fabrication and dissemination of tendentious rumours contained in the letter helps the Western warmongers to realize their criminal plans against the DDR.

...
signed.

On 17 June 1953, the population of the Soviet Zone of Germany made use of the right to strike and demonstrate guaranteed to it in the Constitution. These demonstrations were crushed by force of arms by the Soviet occupying power and by the Soviet-German people's police. In spite of official declarations to the contrary after 17 June the criminal courts of the Soviet Zone started putting into effect vindictive justice against large numbers of participants in the demonstrations who were severely punished for alleged "fascist provocation" and "incitement to war and boycott".

DOCUMENT No. 21
(SOVIET ZONE OF GERMANY)

— I 298/53

In the Name of the People:

In the criminal proceedings against

Adolf Jedro, musician, born 5 May 1919 at Lübben, resident at 16, Berlinerstrasse, Lübben, at present remanded in custody for a crime under Control Council Directive 38, article III A 3, the 1st Criminal Chamber of the District Court of Cottbus, at its sitting of 29 June 1953, at which were present

District Court Judge Berg, president,
Wilhelm Schulze, work norm assessor of Cottbus, and
Helene Hinze, cloth worker of Cottbus, lay assessor,
Public Prosecutor John, representing the District Public
Prosecutor,
Law clerk Lohse, clerk of the court,

has given judgment:

The accused is sentenced to eighteen months' imprisonment for a crime under Control Council Directive 38, article III A 3. In addition, the accused is subject to the sanctions provided for in Control Council Directive 38, Part II, article IX (3—9), item 7 for five years. The time spent in custody is included in the terms of the sentence. The accused to bear the costs.

From the Findings:

... On 17 June 1953 the allocation of musicians' assignments for the following Saturday and Sunday took place at the Hainköhler restaurant at Lübben. The accused had to supervise this allocation of jobs in his capacity of Kreis chairman of the artists trade-union. The allocation began about 11 a.m. and lasted till 4 p.m. During the afternoon it was reported among the musicians that a demonstration was taking place

in the town of Lübben. The accused says that he then heard about the provocation of 17 June for the first time. After drinking a few more glasses of beer and spirits in the restaurant, the accused was fetched by his wife about 5 p.m. On reaching the market square with his wife, the accused saw a riotous crowd assembled there. Despite his wife's protest, the accused sent her home and joined the people standing there. A column of demonstrators had been formed in Karl-Marx-Strasse and was moving towards the market square. The accused joined the front rank of this column and taught the persons marching behind him several slogans which they repeated in chorus under his direction. Among others, the following slogans were shouted: "If you are Germans, join us," "The H.O. makes K.O. (i.e., "The State shops are killing you"), and "Release the imprisoned farmers". Shortly before, the accused had already said to the witness Kappler and to another colleague that everything was badly organized and should be done better. The column of demonstrators moved on to the Volkspolizei headquarters in Lübben, where they demanded the release of prisoners, the accused displaying particular activity in this. Some time later the accused was picked up by his wife and took no part in further demonstrations...

The defendant's part in the demonstration itself is by no means so small that he could be considered as a simple hanger-on. On the contrary, the part he played can only be described as a leading rôle. The accused, by his behaviour, has contributed to the fact that some of the workers let themselves be led astray by provocateurs and that measures of our Government for improving the standard of living of all workers cannot be carried out with the speed required by the interests of all workers. A particularly aggravating aspect of the case is that the accused had the special task, as a trade-union official, to convince the workers of the rightness of the decisions of our Government, and not to assist the provocateurs by the type of behaviour in which he indulged. It is clear to any honest worker that the provocations of 17 June 1953 were directed against the measures of our Government which are aimed at a constant improvement of our standard of living, and that they were in no way in the interests of the workers themselves. By his actions, the accused has rendered himself guilty of a crime under Control Council Directive 38, article III A 3. By the concoction and/or dissemination of tendentious rumours he has jeopardized the peace of the German people in that he took an active part in the strike demonstration as evidenced by the slogans shouted by him, and played a leading rôle in this demonstration. The accused has acted deliberately, as is made quite clear by the facts of the case taken as a whole.

(Signed)

In offences of all kinds the finding of the Court to the effect that the accused entertains hostile feelings towards the Communist regime counts as an aggravating circumstance. Such finding of the Court always results in the imposition of a considerably heavier sentence, whilst an accused friendly towards the regime may count on a milder sentence even though he might have committed a more serious offence.

DOCUMENT No. 22
(CZECHOSLOVAKIA)

Criminal Code of the Czechoslovak Republic of 12 July 1950

Art. 20

Aggravating circumstances

Aggravating circumstances exist if the offender in committing an offence,

- a) has expressed his enmity of people's democracy;
- b) 1) ...

Hostility vis-a-vis the regime of the People's Democracy very often finds expression after drinking. The political criminal courts do not consider the influence of alcoholic drinks as an extenuating circumstance, but rather as one that should entail heavier punishment, as demonstrated in a Decree of the Supreme Court of Hungary.

DOCUMENT No. 23

(HUNGARY)

*Judgment of the Supreme Court of Hungary.
Consideration of drunkenness in a case of incitement to boycott.*

The accused made inciting statements after drinking.

The County Court found that the accused had committed the offence in a state of drunkenness. It is the constant practice of the Supreme Court in the circumstances also applicable to the accused to hold that he was in possession of his faculties and thus answerable before the law, i.e. not drunk to the point of extinction of his full mental capacity.

In the case of the accused, drinking did not result in loss of consciousness or loss of willpower, it only lifted certain inhibitions with regard to behaviour and speech, so that under the influence of drink he dared to give expression to his innermost sentiments and opinions and make statements which he would not have made in a sober state.

Inciting statements against the State order which, on account of their logical nature, presuppose a proper functioning of the mind, do not admit of a finding that the accused was not in possession of his faculties and consequently the act cannot be dealt with under para. 189, of the BHO (acquittal).

Judgment No. B. 775/1954 delivered in the interest of legality.

The fact that two men sang a popular tune under the influence of drink at a time when days of general mourning had been ordered following upon the death of Stalin, was in the view of the District Court of the Soviet Zone regarded as "incitement to boycott, demonstration of hate towards the people" and as "invention and spreading of tendentious rumours which are a danger to the peace".

In East Germany, two men sang a popular hit song while under the influence of alcohol at a time when general mourning had been ordered on Stalin's death. This mere fact is, according to the Soviet Zone District Court in Leipzig, "incitement to boycott, manifestation of racial hatred", and "concoction and spreading of tendentious rumours likely to jeopardize peace."

DOCUMENT No. 24

(SOVIET ZONE OF GERMANY)

1a Ks 111/53

I — 153/53

Judgement

In the Name of the People!

In the penal proceedings against

- 1) Alfred Müller, driver, born 10 January 1913 in Leipzig, resident at 55, Lindenthalerstrasse, Leipzig N 22, at present remanded in custody,
- 2) Gerhard Grieshammer, storeman, born 28 February 1916 in Leipzig, resident at 2a, Wangeroogerweg, Leipzig N 22, at present remanded in custody,

for a crime under article 6 of the Constitution of the German Demo-

cratic Republic and Control Council Directive 38, Part II, article III A 3,

the 1st criminal chamber of the District Court of Leipzig, at its sitting of 17 April 1953, at which were present

Senior judge Trautzsch, president
Werner Berthold and Hans Voigt, lay assessors, Public Prosecutor Haupt representing the District Prosecutor,
Legal clerk Lippman, clerk of the court,

has pronounced judgment:

The accused Alfred Müller and Gerhard Grieshammer are sentenced for incitement to boycott democratic institutions and organizations and manifestation of racial hatred (under Article 6 of the Constitution of the German Democratic Republic in conjunction with Arts. 1 and 14 of the Criminal Code) and for concoction and spreading of tendentious rumours which jeopardize the peace of the German people under Control Council Directive 38, Part. II, Article III A 3, both in conjunction with section 51 (2) of the Criminal Code as follows:

the accused Müller, 6 years' hard labour,
the accused Grieshammer, 4 years' hard labour.

Both accused are subject to the compulsory sanctions provided for under Control Council Directive 38, article IX (3-9), item 7 for 5 years. The time spent in custody since 8 March 1953 is included in the term of the sentences. The accused to bear the costs.

From the findings:

On 7 March 1953, one of the days of mourning for the irreparable loss caused to the whole of progressive mankind by the death of Stalin, the accused Müller and Grieshammer went to the restaurant "Wartburg" in Leipzig. They were intoxicated, having already drunk freely in another public house. While they were in this restaurant, the accused Müller invited the patrons present to sing. He did this although he knew that no entertainment was to take place in restaurants during these days. As the patrons did not accept his invitation, he gave vent to a string of abuse about their silence and indulged in ugly descriptive arguments against the order issued by the Government of the German Democratic Republic and the democratic mass organizations regarding the observance of the days of mourning. He insulted with low invective the deceased leader of the working class and of the camp of world peace and, in order to express his joy over Stalin's death, he sang the song, especially composed for the days of mourning: "After the rain the sun shines, after tears comes laughter..."

The accused Grieshammer accepted the invitation of his acquaintance Müller and joined him in singing. In some measure he agreed with the provocative speeches, but also tried to bring Müller, who was walking around the restaurant in a provocative fashion, back to his seat. When they were leaving the restaurant a member of the People's Police stopped Müller, and Grieshammer said: "Aha, there goes still another little remnant of the Red Army."

This statement of the case rests on the testimony of the witnesses Weigel and Friesecke, which is reliable, and on the statements of the witnesses Mehnert and Rölke, which was submitted at the trial in accordance with Article 207 (1).

During the preliminary proceedings the accused have, in the main, admitted the conduct with which they were accused. At the trial they both insisted that they were so much under the influence of alcohol at the time of the offence that they could no longer remember what had happened. The court did not believe this argument because it was evident from the testimony of the witnesses that the accused were indeed intoxicated, but not completely drunk...

Through their criminal conduct on 7 March, a day on which every decent worker was filled with sorrow over Stalin's death and all progressive people reacted in a particularly sensitive fashion to pro-

vocations by neo-fascist elements, both accused turned directly against the basic principles of our democratic social order. By singing the ambiguous tune — and the accused Müller by his particularly indecent speeches about Stalin's death — they manifested racial hatred and dragged Soviet-German friendship through the mud. These utterances and the words addressed by the accused Grieshammer to the People's policeman imply, furthermore, incitement to boycott our democratic institutions and organizations, particularly the people's police and the democratic mass organizations and the Government, which issued the orders to observe the days of mourning. Both accused acted deliberately and were fully able to recognize the social danger of their actions. The facts of the case therefore fall under Article 6 of the Constitution of the German Democratic Republic and the accused are to be called to account accordingly...

As the accused were noticeably under the influence of alcohol at the time of the offence, the court has applied section 51 (2), relating to limited criminal responsibility in their favour. This circumstance, however, has not been considered mitigating the penalty, for the fact that such elements commit offences relying upon the protective cover of alcohol must not be used in their advantage.

signed

The penal provisions of Article III A III of the Directive of the Allied Control Commission, their original intention completely misinterpreted, are used in the Soviet Zone of Germany for the punishment of political opponents accused of the spreading of "tendentious rumours which are a danger to the peace", in a way similar to the penal provisions relating to the spreading of false rumours in other countries of the Communist empire.

DOCUMENT No. 26

(POLAND)

Article 22 of the Criminal Code of the Republic of Poland.

According to the Constitution dated 13 June 1946 and at present in force (Dziennik Ustaw 1949, No. 32 Pos. 238 and No. 45 Pos. 334):

"Whosoever spreads false rumours which are likely to inflict considerable harm to the interests of the Polish State or diminish the authority of its supreme administrative bodies shall be punished with imprisonment up to five years or with detention."

DOCUMENT No. 27

(POLAND)

Decision of the Supreme Court of the Republic of Poland dated 19 March 1948 (Po. K. No. 230/47) Reports of the year 1948, No. 1.

The wording of the Preamble to section 170. of the Criminal Code *, whereby the spreading of false rumours must take place in public, differs from the wording of Art. 22. of the Criminal Code, whereby the spreading of false rumours *in private* is also an offence, if those rumours are likely to inflict considerable harm to the interests of the Polish State; its main purpose is the combating of the so-called "whispering propaganda".

A decision based on Art. 22 is printed above as Document 5.

* Article 170. of the Criminal Code is as follows:

"Whosoever publicly spreads false rumours which are likely to cause public unrest, shall be punished with detention up to two years and a fine."

From these penal laws it is only one step further to the prosecution of persons who are listening in to broadcasts from the free world. There is no freedom of information in the Communist States. Judges of the Criminal Courts proceed in these cases in the same way as the judges of the People's Courts and of the Special Courts used to do in the days of National Socialist Germany.

DOCUMENT No. 28
(CZECHOSLOVAKIA)

Judgment

In the Name of the Republic:

The District Court of Mnichovo Hradiste, Department II, pronounced judgment in the trial of 24 June 1952:

the accused, Adolf Skala, born 6 October 1913, at Mukarov, District of Mnichovo Hradiste, owner of a mill, a saw-mill and a farm, resident at Mukarov, No. 13, and

Josef Kuntos, born 1 February 1912, at Jivin, District of Mnichovo Hradiste, independent farmer, resident at Mukarov, No. 11, are guilty of the following offences in Mukarov in 1951 and 1952:

- a) aiding and abetting the accused Frantisek Kopecky, forestry inspector of Mukarov, No. 45, to repeat information from an enemy radio transmitter to more than 2 persons; they thus deliberately enabled him to disseminate an expression of opinion directed against the Republic and against its people's democratic order and its constitutional form of society, and they have thereby been guilty of incitement against the Republic;
- b) endangering the trust of the people in the permanence of our State order by spreading alarmist information on the alleged overthrow of the Government, although they knew that the information spread by them was untrue.

By doing this, they committed

- re a) the offence of abetting to incitement against the Republic Criminal Code, Article 8 (1) and Article 81 (1);
- re b) the offence of spreading an alarmist report (Criminal Code, Art. 128 (1) and (2) (a)).

They are condemned as follows:

- 1) the accused Adolf Skala, under Criminal Code, Art. 81 (1), Art. 22, to
 - a) 6 months' deprivation of liberty;
 - b) a fine of 30,000 crowns in accordance with Art. 48 of the Criminal Code, or 6 months' deprivation of liberty;
 - c) the forfeiture of his entire property under Art. 47 of the Criminal Code;
 - d) Lifelong banishment from the municipality of Mukarov, in accordance with Art. 53 of the Penal Code.
- 2) the accused Josef Kuntos, to a total penalty of three months' deprivation of liberty under Art. 81 (1) of the Criminal Code, and to a fine of 10,000 crowns under Art. 48, or 2 months' deprivation of freedom.

In accordance with Art. 43 of the Criminal Code both the accused forfeit civil rights for three years. This judgment is published in accordance with Art. 54 of the Criminal Code. No suspension of sentence is granted to the accused.

Source: Cesta Miru (Liberec), 17 January 1953.

DOCUMENT No. 29
(CZECHOSLOVAKIA)

T 95/52-44

Judgment

The District Court in Horsovsky Tyn, Division 2, at the trial held on 27 June 1952, pronounced judgment as follows:

The accused Jiri Chmelik, born on 16 July 1894 at Nahosice, in the District of Horsovsky Tyn, independent cobbler and tobacconist, resident at Nahosice, No. 58, in the District of Horsovsky Tyn, is found guilty as follows:

The accused Jiri Chmelik during 1951 and 1952 allowed Jiri Cisler and Jana Konas to listen to foreign enemy broadcasts in his home at Nahosice; he therefore deliberately aided and abetted the dissemination of a provocative expression of opinion inciting against the Republic, its independence, constitutional unity or territorial integrity, or its constitutionally guaranteed popular-democratic form of Government and social order. Whereby

The accused Jiri Chmelik committed the crime of incitement against the Republic under Art. 81 (1) of the Criminal Code.

He is condemned as follows:

The accused Jiri Chmelik is sentenced to six months' deprivation of liberty under Art. 81 (1) of the Criminal Code, and under Art. 48 of the Criminal Code to a fine of 50,000 crowns, or under Art. 49 one month's imprisonment in failure thereof.

In accordance with Art. 43 of the Criminal Code, the accused Jiri Chmelik forfeits his civil rights for two years.

Source: *Pravda (Plzen)*, 14 October 1952.

DOCUMENT No. 30
(SOVIET ZONE OF GERMANY)

J 149/53

I Ks 210/53

Judgment

In the Name of the People!

In the criminal proceedings against

Robert Stech, smith and inn-keeper, born 23 February 1888 at Lanz, Kreis Perleberg, resident at 5 Dorfstrasse, Toppel, Kreis Havelberg, married, with two children, two previous convictions, remanded in custody since 20 January 1953

for a crime and an offence under article 6 of the Constitution of the DDR in conjunction with Control Council Directive 38, Part II, article III A 3,

the 1st Criminal Chamber of the District Court in Magdeburg at its sitting of 4 June 1953 and consisting of

District Court Judge Sieber, president,
Irmgard Bleiy, of Gommern, and
Felix Hackel, of Gerwisch, lay assessors,
Public prosecutor Kube representing the District Public Prosecutor,

Law clerk Bethge, clerk of the court,

has pronounced judgement as follows:

The accused is sentenced to two years' imprisonment for spreading tendentious rumours.

He is convicted under Control Council Directive 38, Part II, article III A 3, and is subject to the compulsory sanctions of Control Council Directive 38, Part II, article II (3-9), item 7 for 5 years.

The time spent in custody since 20 January 1953 is included in the sentence. The accused to bear the costs.

From the findings:

...
The accused has a radio set in his restaurant. He often tuned in to RIAS and listened to music and quiz programmes, news bulletins and also to provocative political transmissions. He showed no consideration for his customers, or, rather, he did not worry about their presence. His establishment was also frequented by the young villagers of Toppel, and the accused allowed even these young people to listen to RIAS in his establishment without warning them that this action was illegal. Before Christmas of last year a meeting of peasants took place in the restaurant, and the accused tuned in to RIAS on this occasion.

The accused admits that he often listened to RIAS and pleads that he did not know this was forbidden. He alleged on one occasion, when he mentioned this matter to the burgomaster of Toppel, the latter told him that he as burgomaster also listened to RIAS and that he would advise the accused to do likewise as an agitator, for then he would know straight away what arguments were used by the inhabitants.

This plea of the accused can only be regarded as absurd and ridiculous. On the facts of the case as proved the Bench finds that the accused has subjectively and objectively fulfilled the conditions of an offence under Control Council Directive 38, Part II, article III A 3. By tuning in to RIAS in the presence of other persons, he facilitated the dissemination of provocative political broadcasts and thereby of rumours endangering peace. He was convicted accordingly...

In view of the considerable danger to society, the court was of the opinion that two years imprisonment was just, and passed sentence accordingly.

The accused, having been found guilty, is subject to the compulsory sanctions of Control Council Directive, Part II, article II (3—9), item 7, for 5 years.

In accordance with Articles 219 and 353 of the Code of Criminal Procedure, the time already spent in custody has been included in the sentence and the accused is to bear the costs.

(signed)

d) OTHER PENAL MEANS OF CRUSHING THE POLITICAL OPPONENT

In spite of the large number of laws in the realm of political legislation, and in spite of the broad interpretation of the already very elastic conception of what constitutes the facts of a case, lacunae constantly appear in these laws. The Communist legislator is only called upon to fill part of these lacunae by means of legislation. The "improvement of penal jurisdiction" is to a large extent effected by means of analogy. This is what happens, for example, in cases of alleged sabotage or of "parasitical activity" in the sphere of cadre-policy (personnel policy). As there are no specific sanctions provided for such delicts, prosecutions are instituted simply by applying the prescriptions dealing with economic sabotage.

DOCUMENT No. 31
(BULGARIA)

"On Crimes Against the People's Republic of Bulgaria".

"It is a serious lacuna in the law that sabotage and parasite-activity in the field of personnel policy or in other fields are not defined as crimes, either in the chapters discussed so far, or in any particular division of the chapter on crimes against the People's Republic. It is

known, however, from experience with class warfare in the Soviet Union and in the People's Democracies, that these actions are no less socially dangerous than sabotage and parasite-activity in the various fields of the economy. This lacuna in the law can be closed, at the present time, only by enabling us to punish these crimes under Articles 85—87 of the Criminal Code, whichever are the most suitable depending on the facts of the case."

Source: Colonel Nikola Takov in *Sotsialistichsko Pravo (Socialist Law)*, 1954, No. 1.

The criminal sections to be applied by analogy in accordance with the above statement are as follows:

DOCUMENT No. 35
(BULGARIA)

Criminal Code of the People's Republic of Bulgaria.

Article 85:

Deprivation of liberty for a minimum of 10 years and in particularly serious cases the death sentence shall be the penalty for causing confusion or damage in industry, agriculture, transport, circulation of currency, the financial system, or in certain economic enterprises, by misusing official institutions or enterprises or by impeding their activity, with intent to disrupt the nation's food supply, instigate riots among the population, obstruct the power of the State or undermine its authority.

Article 87:

Any person failing to fulfil, or partly failing to fulfil, the plans resulting from fixed quotas or the economic tasks allotted to him, with the intent described in Article 85, shall be guilty of sabotage and punished by deprivation of liberty for at least one year, and, in particularly serious cases, by deprivation of liberty for not less than 10 years or by death.

In political penal actions, Soviet Courts do not need to observe the legal prescriptions on limitation, as is shown in a note to Article 15 of the Criminal Code of the RSFSR.

DOCUMENT No. 34
(USSR)

Article 14:

Note 1. In cases in which the offender is tried for a counter-revolutionary crime, the application of the statute of limitation depends in each individual case on the discretion of the court. Should the court, however, rule out the application of this statute, it shall substitute for execution by shooting a sentence declaring the accused an enemy of the workers and depriving him of citizenship of the Union Republic and of the USSR as well as exiling him for ever from the territory of the USSR or imposing deprivation of freedom for not less than two years.

Source: *Ugolovnyi Kodeks RSFSR*, edition of 1 October 1953.

Among the different types of punishment, forced labour is of particularly great importance, because by means of it there are recruited sufficient numbers of slave-workers of whom the Communist regime is in great need.

DOCUMENT No. 35
(USSR)

From: Criminal Code of the RSFSR (edition of 1 October 1953).

Article 20:

Social defence measures of a judicially corrective character are:

- a) ...
- b) deprivation of liberty in correctional-labour camps in distant parts of the USSR;
- c) deprivation of liberty in ordinary places of detention;
- d) correctional labour without deprivation of liberty ...
- g) banishment from the territory of the RSFSR or from a given place with or without compulsory resettlement in another given place or places and with or without the prohibition of residence in a given place or places ...

Article 35:

... If the court awards one of these penalties in addition to deprivation of liberty, the term fixed by the court for this additional penalty shall begin on the day that the term of imprisonment has been completed.

... Among those condemned to exile from a given place, with compulsory resettlement to another place, those who are serving their period of deprivation of liberty in corrective labour camps shall, after serving their term of punishment there, be settled in the district of the camp for the period for which they are deprived of the free choice of a place of residence. State or other paid work shall be allotted to them ...

Class-enemy elements and workers who reveal themselves as dangerous to the class are gathered in special mass-work colonies in remote areas to serve their sentence.

DOCUMENT No. 36
(USSR)

Law for Corrective Labour of the RSFSR.

Article 34:

To colonies for mass-work which are located in distant regions, are directed dangerous class-hostile elements who are deprived of freedom and also workers who, by the nature of the crime committed, constitute the greatest class danger and need to be subjected to more severe conditions.

Source: Chronological collection of Laws, Decrees of the Presidium of the Supreme Soviet and Ordinances of the Government of the RSFSR up to 1 March 1940 (in Russian), Vol. IX, OGIZ (Union of State Publishing Houses).

DOCUMENT No. 37
(CZECHOSLOVAKIA)

"Imprisonment in a forced-labour camp is an effective means of fighting the remnants of capitalist society, who endeavour to re-establish capitalism in our country or at least try to retard or make more difficult our progress towards socialism. Such further means must be applied when the educational sentence does not produce noticeable results and the law-breaker retains a hostile disposition towards the State."

Source: J. Filipovsky and others: „O obecné části trestního zákona“ (Prague, 1951), p. 131.

DOCUMENT No. 38
(CZECHOSLOVAKIA)

From: Czechoslovak Administrative Penal Code of 12 July 1950.

Article 12:

- (3) When it is apparent, from the way in which a misdemeanour has been committed, that the offender showed or intended to show a hostile attitude towards the people's democratic regime or the Socialist development of the Republic, a penalty of deprivation of liberty for not less than 3 months and not more than 2 years may be imposed on the offender. Further the penalty stipulated for the misdemeanour in the Special Part of the Criminal Code may be doubled. The prison sentence and additional imprisonment imposed for non-payment of the fine must, in every case, be served in forced-labour camps.

Even after completing his prison sentence a condemned person may be sent to a forced-labour camp if there is no guarantee that he now approved the "people's democratic regime". This possibility is expressly provided for in the Criminal Code. It means that a person is robbed of his freedom simply because of his way of thinking. It gives the communist authorities the same powers as the Nazi Gestapo had when it sent politically suspect persons to concentration camps after completing their prison sentences and there murdered them or let them die. In the communist state, too, the political security police, the State Security Service, has now been given these powers. In order to dissimulate, the camps are no longer called forced-labour camps, but "transit camps".

DOCUMENT No. 39
(CZECHOSLOVAKIA)

Criminal Code of the Czechoslovak Republic of 12 July 1950.

Article 36: Committal to Forced-labour Camps.

- (1) Any person who, by his offence, has shown hostility to the people's democratic regime and has failed while serving his sentence, to show an improvement such as to justify the hope that his future behaviour will be satisfactory and befitting a good worker, may be committed to a forced labour camp for not less than three months and not more than two years after completing his full sentence of temporary deprivation of liberty.
- (2) Persons under the 18 years of age may not be committed to a forced-labour camp.

DOCUMENT No. 40
(CZECHOSLOVAKIA)

*From: Czechoslovak Law No. 67, of 10 October 1952
Amending and Amplifying the Code of Criminal Procedure.*

Article 3:

- (1) Sentences of deprivation of liberty and imprisonment must be served in institutions of the Ministry for State Security. Sentences of deprivation of liberty imposed upon persons on active military service may be served in a penal company.
- (2) The Ministry for State Security shall, with the co-operation of the Procurator-General, make the necessary arrangements for sentence to be served in institutions of the Ministry for State Security.

The regulations concerning sentences served in penal companies will be drawn up by the Ministry for National Defence with the co-operation of the Procurator-General.

- (3) Any reference to forced labour camps... will henceforth be interpreted as applying to the "transit camps" of the Ministry of National Security.

From the Explanatory Memorandum on this law:

"The purpose of the forced labour camps differs radically today from what was intended when they were founded. Nowadays, the following persons are sent to forced labour camps: first of all, those whose offences show their hostile attitude towards the people's democratic regime of the Republic, and whose work and conduct during their imprisonment do not justify the hope that their conduct will be satisfactory in future and correspond to that of a good worker (Article 36 of the Criminal Code); secondly, persons who have been sentenced by the National Committees (Article 12 of the Administrative Penal Code).

"It is the task of the forced labour camps — and that of the establishments where sentences of deprivation of freedom are served — to keep the persons sent to them employed in a useful form of social work in order to inspire them with a positive attitude towards the social order. In order to achieve a standard system it is appropriate that both types of institution should be amalgamated. The task of the transit camps consists in making the persons sent there accustomed to working freely; therefore the forced labour camps will henceforth be known as transit camps. In these transit camps there will be applied the measures which were laid down by the court or the Conditional Release Board. There shall also be served in such camps the remainder of the sentence of deprivation of liberty of those convicts who fulfil the conditions necessary for conditional release (particularly regarding their positive attitude to work and their behaviour) but whose conditional release could cause apprehension in the environment to which they would return. The purpose of the transit camps is, to prepare prisoners for life and labour in freedom by weaning of work and discipline.

Source: Narodni Shromazdeni Republiky Cechoslovenske, 1952, No. 629, pp. 18-19.

DOCUMENT No. 41
(CZECHOSLOVAKIA)

Code of Criminal Procedure in Czechoslovakia, (as amended by Law No. 67 of 30 October 1952).

Article 278:

- (1) The decision on conditional release, confinement of a convicted person in a transit camp (article 279) and committal of a convicted person, who has served his sentence in such a camp (article 36 of the Criminal Code) is within the competence of the Conditional Release Board in the region where the convicted person is serving or has served his sentence of deprivation of liberty.
- (2) The Conditional Release Board shall be attached to the Regional Court. It shall consist of a judge nominated by the Ministry of Justice acting as president, together with two lay-assessors (people's judges).

Article 279:

A convicted person who fulfils the conditions necessary for conditional release, but whose release would conflict with the aims of the punishment, may be sent to a transit camp.

This measure can be revoked, depending on the behaviour of the convicted person.

Article 279a:

- (1) The Conditional Release Board reaches its decisions by a majority vote, on the basis of proposals made by the regional prosecutor.

- (2) At the request of the regional prosecutor the Board submits its decision for approval to the Ministry of Justice, from whose decision there is no appeal. The Minister may amend the Board's decision to the disadvantage of the convicted person only if the regional prosecutor requests that the case be referred back to the Ministry of Justice within three days of his being informed by the Board.
- (3) The decision to send a convicted person to a transit camp must be made before completion of the sentence of deprivation of freedom.

The imprisonment of relatives forms a special chapter in the criminal legislation of the Communist states and in their administration of criminal justice. Persons who have nothing whatever to do with a crime allegedly committed by a relative are punished by deprivation of liberty, deportation or confiscation of property.

DOCUMENT No. 42
(USSR)

Criminal Code of the RSFSR (edition 1 October 1953).

Article 58^{1c}:

In the event of escape or flight across the border by a person serving in the military forces, the members of his family who helped him in any way to prepare for or commit treason, or even who only knew of it but did not inform the authorities, shall be punished by... deprivation of liberty for a term of from five to ten years with confiscation of their property.

The other adult members of the traitor's family who were living with him or were dependent upon him at the time when he committed the crime shall be deprived of electoral rights and exiled to remote districts in Siberia for a term of five years. (20 July 1934, USSR Laws, No. 30 text 173.)

DOCUMENT No. 43
(BULGARIA)

Deposition: Appeared Mr. Juri..., who states as follows:

"My name is Juri... I was born on... in... and was last resident in... I escaped from there on 5 February 1953.

"I am aware of the provision of the Soviet Criminal Code concerning the punishment of members of the family of a deserter. I know of a case which occurred in Dochwice, in the neighbourhood of Minsk, where I studied. In the year 1951 or 1952 — I can no longer remember exactly — one night the family of an officer who had deserted was fetched by the MVD from Minsk. These detainees were the mother and father of the officer in question. Whether these people were imprisoned or deported straight away I cannot say. From my knowledge of affairs there, I should say that both of them had to stand trial and were sentenced to imprisonment."

Read, approved, and signed.

DOCUMENT No. 44
(ALBANIA)

Deposition: Appeared Muharrem Mullaj, son of Asim and Fatime, born in the village of Floqui, Albania, who says as follows:

"... As a brother of mine was a political refugee in Greece, I was soon arrested by the public security authorities and sent to forced labour in the concentration camp of Kamza which was set up in the neighbourhood of Tirana. I entered the camp on 15 February 1950 and was freed on 25 November 1951. Naturally I did not come before a court, as I was innocent. I was interned for security reasons. The con-

centration camp of Kamza is reserved for persons such as myself, who have outlawed relatives within the country or abroad, and for those who, although they have been sentenced by a court and have already served their sentence, are, in the view of the Communists, considered dangerous to the security of the regime. It also exists, because the slave labour of the convicted benefits the proletarian State, which is the only owner of property in Albania. Nobody informed me of any court judgment or decision of any committee on which my arrest was based. When I was released I did not receive any document from the responsible camp authorities to certify my 22-month stay in the camp. From the camp I went to my native village and from there I took advantage of the closeness of the Albanian-Greek border and crossed into Greece at the beginning of 1952. I had no identity papers of any sort with me, no written authority to leave the country and no certificate that I had been interned. Only people from southern Albania were sent to the camp of Kamza, while those from northern Albania went to the camp of Tepelena.

"When I reached the camp there were about 900 prisoners, many of whom had been there since 1945. I remember the names of the following women from southern Albania: Resmija Butka, from Kolonja; Gurija Dajlani, from Konispol, district of Argjirokastra; Ildes Staravecka, from Skrapar; Sanije Kocinaku, from Bozhigrad in Devoli; and Aleksander Ziko, from Argjirokastra...

"The concentration camp of Kamza was set up east of the school at Dako, about two hours' walk from Tirana. The camp consists of two huts about one kilometer apart. The roofs were covered with sheet metal and asphalt. The huts are neither painted nor whitewashed, and were never disinfected during my stay there. As in all concentration camps in Albania, there were no beds for the prisoners in the Kamza camp. They slept on shelves with which the huts were equipped, one at a height of 30 cm above the floor, the other, one meter above the first. The space available for each internee was no more than 50 cm wide. Men and women lived in the same hut and there was no separate room for women...

"All prisoners from 14 to 60 years of age, without exception, were compelled to work. Work began at 7 a.m. each day and lasted until 6 p.m. The internees worked at a farm called "The Red Star" and were often sent to work at the brick plant at Laprako. Work was done on the farm under the supervision of police and the agricultural agents competent to fix the work norms, which are the same for all irrespective of the physical condition or age of the prisoner. Those who do not fulfil their daily norm are sent to prison, lose the right to send letters or to receive visitors, and are abused by the guards. When work was finished the prisoners were sent into the forest to cut wood, which they then carried to the camp for the kitchen, for the camp staff, and, once a week, for their washing. Prisoners were not paid for the work they did. Those who did not have to do forced labour or who were excused from work had to clean the camp and look after the children whose mothers had to work. The children who were separated from their mothers naturally spent the whole day crying and often fell into the mud for want of proper supervision...

"In November 1951 the Tirana Government ordered the release of half the prisoners of the Kamza camp, including myself. But even on this occasion Communist cynicism surpassed itself. Many of those released were children, and their appearance was a sorry sight: they did not want to be separated from their mothers and insisted that they wanted to remain in the camp. The police could only separate them from their mothers by force. When we left the camp we could hear the crying of the unhappy mothers who were being separated from their children. The children too, who were on the way to Tirana, cried and turned their little heads in the direction of the camp..."

Read, approved, and signed.

Llavrion, 25 July 1952.

DOCUMENT No. 45
(CZECHOSLOVAKIA)

Judgment

In the Name of the Republic!

Division II of the People's Court at Frydlant in Bohemia delivered the following judgment at the trial held on 23 May 1953:

The accused, Antonin Dostál, born 23 March 1910, at Bohousov, wealthy farm manager living at No. 56 at Jindrichovice pod Smrkem, at present in custody at Frydlant in Bohemia, is found guilty of the following offences committed at Jindrichovice pod Smrkem before his arrest on 13 November 1952:

1) He took advantage of his position as chairman of the agricultural collective to enrich himself and failed to fulfil his delivery obligations from the agricultural collective and from the farm of Pavel Staras, which he managed. At the same time he caused confusion in the control of deliveries by altering the crop areas and he failed in his professional duties by making more difficult the fulfilment of the standard economic plan in the domain of agricultural production.

2) On his lands he kept two pistols and two shotguns with ammunition.

He thereby committed the offence of sabotage under Article 85 (1) a) of the Criminal Code and of illegal possession of fire arms under Article 120 (1) (b) of the Criminal Code, and is sentenced to 6 years' deprivation of liberty under Articles 22/1 and 85/1 of the Criminal Code and to a fine of 20,000 crowns under Article 46 of the Criminal Code, or on failure thereof 3 months' deprivation of liberty under Article 40.

The entire property of the accused is declared forfeit under Article 47 of the Criminal Code; together with, under Article 74 (1d) of the Criminal Code, confiscation of one half of the farm at 56 Jindrichovice pod Smrkem, which belongs to the defendant's wife, Olga Dostál, together with the entire contents, including the livestock.

Source: Cesta Miru, 26 September 1953.

In Communist countries wherever a group or organization whom the authorities believe they can convict of "counter-revolutionary" activities is discovered, all members of the group are punished for an alleged offence committed by one of them, regardless of whether they knew the other members or the leader of the group or organization, and whether they are themselves guilty or not. This illustrates the application of the principle of collective guilt in its purest form.

DOCUMENT No. 46
(BULGARIA)

"On Crimes Against the People's Republic of Bulgaria".

"... If such an organization has become active, that is, once it has begun to carry out crimes aiming at the overthrow or the weakening of the people's regime, all its members are to be called to account for all crimes committed by the organization — in accordance with the theory and practice of Socialist criminal law on the particular form of participation, which Vyshinsky has worked out with great clarity — and they are to be called to account regardless of whether they were directly involved in the commission of any individual offence or not. This applies also to members of the organization who do not know the actual culprit at all, for the individual members of a criminal group or organization within the meaning of Article 70 of the Criminal Code accomplish their criminal intentions not only by their own actions but also by supporting the activities of the whole organization or group.

That is also the opinion of the Supreme Court of the People's Republic. Decision No. 833 of 14 December 1951 states *inter alia*:

"As is known from the theory and practice of Soviet criminal law, the question of joint guilt has become particularly important in the period of increased resistance. This is also quite natural when it is recalled that the enemy usually employs counterrevolutionary groups and organizations in his fight against the people's regime, and that the existing solution of this problem apparently no longer takes into account the exigencies of the everincreasing class struggle. It may well have been customary under the old bourgeois conceptions to call to account the members of a certain group or organization only when they had known of the crime in question and concurred in its commission or participated in it themselves; but according to Socialist criminal jurisprudence things are different. A participant — whether he is a leader or a member of a counterrevolutionary group or organization — is responsible not only for the crimes in which he himself participated or of which he had knowledge, but also for all other crimes originating in the general activities of the group or organization, that is, crimes that are connected with the planned criminal activities of this group. Such a participant is to be called to account even if he did not know the individual members or leaders of the group or organization. This means that, in answering the question whether the members of the group or organization are responsible under criminal law, the decisive factor is not their personal participation in a certain crime, but the aims for which the organization was founded and the means with which it was to fight against the people's government."

Source: Nikola Takov as found in „Information Service of Jurisprudence” (legal periodical in the Soviet Zone of Germany), No. 1, 5 January 1954.

III. PENAL LAW PROCEEDINGS IN PURSUANCE OF AIMS OF ECONOMIC POLICY

In the Communist orbit the decrees, rules and laws dealing with economic penal law are even more numerous and abundant than those dealing with political penal law. These economic penal provisions have a two-fold aim. On the one hand, private property which falls under production and agriculture must be abolished, on the other hand the State property which results from this abolition — in official language often called “people’s property” — must be defended against all possible supposed and actual attacks. While the instituting of proceedings against private entrepreneurs and independent farmers solely for the purpose of depriving them of their property — i.e., confiscation — was the means of realizing the first aim, penal laws exist for the defence of State property by which even the smallest offences, which in every constitutional state would be punished either by the authorities or by means of disciplinary measures, are liable to severe sentences of deprivation of liberty. The contents of the penal provisions in the field of administrative penal law are confusing. The aim of the communist rulers to punish even the smallest offence or omission which is in any way harmful to the economic plan, or which serves or may serve “private-capitalist interests”, can clearly be seen. In the cases placed before their judgment the courts arbitrarily decide whether the accused can be charged with premeditated intention or negligence. An adequate examination of the subjective facts according to legal principles is not made. The only points of consideration are the possible harmful results of a certain action or omission and the degree of punishment which appears correct from the economic-political point of view.

The objective facts of the individual administrative penal stipulations are usually deliberately kept so vague and adaptable that it is easy for judges in criminal courts in the communist orbit to sentence people on the grounds of the considerations mentioned above. Where there were nevertheless gaps, these were filled by general administrative penal clauses.

a) SABOTAGE

The gravest accusation that can be made against an inhabitant of a Communist State on administrative penal grounds is that of sabotage.

DOCUMENT No. 47
(ROUMANIA)

*Law No. 16 of 15 January 1949, Concerning Treason,
Espionage and Sabotage.*

Article II:

Sabotage against the development of the economy of the Roumanian People's Republic shall be punished by death. Sabotage comprise:

- a) Destruction of, or damage to, buildings, machines of every type, equipment of industrial or other concerns, electrical, gas, or similar installations.
- b) Destruction of tyres, equipment, plants, aircraft or shipping, aqueducts, telecommunication equipment, or the of radio stations.
- c) Destruction by arson or in any other manner of industrial or agricultural tools, industrial or forest reserves.
- d) Deliberate non-fulfilment of duties or carelessness in the fulfilment of duties in the concerns cited in clause (a), resulting in public accidents or catastrophes.

Article V:

The crimes enumerated in this law shall be tried by a military court.

In conferring exclusive competence over crimes postulated in the above law upon military courts, Roumania is following the example of the USSR. Justifying the Roumanian statute, the Minister of Justice, Bunaciu, declared before the Great National Assembly on 14 January 1949:

DOCUMENT No. 48
(ROUMANIA)

"... We are building socialism because it means a better and happier life, liberty and peace for the people. Who is opposed to the building of socialism? Those who have profited from the labour of the masses, from the toil of the people, that is, the great landowners, the bankers, the capitalists and their instruments. How do these people oppose the popular power, the struggle and efforts for building a happier life for the people? By acts of terrorism, of economic sabotage in industry, agriculture and communications, and by other actions calculated to undermine the power of the People's State, or to overthrow popular democracy and replace it by a bourgeois-capitalist régime..."

"But the enemies of our people and of our People's State shall know that their criminal conspiracy will not succeed in diverting the working classes from the struggle to build a world free from great land-owners, bankers and industrialists, exploiters and exploited..."

"Sentence of death upon these criminals is the measure taken by our nation against those who attack the lives and liberty of its citizens. The introduction of the death penalty is a deterrent for all who might be attracted to similar criminal actions for any reason whatsoever."

"The draft law which I am presenting to you aims at placing at the disposal of the People's State this legal means of protecting democratic achievements by threatening capital punishment as the penalty for those who conspire against the might of the People's State, against our economy, against our communications, and all the resources of our people."

"By this law we protect the power of the working classes, the rights they have fought for, their liberties and their well-being, the security and independence of our beloved country."

Source: Romania Libera, 15 January 1949, No. 1349.

DOCUMENT No. 49

(ROUMANIA)

Decree No. 202 Amending the Criminal Code of the People's Republic of Roumania.

After Article 209 there is added a section entitled "Acts Undermining the Political Economy, and Counter-Revolutionary Sabotage", which consists of Articles 209 (1) to 209 (4), with the following content:

Article 209:

- (1) Undermining of the national economy for counter-revolutionary purposes by abuse of state utilities or works and by sabotaging their normal functioning, as well as the use or sabotage of state utilities to the advantage of former proprietors or interested capitalist organisations shall be punishable with forced labor from five to twenty-five years and total or partial confiscation of property. If these actions had, or could have caused, particularly serious consequences, the penalty shall be death and total confiscation of property.
- (2) Destruction or damage for counter-revolutionary purposes by explosions, arson or any other means on factories, works, machines, roads, viaducts, telephone, wires, materials, buildings, industrial products and the like, which are used for the welfare of the community shall be punishable with forced labor from five to 25 years and total or partial confiscation of property. If these actions had, or could have caused, particularly serious consequences, the penalty shall be death and total confiscation of property.
- (3) Wilful neglect to fulfil positive obligations or wilfully negligent fulfilment in order to undermine the people's democratic regime constitutes counter-revolutionary sabotage and shall be punishable with forced labor from five to 25 years and total or partial confiscation of property.
If these actions had, or could have caused, particularly serious consequences, the penalty shall be death and total confiscation of property.
- (4) Attempts to commit any of the offences mentioned in articles 209 (1) to 209 (3) (inclusive) shall be punished in the same manner as the consummated offence.

Source: Buletinul Oficial No. 15, 14 May 1953.

DOCUMENT No. 50

(CZECHOSLOVAKIA)

Criminal Code of Czechoslovakia.

Article 85:

- (1) Whoever fails to fulfil or violates the duties of his profession, occupation of official duty, or falls short of, or evades fulfilling any such duty or commits any other action designed
 - a) to obstruct or render more difficult the carrying out or fulfilment of the unified economic plan in any sector thereof, or
 - b) to effect a serious disturbance in the functioning of an authority or of an official agency or enterprise shall be liable to five to ten years imprisonment.
- (2) In the following cases the offender shall be liable to ten to 25 years imprisonment
 - a) if he commits an act specified in paragraph (1) as a member of a conspiracy;
 - b) if, by such an act, the carrying out or fulfilment of the unified economic plan in a particularly important sector is hindered or rendered more difficult;
 - c) if a serious disturbance is actually brought about in the work of an authority or of an official organ or enterprise; or
 - d) if some other particularly aggravating circumstance is involved.

- (3) Offenders shall be liable to life imprisonment or death in the following cases:
- a) if by their act in paragraph (1) the interests of the defence of the country are gravely endangered;
 - b) if by their act the food supply of a considerable part of the population is seriously interfered with,
 - c) if by their act many lives are endangered, or
 - d) if the act is committed at a time of increased danger for the country, and in the presence of any of the circumstances specified in paragraph (2).
- (4) In addition to the punishment specified in paragraphs (2) and (3), the court shall have the power to impose loss of citizenship; when the court does not impose this punishment, it passes sentence of forfeiture of all property.

By means of the legislation against sabotage, a vigorous battle was and is being fought against the independent peasantry. A peasant woman, almost sixty years old, was convicted of deliberate sabotage and sentenced to one year's imprisonment and a fine of 50,000 crowns, because she had not cultivated her land in accordance with the state-planned economy. The objective of this trial was realized by the confiscation of half her property.

DOCUMENT No. 51
(CZECHOSLOVAKIA)

Publication.

"By decision of the district court at Prague on 22.11.1951, ref. No. T XXIX 243/50, confirmed by the regional court at Prague on 23.1.1952, Marie Holeckova, born 1.11.1893, resident at Dusniky No. 8, was found guilty of the following: that on the estate of 35.76 ha. which she managed in Dusniky in 1949, she failed to cultivate the land according to regulations; that she did not fulfil the seeding-plan for the fiscal year 1949-50;

"that she completely failed to meet her duty to deliver agricultural products, thereby deliberately frustrating the fulfilment of the general economic plan. She has by so doing committed sabotage under Article 36 (1) of Law No. 231/48.

"She was therefore sentenced in compliance with this Article, to twelve months' deprivation of liberty. In accordance with Article 47 she was fined 50,000 Crowns with the alternative of a further three-months deprivation of liberty. In accordance with Article 48, half her property is confiscated. In accordance with Article 52, she is to suffer three years' loss of civic rights at the conclusion of which period she may apply for their reinstatements. In accordance with Article 41, the accused permanently forfeits the right to manage an agricultural estate. No suspension of sentence was granted."

Office of the District Prosecutor,
Prague,
10 March '52.

Source: Práce (Prague), 28 March 1952.

Non-registration or incomplete registration of the land belonging to a farmer, or the relinquishment of an agricultural business without permission are similarly considered actions deserving of punishment and incur sentences for sabotage.

DOCUMENT No. 52
(CZECHOSLOVAKIA)

Judgment.

In the Name of the Republic!

"At the trial which was held in Dubá on 20 August 1952, the District Court of Doksy pronounced judgment as follows:

The accused, Josef Jonás, born 4 May 1891 in Neprevazka in the district of Mladá Boleslav, owner of a farm of 28.21 hectares, resident in Pavlovice-Popelov No. 5 in the district of Doksy, at present remanded by the District Prosecutor: From 1945 to March 1952 the accused kept secret 10.50 hectares of agricultural land in Pavlovice in the district of Doksy and thereby withheld a considerable quantity of agricultural produce from the public food supply. He therefore intentionally failed to fulfil his professional duty in order to frustrate or render more difficult the fulfilment of the general economic plan in its agricultural sector. He thereby committed sabotage according to article 85,1,1 of the Criminal Code, and is sentenced accordingly under article 85,1,1, of the Criminal Code to 2 years' deprivation of liberty. In accordance with article 43 of the Criminal Code the court sentences him to 3 years' loss of civic rights.

In accordance with article 47 of the Criminal Code, the defendant's property is confiscated.

In accordance with article 54 of the Criminal Code this judgment is to be published."

Source: *Cesta Miru (Liberec)*, 31 January 1953.

Two independent farmers who had lost livestock as a result of the insufficient supplies of fodder were accused of sabotage under article 85 of the Czechoslovak Criminal Code. The main penalties imposed were five and six years' imprisonment, respectively, and confiscation of their entire property.

DOCUMENT No. 53
(CZECHOSLOVAKIA)

Judgment.

In the Name of the Republic!

"At the trial of 13 June 1952 the District Court in Horazdovice, Division 2, passed judgment as follows:

"The accused:

Frantisek Smisek, born 18 December 1897 in Sveradice, in the district of Horazdovice, resident at Sveradice No. 1, holder of an agricultural estate of 28 hectares, was found guilty of having failed to fulfil his duty as an independent farmer on the following grounds:

- 1) In 1951, he did not cultivate his farm with the care expected of a good farmer and in particular:
 - a) he tilled the ground badly, with the result that the yield from this land was low,
 - b) he did not provide sufficiently for the feeding and increase of livestock, with the result that through the consequent malnutrition, two heads of cattle died, a calf weighing 100 kg. on 29 February 1951, and a cow weighing 250 kg. on 30 October 1951; also three pigs on 29 February 1951, 15 August and 17 September 1951 and a piglet. This happened although it was proved that he could have provided more adequately for his cattle. He could have procured more fodder — hay as well as straw — in the villages of Blizanovy and Mysliv; in addition to these sources of supply, he could have harvested the fodder free of charge in the border areas of the district of Susice,
- c) he did not conform to the plan relating to the number of livestock, having three cows and 45 hens fewer than were decreed in the plan,

- d) he failed to deliver 14.96 cwt. of beef, 2.44 cwt. of pork, 5,722 litres of milk, 300 eggs, 31.5 cwt. of potatoes, 14 cwt. of barley, 3.72 cwt. of flax straw, 1.96 cwt. and 20 kg. of pulses,
- 2) In the first quarter of 1952, he failed to deliver 4 cwt. of beef, 1.96 cwt. of pork, 1,297 litres of milk, 510 eggs, and 0.85 kg. of wool.

In this manner he has deliberately failed to fulfil his duty in order to render more difficult the carrying out of the general economic plan in the sphere of agricultural production. He has thereby committed sabotage under article 85, par. 1A of the Criminal code. In compliance with this regulation and having regard to article 19 of the Criminal Code, he is sentenced to five years' deprivation of liberty. In accordance with article 23 of the Criminal Code, the time already spent in custody from 1 p.m. on 12 June 1952 to 2.30 p.m. on 26 June 1952 is included in the sentence. In accordance with article 47 of the Criminal Code, the Court orders the confiscation of his entire property with the exception of family chattels. In accordance with article 48 of the Criminal Code, a fine of 100,000 crowns is imposed, with an alternative of one year's deprivation of liberty. In compliance with article 54 of the Criminal Code, the judgment shall be published at the discretion of the public prosecutor. No suspension of sentence is granted."

District Court in Horazdovice,
Division 2,
26 July 1952.

Certified.

Source: Pravda (Plzen), 29 August 1952.

DOCUMENT No. 54
(CZECHOSLOVAKIA)

Judgment.

In the Name of the Republic!

"At the trial on 26 June 1952 the district court in Horazdovice, Division 2, passed judgment as follows :

The accused :

Frantisek Biskup, born 11 October 1899 in Lom, in the district of Blatna, resident at Sveradice, No. 58, holder of a farm of 21 hectares, is found guilty of failing to fulfil his duty as an independent farmer on the following grounds :

- 1) In the year 1951,
 - a) he did not devote himself to his agricultural production with the care to be expected of a good farmer, and in particular,
 - aa) he bought no artificial manure, fertilized and tilled the fields badly, with the result that the yield from this land was low,
 - bb) he failed to provide adequately for the feeding and increase of livestock, so that it suffered from malnutrition. As a result, two calves died in 1952, one weighing 86 kg. and the other 95 kg. The accused had not procured sufficient fodder for them, although 3 cwt. and 4 cwt. of straw had been allotted to him in the village of Stipoklasy by the village national committee; these, however, he did not collect. In addition, he could have bought hay and straw in the not too distant villages of Blizanova, Mysliv and in the Horazdovice district, and he could have obtained hay in the neighbouring district of Susice merely at the cost of transport,
 - cc) he did not conform to the plan with regard to the number of livestock, having two cows and 28 hens fewer than decreed by the plan, and, furthermore, he failed to buy additional livestock apart from the two calves officially allotted to him, although he was able to do so.
 - b) In 1951, he failed to deliver: 14.57 cwt. of beef, 4.8 cwt. of pork, 6,050 litres of milk, 1,702 eggs, 1.1 cwt. of rye, 1.52 cwt. of oleaginous plants and 3 cwt. of straw.
- 2) In the first quarter of 1952, he failed to deliver: 3.5 cwt. of beef, 2 cwt. of pork, 764 eggs and 1,500 litres of milk.

"In this way he deliberately failed to fulfil his duty, in order to render more difficult the carrying out of the general economic plan in the field of agricultural production and thereby committed sabotage under article 85, paragraph 1a of the Criminal Code. In accordance with article 85, paragraph 1a, and taking into consideration article 19 of the Criminal Code, the accused is sentenced to 6 year's deprivation of liberty. In accordance with article 23 of the Criminal Code, the time spent in custody from 1 p.m. on 12 June 1952 to 6.45 p.m. on 26 June 1952 is included in the sentence. In accordance with article 47, the Court orders the forfeiture of his entire property, with the exception of those chattels which are exempted from confiscation. Under article 44, the accused is deprived of civic rights for five years. Under article 48 a fine of 80.000 crowns is imposed, with the alternative of one year's deprivation of liberty. The accused is forbidden ever again to reside in the district of Horazdovice under article 53. Under article 54 of the Penal Code, the judgment shall be made public at the discretion of the public prosecutor. The judgment takes effect on 14 July 1952. District Court in Horazdovice,

Division 2,

26 July 1952."

(Signed)

Source: *Pravda (Plzen)*, 8 August 1952.

Another court tried a peasant on the same grounds and similarly achieved the desired sentence on the grounds of sabotage. None of the judges concerned was willing to admit that a peasant will never deliberately cause the death of cattle which he has raised by his own efforts. But the court examination was not designed to include such deliberations, since apart from the heavy sentence of imprisonment, the essential aim was achieved by the confiscation of the peasant's land.

DOCUMENT No. 55
(CZECHOSLOVAKIA)

Judgment.

Pt 70/52-71

"By judgment of the District Court in Blovice on 16 October 1952, ref. T 88/52-54, confirmed by the regional court sitting as Court of Appeal in Pilzen on 28 December 1952, ref. 2 Tk 294/52, the accused:

Frantisek Kotora, born 27 October in Milinov, district of Blovice, independent farmer and mill owner, manager of an estate of 15 hectares, resident at No. 47 Zákava district of Blovice, was found guilty of the following:

"In 1951, and in the first half of 1952, while an independent farmer in Zakava, he deliberately caused the deaths, over a period of six months, of his four newly-weaned calves, by giving them fodder that was dangerous for them. As a result of this, he did not maintain the planned number of cattle, and failed to carry out the regulation delivery of beef in 1951, omitting to deliver 4.47 cwt. Furthermore, in 1951 and 1952, he deliberately neglected to deliver the decreed quota of milk, i.e., 2,037 litres in 1951 and 329 litres in the first half of 1952. He also neglected to deliver 13 kg. of poultry. He deliberately endangered his remaining young cattle by giving them absolutely unsuitable fodder, aiming thereby at causing harm to cattle breeding. He therefore failed in the duty which his profession demanded of him, and committed the deeds mentioned above with the intention of frustrating and rendering more difficult the carrying out and fulfilment of the general economic plan in the field of agricultural production.

"By his actions he committed sabotage under article 85 paragraph 1 (a) of the Criminal Code and was sentenced in accordance with article 85 paragraph 1 (a) and article 30 of the Criminal Code to two years' deprivation of liberty, and in accordance with article 48 to a fine of

50,000 crowns with an alternative of 3 months' deprivation of liberty. In compliance with article 47 of the Criminal Code, his entire property, with the exception of his personal chattels including household furniture was confiscated. He was forbidden, in accordance with article 53 of the Criminal Code ever again to reside in the district of Blovice. In accordance with article 54 of the Criminal Code the judgment to be published.

Blovice, 9 March 1952."

Source: *Pravda (Plzen)*, 10 April 1952.

The peasant Augustin Geryk sowed oats and mixed grain on the land which belonged to him instead of wheat and rye. One year's deprivation of liberty and confiscation of his entire property was the sentence passed on this peasant, because this disobedience was alleged to be the cause of his inability to fulfil his commitments in the delivery of milk and grain.

DOCUMENT No. 56

(CZECHOSLOVAKIA)

Judgment.

T 93/52

(Extract)

In the Name of the Republic!

"At the trial on 29 July 1952, the District Court in Bilovec pronounced the following judgment:

Augustin Geryk, born 11 May 1896 in Verodice in the district of Frenstat pod Radhostem, independent peasant, resident at Butovice, No. 232, in the district of Bilovec is found guilty of the following:

"In Butovice, in 1951, on the estates No. 232 and 443 comprising 23 hectares, which he managed together with his son Bohumil Geryk, he planted 1.5 hectare less with wheat and 1 hectare less with rye than the seedplan demanded, and planted oats and mixed cereals on the land which he had saved in this manner. As a result in 1951 he was 30 cwt. short in his obligatory delivery of cereals and 6,000 litres of milk. He therefore failed in the duty demanded of him by his profession, intending to render more difficult the fulfilment of the general economic plan in the sphere of agricultural production. He thereby committed sabotage under article 85 paragraph 1 (a) of the Criminal Code and is sentenced, in accordance with article 85, paragraph 1 (a) in conjunction with article 30 of the Criminal Code, to one year's deprivation of liberty. In accordance with article 47 of the Criminal Code, confiscation of his property in favour of the State was ordered.

"In accordance with article 53, the accused Augustin Geryk was forbidden ever again to reside in Butovice. No suspension of the sentence was granted.

District Court in Bilovec,

Division 2

29 July 1952

"The district prosecutor appealed against this judgment. The regional court in Ostrava, sitting as Court of Appeal on 11 September 1952, ref. 4 TK 184/52-2, allowed the appeal in so far it sentenced the accused Augustin Geryk to an additional fine of 10,000 crowns, with an alternative of a further two months' imprisonment under articles 45 and 49 of the Criminal Code. The Regional Court also ordered forfeiture of his civic rights for two years in accordance with article 44 of the Criminal Code."

The Office of the District Prosecutor in Bilovec

20 November 1952.

Source: *Nova Svoboda (Ostrava)*, 28 November 1952.

Aided by the paragraphs of the Criminal Code relating to sabotage, the courts proceed not only against independent peasants, but also against members of agricultural collectives. Here, it is sufficient to establish the fact that if a man has worked carelessly or has arrived late for work he can be sentenced to four years' imprisonment.

DOCUMENT No. 57
(CZECHOSLOVAKIA)

Judgment of the People's Court of Frydlant of 7 April 1953.

"The accused Frantisek Chlupac, born 27 May 1922 in Horni Javori, former member of the agricultural co-operative of Detrichov, at present in custody on remand, was found guilty of the following:

"As a member of the agricultural collective of Detrichov until 24 December 1952 he worked carelessly, arrived late for work, neglected the machines which were entrusted to him, carried out the construction work for which he was responsible in a slipshod manner and thereby neglected and shirked his vocational duty. He probably acted thus with the intention of hindering the fulfilment of the economic plan in the field of agricultural production. Since the accused has thereby committed sabotage under article 85 of the Criminal Code, he is sentenced, bearing in mind the right of the Court to exercise indulgence, to four years' deprivation of liberty and a fine of 50,000 crowns, with the alternative of further six months' imprisonment. In accordance with article 43 of the Criminal Code, he forfeits civic rights for five years. In accordance with article 53 he is forbidden to reside in the district of Frydlant for a period of ten years. In accordance with article 54 of the Criminal Code, the judgment is to be made public at the discretion of the District Prosecutor. Probation is refused."

Source: Cesta Miru (Liberec), 1 August 1953.

The following individual sentences, most of which were passed against farmers, corroborate the picture which emerges from an official, although confidential, circular of the Ministry of Justice in the Soviet Zone of Germany: so-called intensified class-warfare in country districts in the course of which the independent farmers are to be proceeded against with all severity and the collectivising of agriculture achieved by means of criminal proceedings.

DOCUMENT No. 58
(SOVIET ZONE OF GERMANY)

Government of the
German Democratic Republic
Ministry of Justice
4070 E — II — 3159/53

Berlin, 5 March 1953
Clara-Zetkin-Str. 93
Telephone 22 02 01.

R V V No. 4/53

To all
Courts and Judicial Administration Authorities
of the Districts
in the German Democratic Republic

Subject: Criminal Proceedings against landowners.

The historic decision of the second party conference of the Socialist Unity Party of Germany in July 1952, to begin the systematic construction of the foundations of Socialism in the German Democratic Republic is a turning point in the further development of Germany.

The establishment and extension of agricultural production co-operatives assist the creation of the foundations of socialism in country districts and give expression to the strengthening of the bond which unites the working-class with the working peasants. The Government of the German Democratic Republic has guaranteed the promotion of the agricultural production co-operatives by means of a series of legal measures. A proportion of the landowners and their minions are directing their attacks with increased vigour against this progressive development. With means ranging from calumny to bodily injury, not hesitating even at murder, these elements seek to hinder, delay and sabotage the formation and construction of the production co-operatives. In many cases the courts have not recognized the character of these crimes as an expression of the intensification of class-warfare. They did not realize that the intention was to damage the democratic construction and passed sentence according to the outward appearance of the facts of the case. Thus it was possible for the district court in Frankfurt/Oder, in a trial of a reactionary peasant who had not only mistreated a progressive peasant who had furthered the formation of production co-operatives, but had also committed acts of open provocation, to pass a sentence incompatible with the facts and with justice.

Another indication of the class-warfare which is ever growing in intensity in village communities is the non-fulfilment of the delivery norms in the field of agricultural produce. These offences are increasing in number and importance in all districts. Here, too, the practice of the courts differs so that in many cases the outcome of the trial does not correspond with the seriousness of the crimes. While some courts, like the regional court of Meissen, in the criminal proceedings against the landowner Melzer, or the regional court of Liebenswerda against the landowner Jeuschel, have passed sentences which reflect the degree of heinousness of these crimes, others, like the regional courts of Paserwalk and Calbe/Minde, show in their judgments, for which they often excuse themselves by pleading so-called "objective difficulties", a complete lack of understanding of the present situation.

But it is the task of the courts of the German Democratic Republic to protect and promote the construction of the foundation of Socialism. They can do justice to this task only by a correct appreciation of the political situation in country districts and by fighting the class-hostile actions of the landowners with all possible means. Severe sentences must therefore be imposed on such landowners who commit crimes directed against democratic construction, and which violate the laws of the German Democratic Republic. It must be determined at the trial whether conditions are present justifying confiscation of property, and if this is the case, then this sentence is to be pronounced. Confiscated agricultural enterprises will be handed over to the production co-operatives by the administrative authorities concerned. These means ensure that these farms are used to the advantage of the entire population.

(signed) Fechner

witnessed:

(signed) Laser
Clerk

Lack of labour, age, ill-health, and cattle diseases do not constitute grounds on which the farmers who are to be punished because of political considerations would be released from responsibility. The courts dismiss such mitigating circumstances in their judgments with the general assertion that the farmers have not done everything in their power to fulfil their obligations, that they were fully responsible and must therefore be punished severely. Sentences of several years' hard labour are the result:

DOCUMENT No. 59
(SOVIET ZONE OF GERMANY)

Ref. No.
2 DS 14/53
K II 3/53

In the Name of the People!

"Criminal Proceedings

1887 in Basedow in the district of Prenzlau, resident in Basedow, district against Hermann Wilhelm Friedrich Ohlbrecht, farmer, born 6 July of Prenzlau;

widower with three children aged 25 to 29, previously fined 1,600.— DM for economic offences in 1952,

at present in custody on remand since 17 January 1953 in the remand prison at Prenzlau for economic crimes.

"The Criminal Chamber of the Regional Court in Prenzlau, at its hearing on 12 February 1953 in which the following took part:

Judge Krupp (female)
as President,
the employee Hermann Aegerter, of Prenzlau,
the employee August Lüdke, of Prenzlau,
as lay assessors,
Public Prosecutor Butzke
as representative of the public prosecutor's department,
the employee of the court Röhler,
as court reporter,

has pronounced judgment as follows:

"The accused Ohlbrecht is sentenced for economic crimes under article 1 (1), paragraphs 1 and 3 of the Economic Penal ordinance, to five years' hard labour and forfeiture of property, and to pay the costs of the trial. The time spent in custody since 17 January 1953 will be taken into account. It is further decreed that the judgment is to be made public after it has come into force by an insertion in the periodical *The Free Earth* at the expense of the accused.

"Findings:

The accused is 65 years of age. He attended the elementary school for four years and the middle school also for four years. Following that he was employed on his father's farm, which he inherited in 1921. He served in the Army during the first World War and was once buried alive for a short time. His estate covers 60 hectares. He became a widower four years ago. He has three children aged 26, 28, and 30 respectively; only one son, who is single, is at home and helps on his father's farm. In addition, two sisters of the accused, one in the mid-fifties, the other 60, live in with the family. Last year, the accused still employed one male labourer until the beginning of December. In addition, he had a female labourer from April to the beginning of November 1952, and another female labourer who is still employed there. The accused was a member of the National Socialist Party from 1937 to 1945. He allegedly held no offices, but merely paid his dues. For some time now, he has been a member of the National Democratic Party of Germany and also holds no offices. In addition, he is a member of the VdgB and has occasionally attended meetings. Until now, he has not completely fulfilled his delivery norms. At the beginning of December 1952 he was fined DM. 1,600 under the Economic Penal Law for failing to fulfil his obligatory delivery norms to the end of October of that year, and for not complying with the cattle raising plan. In spite of this punishment, the accused has persisted in not fulfilling his obligations, and in the last quarter ending on 15 December 1952, for example, he has fulfilled his quota of pork by only 75 per cent when it should have been fulfilled 86 per cent and his quota of grain,

which should have been fulfilled 100 per cent, was about 3,000 kg short; his quota of oil seeds should also have been fulfilled 100 per cent, but was, in fact, about 1,600 kg short; in November, his quota of potatoes should have been fulfilled 100 per cent, but was still 25,9 tons short of the total. In addition, he is in arrears in respect of some milk, straw and 4 kg. of wool. Furthermore, the accused has failed to thin out his 17 acres of sugar beet, with the result that the yield from this land is precisely nothing. In addition, until 17 January 1953 he had harvested only 7 acres of sugar beet, and even this he had failed to deliver. The accused's farm, or rather his fields, are in Basedow. The distance from there to the sugar factory in Prenzlau is about 6 kilometres. Furthermore, the accused has four horses and a tractor with which he could have transported the sugar beets. These statements are based on the admissions of the accused as well as on the depositions of witnesses and experts.

"In his defence the accused put forward that since he had not been able to obtain enough labour, he was not in a position to fulfil his norms. He alleged that he had always attempted to secure farm labour and could, on one occasion, have engaged a family containing three agricultural labourers, but would have needed a house for them. He said that he had approached the burgomaster in order to obtain vacant possession of the dwelling which had formerly always been available for his farm workers but which was then occupied by others. This, he continued, was not granted, and he was therefore compelled to carry on with the two farm workers at his disposal who could not possibly cover the work of a farm of 60 hectares. He further alleged that he was ill and could give very little help on the farm, and that this applied also to his two sisters. He asserted that he could therefore not be held responsible for deliberately neglecting anything, as he would have fulfilled his obligations with pleasure if this had been possible. The son of the accused, who was heard as a witness, supplemented the statement of the accused by adding that they could have obtained another family with 5 agricultural labourers, if accommodation had been available. According to the statement of the burgomaster Sprenger, who was also heard as a witness, the accused, with four persons in all, occupied living quarters extending over 100 sq. metres. This statement was corroborated by the committee member Mandelkow. Since these statements were entirely trustworthy, and since neither the accused nor his son had any objection to make against them they were accepted by the Court, and it thereby becomes clear that the accused had not done everything in his power to meet his commitments, for if he had seriously pondered the matter and wanted to fulfil his obligations, he would have given up half of his living quarters of 100 square metres in order to house farm workers, whereby he and his household would still have had more living accommodation than they were entitled to. Furthermore, he could have fulfilled his delivery obligations promptly if he had not isolated himself from the other farms. The accused had a threshing machine and the other farmers in the village had not, and this threshing machine was included in the plan for the Basedow community. The accused has hardly ever placed it at the community's disposal. The accused asserted that, if he had lent out the threshing machine, his son would have had to go with it as its operator, and that he had asked for a worker in exchange, but that no one had been assigned to him.

"According to the statements of the witnesses Mandelkow and Sprenger, every time the farmers wanted the threshing machine, the accused said that he needed it himself or that it was out of order. If the threshing machine had been used economically, there would have been ten people at the disposal of the community to help with the threshing. By cutting himself off from the rest of the community, the accused received no help from that quarter and it took him weeks to complete with his shall labour resources the threshing which could have been accomplished in a few days through mutual aid. Fur-

thermore the other farmers in the community would have completed their threshing more quickly if he had placed the machine at their disposal as planned. Also according to the trustworthy statements of the witness Mendelkow, a large-scale operation was commenced on a frostfree day towards the end of the year. For this purpose, all the members of the community were called upon to place their horse-drawn and motor vehicles at its disposal. On this particular day, the accused's sister drove in the onehorse trap to the doctor's in Prenzlau. The Court is convinced that the illness was not so serious that the sister of the accused could not have gone on another day instead. It is apparent from all this that the accused did not do everything in his power to meet his obligations, and that he endangered the carrying out of the economic plan and the feeding of the population by the following actions: At the end of 1952 and the beginning of 1953, in the Prenzlau district, he neglected to harvest and deliver raw materials by failing to thin out three acres of sugar beet, failing to deliver 7 acres of harvested sugar beet to the sugar factory at Prenzlau and failing to gather in the remainder of the sugar beet crop promptly and deliver it. This was contrary to a directive issued by a department of the economic administration which was binding upon him. By failing to deliver 7 acres of sugar beet which had been harvested, he was at the same time holding them back contrary to the economic directives. The same applies also to the non-delivery of the grain, oil seeds, potatoes, pork, milk, straw and wool. Here, too, he has endangered the carrying out of the economic plan by acting contrary to a directive which was binding upon him. He has done all this deliberately, for he knew what he had to fulfil and did not make a serious effort to meet his obligations. Counsel for the defence was admittedly of the opinion that he has at most acted negligently, as he is an old and ailing man whose brain is no longer active. Furthermore, he urged, it was to be expected that the after-effects of the accused's being buried alive would now become more apparent, although this would not, of course, diminish his responsibility for his actions.

"The objections of the counsel for the defence are justifiable insofar as the accused is an old and ailing man and not very active, but this does not alter the fact that he is fully responsible for his actions. For, as counsel for the defence himself admits, he is still of sound mind, and therefore also fully responsible for the regular management of his farm and the prompt fulfilment of the plans relating to it. But this did not matter at all to him. It did not interest him in the least whether he was able to fulfil his obligations or not, he isolated himself from everyone and worked in his own interest, at his same old leisurely pace. If he had really wanted to meet his obligations, then he would have engaged the family with the three farm workers or the other family with five, and placed part of his 100 square metres of living accommodation at their disposal. He would also have adopted a different attitude on the occasion of the large-scale operations for the saving of the sugar beet harvest and over the loan of the threshing machine.

"It is thereby proved that the accused acted deliberately, and has made himself punishable under article 1, paragraph 1, (1) and (3) of the Economic Penal Ordinance. The prosecutor demanded five years' penal servitude for this offence. In spite of his advanced age and the fact that he is in rather poor health, the Court held the punishment demanded by the prosecutor to be suitable, considering the objective damage caused, and taking into account all the subjective factors.

"The confiscation of property is mandatory in the case of an offence under article 1, paragraph 1 (1-3) of the Economic Penal Ordinance. Publication of the judgment follows under article 18 of the Economic Penal Order. The accused has to bear the costs of the trial under article 353 of the Code of Criminal Procedure."

DOCUMENT No. 60
(SOVIET ZONE OF GERMANY)

Ref. No. 5 Ds. 55/53 H

In the Name of the People!

"Penal Proceedings against Helene Rietdorf née Kloas, farmer, of Cahnsdorf, district of Luckau, born 7 April 1893 in the aforementioned place, widow with two children, no previous convictions, detained in custody since 29 March 1953 in the remand prison at Senftenberg, for economic crimes.

"The regional court in Luckau, Niederlausitz, pronounced judgment at its sitting of 13 May 1953, in which the following took part:

Regional Court Director Wozniak
as President,
Albert Vorbrich, Luckau, gate-keeper,
Erich Grundmann, Dalune, warehouse labourer, as lay assessors,
Public Prosecutor Pillkahn,
representing the Public Prosecutor's department,
the court employee Toswiakowski
as Court reporter,

as follows:

"The accused is sentenced to two years' penal servitude for endangering the economic plan and feeding of the population, under article 1, section 1, paragraph 1 of the Economic Penal Ordinance. The property of the accused is confiscated.

The period spent in custody to be counted as part of the sentence. The accused bears the costs.

"*Findings:* The accused is 60 years of age. She attended elementary school and was afterwards on her parents' farm. The farm, which now covers 29 hectares, was transferred to her in 1903. The accused has been a widow since 1933 and has two children. The accused is organized in the VdgB.

The accused has managed the farm since the death of her husband. She has always employed one outside labourer and two to three during the season. From 1948 until 1951 she leased the farm to her brother-in-law. The latter fulfilled his obligations towards the State during his period as tenant. An inspection of the farm established that the accused was very much in arrears with regard to animal products. The arrears arose because the accused has not fulfilled the plan with regard to the livestock to be maintained. The accused submits in her defence that the tenant farmer had not established the necessary basic source of fodder and that she remained in arrear with regard to her milk quota as a result of this. Opposed to this, however, is the fact that the accused transferred the meadow belonging to the farm to her daughter, thereby depriving the farm of its basic source of fodder. It was further established that through bad storage about 5 tons of potatoes were frozen or otherwise spoiled. Furthermore, it was established at the trial that the grain deteriorated in value as a result of being incorrectly stored by the accused. Mismanagement by the accused resulted in our State being deprived of 5, 377 litres of milk. She has thereby endangered the fulfilment of the economic plan and the food-supply of the population. The non-fulfilment of the plan covering the amount of livestock to be maintained and the non-fulfilment of the norm are offences against a directive issued by a Department of Economic Administration. She has thereby neglected in part to harvest and store produce, or has harvested and stored it inadequately. The accused acted deliberately. She knew that by her action she was endangering the economic plan and the feeding of the population. She knew that by failing to fulfil the plan and storing the produce badly, she was acting contrary to a directive issued by a Department of Economic Administration. Thereby the accused has fulfilled the conditions of article 1, paragraph 1 (1) of the Economic Penal Ordinance both objectively and subjectively. The

action of the accused represents a serious attack on our order. She has contributed to the non-fulfilment of the plan regarding animal and vegetable production. She has added to the difficulties existing in the food supply for the population. The prosecutor demanded three years' penal servitude and confiscation of property. The Court was not in complete agreement with this demand. The Court considers the sentence imposed to be adequate and is of the opinion that it fulfils its purpose. Article 291 (2) of the Rules of Criminal Procedure governs the time already spent in custody and article 353 the decision as to costs."

In the Soviet Zone of Germany, the courts can even confiscate in favour of the State the property of persons who have not committed the alleged crime which the court is called upon to try. It suffices that a crime has been committed in a productive or agricultural enterprise and that the court thereupon establishes that the owners of these enterprises have not taken the necessary care to prevent its commission.

DOCUMENT No. 61

(SOVIET ZONE OF GERMANY)

City Court of Berlin
Criminal Division Ib
(101 b) II Wei 252.52 (24.53)

In the Name of the People!

"Criminal Proceedings against

- 1) Helmut August Wilhelm Böttcher, peasant born 28 June 1916 in Berlin,
- 2) Fritz Alfred Max Arendt, butcher, born 3 November 1913 in Berlin,
- 4) Else Alwine Pauline Böttcher, née Schulze, farmer, born 15 June 1894 in Berlin,
- 5) Gerda Margarete Paula Arendt née Munchehofe, gardener, born 23 August 1923 in Berlin.

"The Criminal Division Ib of the City Court of Berlin, at its sitting of 20 February 1953 ... pronounced the following judgment:

The accused are sentenced as follows :

- 4) The accused Else Böttcher to confiscation of property on the grounds that she is unable to prove that she has exercised proper care in the prevention of criminal acts in her farming business.
- 5) The accused Gerda Arendt to confiscation of property on the grounds that she is unable to prove the exercise of proper care in the prevention of criminal acts in her farming business.

...

"From the findings:

Statement of facts :

When the accused Böttcher returned to the farm after 1945, economy was greatly disorganized by the war. In the years that followed, he had some initial successes in increasing the number of livestock and in putting the farm halfway on its feet again. The estate consists of 25 hectares of freehold and 6 hectares of leasehold land; the livestock includes 11 head of cattle, 25 pigs, 2 carthorses and 2 foals. The estate is worth about DM. 44.000. In 1946, the barn of the accused, which housed a considerable amount of agricultural machinery, was destroyed in a storm. Since the accused did not take the trouble in the period that followed to erect at least an emergency shed with the still usable wood and other materials the agricultural machinery was left standing in the open or gradually fell into rack ruin. This led to the accused being obliged to borrow important machinery from the Machine Lending Station or from other farmers. Repairs to his own machines were not undertaken until just before they had to be put into use. This led, in 1952, to the accused being unable to thresh his wheat in time, so that it was

left in a rick in the field and became soaked through and rotten. Only with the help of a Soviet drying installation at the MTS School in Wartenberg was it later possible to save the wheat from complete destruction.

"Not all the employees of the accused worked under a proper contract. In the case of others, including the witnesses Mankow and Kuhlbrecht, no proper contract of employment had been entered into. The employees did not receive the wages to which they were entitled, worked more than eight hours a day and were not granted regular holidays. The most irregular conditions of work led to the wages being paid grudgingly and irregularly.

"As a result of this, the witness Mankow is at present entitled to arrears of wages amounting to DM 951.20.

"Although the accused's land was — according to his own testimony — in desperate need of fertilizing, he allowed large quantities of fertilizers which had been stored in the farm since 1945, as well as the fertilizers allotted to him later, to get spoiled.

"Although the accused was in possession of the machines needed for the job, not even lime was scattered on the fields, but was so badly stored as to become lumpy and was only made usable with considerable difficulty.

"Because of the irresponsibly late commencement of the potato harvest of 1952, again caused by the poor condition of the agricultural machinery, gathering was impossible, so that 50—60 cwt. of potatoes froze in the ground.

"In 1951 and 1952 the accused by arrangement transported 10 tons of oats, worth DM 25 to DM 35 per cwt. to the farm of the accused Arendt. These oats were brought, so far as it concerned the oats allotted for Böttcher's horses, in part direct from the VVEAB to Arendt. To some extent, oats which Böttcher himself had harvested after satisfying his quota commitments, were involved. These were transported in large or small cartloads from Böttcher's farm to that of Arendt.

"The accused Böttcher and Arendt had already been sentenced in 1952 for illegally disposing of or illegally acquiring respectively 2 tons of oats, which are included in the 10 tons mentioned above. On that occasion, however, the accused were able, through misrepresentation of the facts, to mislead the court into believing this to have been an exchange...

"The accused Else Böttcher was, according to her own testimony, fully aware of her son's slovenly management of the farm. She knew that the employees were paid only at very irregular intervals and then not according to rates. She knew that her son, the accused Böttcher, delivered large quantities of oats to Arendt, without holding any authorization for doing so. She knew that her son was allowing the agricultural machines to go to rack and ruin, and was aware, in particular, of the debts amounting to DM. 15.0000 owing to various institutions, which had likewise been incurred through his irresponsible management.

"The accused Gerda Arendt also neglected to take the proper care in the prevention of criminal actions of her farm. It is part of the duty of the owner of a farm to satisfy himself that the business is run regularly. The accused, however, certainly did not pay enough attention to her supervisory duties, otherwise the illegal actions of her husband, the accused Arendt, would have been known to her...

"In the accused Böttcher we have one of those elements who have adopted an attitude of total rejection towards developments in the German Democratic Republic. In an absolutely outrageous manner he disregarded the economic measures of the state authorities, allowing the enterprise he managed to go to rack and ruin and transgressing the law protecting agricultural labourers. He thereby made himself guilty of an infringement of Order No. 160, of 3 December 1945, of the Supreme Command of the Soviet Military Administration in Germany. In delivering the oats to Arendt and thereby disposing of them in a manner other than through regular economic channels, he delibe-

rately endangered the planned economy and thus transgressed against article 1, paragraph 1 (3) of the Economic Penal Order dated 23 September 1948...

"By his violation of the law, the accused made himself liable to punishment.

By one and the same action he infringed Order No. 160 and the Economic Penal Code. In accordance with article 73 of the Criminal Code, the Court applied the law which demanded the severest punishment and passed sentence of six years' penal servitude...

"The accused Arendt had been warned by previous convictions for offences against the Economic Criminal Law. Yet he arranged with the accused Böttcher to purchase the oats. Acting jointly, these two men removed the oats from the regular marketing channels and thereby endangered the planned economy. The accused Arendt therefore also violated article 1, paragraph 1 (3) of the Economic Penal Code and made himself punishable. Taking into consideration the fact that, on the whole, Arendt conducted his business well, the Court sentenced him for his illegal dealings to only two years' penal servitude. At the same time, the Court passed sentence, under the same paragraph, of confiscation of property...

"The accused Elsa Böttcher and Gerda Arendt cannot prove that they, as the owners of the properties, have exercised proper care in the prevention of illegal dealings by the accused Fritz Arendt and Helmut Böttcher. According to article 10 and article 1, paragraph 1 (1) of the Economic Penal Code, they are therefore sentenced to forfeiture of property. Under article 16 of the Economic Penal Code, the objects involved in the criminal act are to be confiscated without consideration of the question of ownership or of other rights of third parties.

"There is no doubt that the oats grown on Böttcher's farm and illegally sold by him to Arendt, bear a relationship to Böttcher's farm. The oats which were illegally acquired, and which were stored on Arendt's farm, and fed to the horses belonging to the farm, bear, through their use, a relationship to this farm as well. Therefore, in both cases, the confiscation of both farms under article 16 of the Economic Penal Code was ordered.

"The costs of the trial rest, insofar as conviction follows, on article 353 of the Code of Criminal Procedure, and insofar as acquittal follows, on article 355 of the same law."

(signed) Brunner (signed) Baumann (signed) Bernicke

Rights of third parties, if any, to landed property which is confiscated in favour of the State, are cancelled without compensation, as can be seen from the following document (cf. the remark "The charges of sections II and III are cancelled"). It can thus ensue that the holder of a mortgage can lose the mortgage registered in his name without compensation, if a criminal court establishes that the manager — not the owner — of the land in question has committed an economic crime.

DOCUMENT No. 62

(SOVIET ZONE OF GERMANY)

Council of the District of Neustrelitz

— State Property —

Neustrelitz, 16 December 1953.

— K —

Reference: Diemitz.

Trusteeship Deed

- 1) The Council of the Municipality of Diemitz shall be, effective 1 December 1953, trustee of the landed property denoted here: Diemitz 7.
- 2) The balancing of accounts is to be carried out by the trustee.

- 3) a) Former owner: Hermann Büniger
 b) Accounts formerly balanced by:...
- 4) The trustee is the steward of the people's property entrusted to him. His responsibility and commitment to particular care follow from the legal directives applying to people's property and from the regulations for trustees bound to the economic plan.

Register of Landed Property

No.	Council of the District	Municipality	Address of property
I	Neustrelitz	Diemitz	7

To the
 Council of the District of Neustrelitz
 Department: Land Register
 Neustrelitz

LS

(signed) Dahlmann
 Municipal Secretary to the
 Council of Neustrelitz

Council of the District of Neustrelitz
 Department: Land Register
 Diemitz 7

Neustrelitz, 17 December 1953

To the
 Council of the Municipality
 Diemitz

Ratification

In accordance with your request, the landed property quoted above was, with the exception of the pieces of land indicated below, conveyed on 17 December 1953 to the people's property.

Trustee, effective 1 December 1953, is the Council of the Municipality of Diemitz.

The following were not conveyed:

(e.g. because of faulty denotation in the Register of Landed Property or because Fig. 3a of the authorization of trusteeship does not correspond with the name entered as owner in the Register of Landed Property)

The following claims against the landed property cited in the authorization of trusteeship (statement of the running No.) are entered in the Register of Landed Property:

The claims under Sections II and III are cancelled

(Signed) Zimmermann
 Head of Department

Council of the District of Neustrelitz
 State Property

Neustrelitz, 6 January 1954.
 House No. 2

—K—

To the
 Council of the Municipality of Diemitz
 Diemitz, in Neustrelitz.

Subject: Legal confiscation of property of Hermann Büniger, born 5 August 1892, in Diemitz, last residence in Diemitz in Neustrelitz.

Ref.: Sentence of the 3rd Criminal Court of the District Court of Neubrandenburg, of 26 May 1953.

The above named was sentenced for economic crimes by judgment of the 3rd Criminal Court of the District Court of Neubrandenburg on 26 May 1953, Ref. III Ks 215/53-, valid and effective since 3 June 1953, to confiscation of property in addition to the prison sentence. Included in the property subject to confiscation is his agricultural landed property entered in the register of landed property in Diemitz, page 7 — see enclosed proof of trusteeship.

It is hereby established that the afore-mentioned property has become part of the people's property.

You are requested to take over this property immediately and to confirm the regular taking over to the Department for State Property of the Council of the District of Neustrelitz within fourteen days, and to return at the same time two copies of this authorization to take over the property bearing written confirmation of the fulfilment of the commission.

(Signed:) Dahlmann
Municipal Secretary to the
Council of the District of Neustrelitz.

b) SENTENCES ON ACCOUNT OF ENDANGERING THE ECONOMIC PLAN

In cases where the communist People's judges, try as they may, cannot see themselves in a position to convict the accused of deliberate sabotage, there exist other possibilities of conviction for "endangering of the general economic plan". Punishment for the non-fulfilment of obligations, — even when occasioned merely by carelessness — is threatened and inflicted without it being laid down in detail what are actually the obligations placed upon the individual under the economic plan of the state.

DOCUMENT No. 63 (POLAND)

*Decree of 9 February 1953 on the Complete Cultivation of
Arable Land.*

Article 1:

- 1) Holders of arable land are under a duty of cultivating it entirely and properly.
- 2) For the purposes of this decree any person who holds land (i.e. owner, tenant, usufructuary, administrator) is considered as the occupant of the land.

Article 3:

An occupant of land who is not able to cultivate it fully and satisfactorily is under a duty to inform the Presidium of the Township People's Council before the beginning of cultivation in the spring and not later than 15 February and before the beginning of cultivation in the autumn but no later than 1 August.

Article 16:

- 1) An occupant of land who, contrary to his obligation under Article 3 does not report in time that he is unable to cultivate his land, shall be liable to a maximum of one month corrective labour or a fine up to 1000 zloty.
- 2) An occupant of land who without justification fails to cultivate his land fully and satisfactorily shall be liable to a maximum of 3 months corrective labour or a fine of up to 3000 zloty.
- 3) Judgment shall be rendered in administrative penal proceedings.

Article 17:

- 1) An occupant of land who maliciously fails to cultivate his land fully and satisfactorily is liable to a maximum of 3 years imprisonment or a fine of up to 10,000 zloty, or both.
- 2) Instead of the punishment provided in section 1) or as an additional penalty there may be imposed complete or partial confiscation of the property of the offender, or a prohibition of residence for a period of two to five years in the county or province in which the offender was last resident.
- 3) The provincial courts have jurisdiction over the above offences.

Source: *Dziennik Ustaw*, 14 February 1953, No. 11, text 40.

DOCUMENT No. 64

(POLAND)

Press Report.

"... In the first half of December last year, a hearing of the district court of Brodnica took place in Brzozie. The accused were the obstinate peasants: Piotr Fobylski, who was deliberately in arrear with the delivery of 12,191 kg. of grain (that is was deliberate is proved by his hostile attitude towards our system and by the fact that no one from his family had signed the peace pledge): Felix Karbowski, of Maly Gleboczek, and Zygmunt Svinfiarski, of Sugajno... These kulaks were sentenced to two and a half years' imprisonment..."

Source: Gazeta Pomorska (Bydgoszcz), 9-10 January 1954.

DOCUMENT No. 65

(CZECHOSLOVAKIA)

From: Penal Code of the Czechoslovak Republic of 12 July 1950.

Article 135:

- (1) Any person who through negligence frustrates or obstructs the operation or growth of a State, national, communal or other public enterprise or of a people's co-operative, especially by not fulfilling or failing in any duty implied in his calling, employment or service, or by evading the fulfilment of such a duty, shall be punished by deprivation of liberty for a term of up to one year and by a pecuniary penalty.
- (2) The offender shall be punished by deprivation of liberty for a term of from three months to three years and by a pecuniary penalty if the act specified in paragraph (1) frustrates or obstructs the carrying out or the fulfilment of the uniform economic plan in any one sector.

Article 136:

If a private entrepreneur or the person who is responsible for the management of his enterprise does not fulfil, even if through negligence, the obligations arising from the uniform economic plan, or public supplies or public works, he shall be punished by deprivation of liberty for a term of up to six months and by a pecuniary penalty...

Farmers who can not fulfil the high delivery quotas or meet the requirements of the plan regarding the rearing of cattle are liable to be punished with deprivation of liberty or heavy fines under the above articles.

DOCUMENT No. 66

(CZECHOSLOVAKIA)

Judgment.

In the Name of the Republic!

"At its sitting on 29 April 1952 the Second Chamber of the Rokycany District Court condemned the accused Vaclav Turek, farmer, born 24 July 1900 in Sveradice, district Horazdovice, resident at Sveradice, No. 3 for having in 1951, while an independent farmer at Sveradice, failed to deliver 102.40 gr. of potatoes, 8.50 gr. of beef and 3.60 gr. of pork, 5.303 litres of milk, 1.856 eggs, 1.90 gr. of straw, 1.40 gr. oleaginous plants and 1 kg. poultry and reared 2 milk cows and 35 hens less than the plan described. He has by his negligence rendered more difficult the working of a people's co-operative and the fulfilment of the general economic plan in the field of agriculture.

"He thus committed the crime of endangering the general economic plan according to article 135 paragraph 2 of the Criminal Code and is sentenced accordingly, under article 135 paragraph 2 and taking into

account the directive of article 19 of the Criminal Code to 2 years' imprisonment.

"In accordance with article 48 of the Criminal Code he is further sentenced to a fine of 80,000 crowns, with an alternative of one year's imprisonment.

"In accordance with article 54 of the Criminal Code the judgment will be published in *Pravda*, and on the notice boards of all local National Committees in the district of Horazdovice at the expense of the accused.

"Conditional suspension of sentence under article 24, 1, of the Criminal Code is not granted."

District Court in Horazdovice, second chamber
on 29 April 1952.

Vaclav Vojacek acting in an honorary capacity.

Source: *Pravda (Plzen)*, 5 September 1952.

DOCUMENT No. 67

(CZECHOSLOVAKIA)

Judgment.

In the Name of the Republic!

"The district Court of Horazdovice, second chamber, has pronounced judgment at the trial held on 29 April 1952 as follows:

"The accused:

Karel Korbek, farmer, born 25 June 1895 in Sveradice in the district Horazdovice, resident in Sveradice No. 55 in the district of Horazdovice is found guilty of the following:

"In his capacity as an independent farmer in Sveradice in 1951 he did not fulfil his delivery obligations for he failed to deliver 9.2 tons of beef, 13 kg. of pork, 4,813 liters of milk, 1,610 eggs, 1,27 t. of olive-plants and 35 kg. of pulses, and reared 3 milking cows and 13 hens less than the number decreed by the plan. He has therefore rendered more difficult the working of a people's co-operative and the fulfilment of the general economic plan in the field of agriculture.

"He thereby committed the crime of endangering the general economic plan according to article 135, paragraphs 1 and 2 of the Criminal Code and is sentenced accordingly under article 135, paragraph 2 and taking into account article 19 of the Criminal Code to 18 months' imprisonment. In accordance with article 48 of the Criminal Code he is further sentenced to a fine of 50,000 crowns, with an alternative sentence of 6 months' imprisonment. In accordance with article 54 of the Criminal Code the judgment will be published in *Pravda* and on the notice boards of all local National Committees in the district of Horazdovice at the expense of the accused.

"Conditional suspension of sentence as provided for under article 24, 1 of the Criminal Code is not granted."

District Court in Horazdovice, second chamber,
on 29 April 1952.

Vaclav Vojacek acting in an honorary capacity.

Source: *Pravda (Plzen)*, 5 September 1952.

DOCUMENT No. 68

Judgment.

T 96/52

In the Name of the Republic!

"At the trial held on 8 September 1952, the district court of Horsovsky Tyn, second chamber, pronounced judgment as follows:

The accused:

Jaroslav Mazanek, born 23 April 1911 in Niva Kubinska in the district of Luck in the USSR, a farmer and member of the Agricultural Central Co-operative, resident in Kraslice, Zapadni ulice No. 1211/13 in the district of Kraslice, is found guilty of the following.

"On a day no more exactly ascertainable than April 1952, he left his farm of 32 hectares, as well as the land he rented in Vevron in the district

of Horsovsky Tyn, and without first obtaining permission and handing over his agricultural estate to the appropriate authorities, he moved to Kraslice. As a result his estate had to be cultivated by the other members of the central agricultural co-operative. Further, he thereby endangered the planned production of crops from this estate and made more difficult the working of the responsible agricultural co-operative in its capacity as marketing co-operative for the agricultural produce of this estate.

"By his negligence in failing to fulfil and acting against the obligations placed upon him by his profession he frustrated and rendered more difficult the working of a people's co-operative. He has thereby committed the crime of endangering the general economic plan, according to article 135, 1 of the Criminal Code, and is sentenced accordingly, under article 135, 1 of the Criminal Code to 8 months' imprisonment and a fine of 8,000 crowns, with an alternative of 14 days imprisonment.

"According to article 54 of the Criminal Code, the publication of the judgment is ordered. With regard to the prison sentence as well as the fine conditional suspension of sentence as allowed by article 24, 1 of the Criminal Code is not granted."

Horsovky Tyn on 8 September 1952
Dr. Jur. Bohumir Blazek
acting in a honorary capacity.

Source: *Pravda (Plzen)*, 21 September 1952.

The Hungarian Penal Code Contains similar measures.

DOCUMENT No. 71
(HUNGARY)

Criminal Code of the People's Republic of Hungary.

Article 269:

- A person commits a crime against the interests of public supply if he:
- (a) fails to fulfil his legally prescribed duties concerning the compulsory production of produce (livestock, animal or vegetable products) or products (raw material, half finished, finished product), or does not produce in the extent or with the method as prescribed by the statute;
 - (b) or expends, consumes, destroys or otherwise renders unusable, or does not preserve in a suitable state the supply of produce or product under his control in violation of the provisions of law or the rules of orderly economic management;
 - (c) conceals the supply of produce or products by failing to make a report prescribed by authorities, or by making a false or incomplete report;
 - (d) conceals, hides, disposes of or otherwise withholds from the public supply or the material management in violation of a statute the supply of produce or products attached for the purpose of public supply of the disposition of material management, or fails to comply with the official notice concerning the transfer or delivery of the supply;
 - (e) withholds from marketing the supply of produce and products under his control in violation of a statutory provision, or puts it into circulation in a manner, quantity or for a purpose other than provided for by statute, or violates or evades the regulations based upon statutory provision concerning their transportation;
 - (f) violates his legally prescribed duties of compulsory delivery of produce and products;
 - (g) Transports without an official permit any produce or product abroad.

Article 270:

- A person commits a crime against the interest of public supply if he:
- (a) purchases — for his own use — produce or products contrary to

- a statutory provision, or in a quantity prohibited by a statute, for a price in excess of the official ceiling price;
- (b) procures a right (official coupon, assignment) for the purchase, transportation or consumption of produce or product through false registration, concealing the truth or other fraudulent means, or speculates with such right (official coupon, assignment);
 - (c) falsifies a public document or alters the content of an original public document (official coupon, assignment) falsified or its content altered by another person, provided he knows that the document was false or altered."

In Hungary, the following announcement was broadcast in the village radio programme on 5 November 1953, at 6 a.m.

"The working peasants of Ocsóf tolerate no sabotage from the kulaks. Most of the land belonging to Josef Lenard had not yet been ploughed. The kulak, who was formerly very wealthy, believed that if he sowed late, he would have a poor harvest and then there would be no surplus to hand over. He believed he would produce just enough for his own needs and that others could provide for themselves. A kulak knows better than any one else when there is a shortage and when there is little bread, and he can dictate his prices at the market...

"The permanent agricultural committee went to the fields of the kulak Lenard and inspected them. They saw the unploughed fields and found at one place uncleaned seed grain... The kulak was punished accordingly. He received 18 months' imprisonment and a fine. His example serves as a warning to all who sabotage the autumn work and makes it plain to them that the population will not tolerate a decrease in the coming harvest."

A farmer who, after concluding a buying- of leasing agreement, tries to manage his property freely before it is taken over by the State, is in danger of receiving severe punishment.

Private trade in agricultural products is also opposed by every possible means. In official communist parlance this is called "speculation" and can be punished with deprivation of freedom.

DOCUMENT No. 72

(USSR)

*From: Criminal Code of the RSFSR of 22 November 1926
(edition of 1 October 1953).*

Article 87a:

Any violation of laws on the nationalization of land committed in the form of an overt or concealed purchase, sale, agreement to sell, gift, mortgage or exchange of plots of land not allowed by law, and, in general, any kind of alienation of the right to toil on the land, shall be punished by up to three years deprivation of liberty, the withdrawal of land involved in the transaction from the person who obtained it, and the forfeiture of compensation given for it in money or property and the deprivation of the right to hold land up to six years.

Further lease of leased land to another person (sublease) in violation of laws in force shall be punished by deprivation of liberty or corrective labour up to one year or fine up to 500 roubles with or without deprivation of the right to hold land for up to six years.

Further lease of the sublet land if repeatedly committed or if committed for the first time but involving two or more plots leased from the toiling tenants shall be punished by deprivation of liberty up to two years with or without deprivation of the right to hold land for up to six years.

DOCUMENT No. 73

(USSR)

*From: Criminal Code of the RSFSR of 22 November 1926
(edition of 1 October 1953).*

Article 99:

Manufacturing, storing, or purchasing for the purpose of reselling, as well as the sale itself, exercised as a trade, of products, materials and manufactured goods with regard to which there is a prohibition or restriction, shall be punished by confinement up to two years with confiscation of all property and prohibition of the right to exercise commerce.

Article 107:

Buying and reselling by private persons for the purpose of obtaining profit (speculation) of agricultural products and articles of mass consumption shall be liable to deprivation of liberty for not less than five years, with total or partial confiscation of property.

DOCUMENT No. 74

(USSR)

*Ruling of the USSR Supreme Court, Plenary Session, of
25 June 1948, No. 12/11/u.*

Private persons who are engaged in prohibited trading shall be liable under article 99 of the RSFSR Criminal Code and similar sections of the Codes of other Soviet republics. If such persons are engaged in speculation, they shall be liable under articles 99 and 107 of the RSFSR Criminal Code and similar sections of other Soviet Republics' laws.

Source: RSFSR Criminal Code as in force on 1 October 1953 (in Russian, 1953), p. 100.

DOCUMENT No. 75

(USSR)

*Rulings of the USSR Supreme Court, Plenary Session, of
31 December 1938, 10 February 1940, and 20 September 1946.*

The Plenary Session of the USSR Supreme Court has resolved to give to the courts the following directives:

1. ... In cases where the resale of purchased goods is not established but the court arrives at wellfounded conclusions that the purchase took place for resale, with the purpose of obtaining profit, such acts shall be brought under article 19 (attempt) and 107 of the RSFSR Criminal Code.
4. Persons engaged in the exercise of trades prohibited to private persons as well as speculation, shall be brought before the court under articles 99 and 107 of the RSFSR Criminal Code.

DOCUMENT No. 77

(ROUMANIA)

*Criminal Code of the Roumanian People's Republic.
Decree No. 202.*

Article 268:

(17) Buying and selling, as a profession, of goods which are supposed to be commercialized by special units or collective organizations and which goods are designed to be distributed among consumers through such units or organizations alone, as well as (the buying and selling) of products which according to laws or decisions of the Council of Ministers, cannot become the object of private trade, constitute the crime of speculation and shall be punished by imprisonment of from three months to four years. The infringement of legal provisions referring to prices and profits shall be considered speculation and punished in the same way.

c) THE EXTENSION OF THE MEANING "OFFICIAL" WITH REGARD TO CRIMINAL RESPONSIBILITY

The penal provisions of economic criminal law are directed in the communist-ruled states not only against private contractors, independent farmers and other private citizens. Penal provisions have also been issued with reference to officials. It suffices to have established that an official has failed to fulfil his duty in order to gain an advantage, for him to receive a prison sentence for as long as five years. If, in addition to this, "serious damage" or "aggravating circumstances" are proved, without these latter being discussed in detail, the sentence can be increased to ten years.

In the penal provisions special attention must be paid to the fact that the meaning of "official" has considerably widened in scope. Not only those with high functions are regarded as officials by the penal law, but those employed by state enterprises, companies and offices are also continually in danger of being sentenced to heavy prison sentences on account of insufficient superintendence or negligent fulfilment of duty.

DOCUMENT No. 78
(POLAND)

From: Small Criminal Code of the People's Republic of Poland (1949 edition).

Article 46:

(1) The punishments applicable to officials, are applicable, besides to those persons named in article 292 of the Criminal Code, to employees of all State enterprises, enterprises owned by the local government or enterprises which are run by the State or by the local government as well as organizations in charge of functions delegated to them by the central or local government.

(2) In the same way as persons mentioned in paragraph (1), managers and functionaries of co-operatives and audit unions are also criminally responsible.

DOCUMENT No. 79
(POLAND)

From: Penal Code of the People's Republic of Poland.

Article 286:

(1) An official who by exceeding his power or by not fulfilling his duty shall act to the damage of a public or private interest, is punishable by imprisonment up to 5 years.

(2) If the offender shall act with the purpose of obtaining material or personal profit for himself or for another, he is punishable by imprisonment up to 10 years.

(3) If the offender shall act unintentionally he is punishable by detention up to 6 months.

Article 287:

An official who shall certify falsely concerning a circumstance having a legal import, is punishable by imprisonment up to 5 years.

Article 292:

(1) If an official shall commit any offence in the performance of his duty or in connection therewith, the court may impose a penalty higher by one-half than the highest penalty fixed for such offence.

Article 292:

Penalties provided in this chapter shall be imposed not only upon officials in the service of the State or of a selfgoverning body, but also upon persons who perform activities entrusted to them in the management of the State or selfgoverning bodies, and upon employees of every public institution.

DOCUMENTS No. 80—87

(POLAND)

Decisions of the Supreme Court of the Republic of Poland on Art. 46 of the Small Criminal Code.

a) 5 January 1949 (Wro. K. 194/48):

The rule laid down in article 46 of the Small Criminal Code is not applicable merely to crimes and offences named in this Decree (of the Small Criminal Code), but generally extends the meaning of crimes and offences committed by officials so as to include all offences committed by officials, especially those mentioned in articles 286—291 of the Criminal Code.

This is clearly stated in the general formulation of the rule (article 46, Small Criminal Code) which follows from the contents of article 292 of the Penal Code.

Source: *Yearbook of Collections, 1949, No. 39.*

b) 2 December 1948 (Wa. K. 589/48):

On Article 286 Criminal Code.

All offences, and in particular those committed by officials, must in our time be considered in connection with the nature, spirit and direction of the present economical and political organization of the State, and the present political reality. Only by judging from this point of view can the facts and the juridical aspects of offences committed by officials be properly understood.

When taking into consideration the present entirely different conditions for the development of the State, it is impossible to consider offences by officials from a purely formal and abstract point of view, in view of the fact that various provisions regulating the scope of their powers, and providing restriction of their interference with the right of the citizens, have lost validity.

These old regulations formerly served an entirely different class structure and entirely different legal principles which were based on this class structure.

Owing to the present changed situation in Poland, these legal principles have either already disappeared or are disappearing. They do not fulfil any more the new historical requirements on which the People's Democracy in Poland — which is leading towards Socialism — is built.

Source: *Yearbook of Collections 1949, No. 37.*

c) 7 March 1952 (I. Penal Senate 887/51):

All trials of production enterprises on the carrying out of plans of production which do not conform to reality must be considered as extremely harmful to our economic life, for they render more difficult a careful planning and obscure the true picture of the situation in industry.

If a pecuniary profit is attached to such a false report in the form of an unjustly awarded premium, all the characteristics of an offence according to article 287, paragraph 2 of the Criminal Code, are present.

Source: *Yearbook of Collections 1952, No. 58.*

d) 21 April 1952 (I. Penal Senate 264/52):

In the economic plan one of the most important elements is reporting as a means of superintending the carrying out of economic tasks. Every deliberately untrue report on the fulfilment of the plan constitutes

an attack on economic property which is covered by article 286 of the Criminal Code (insofar as it is not a heavy crime).

Source: Yearbook of Collections 1952, No. 59.

e) 31 May 1952 (I. Penal Senate 104/52):

The sale of so-called "marketable" goods straight from the warehouse of the company to individuals results in the normal sale of these goods in the shops being disturbed, besides bringing about disorder of the goods in the warehouse.

An activity of this sort is particularly harmful and interferes with the normal supply of products of industry to agriculture, in addition to which this supply constitutes the essence of the exchange between town and country in a Socialist State. The result is that the farmer who has no good connections with the managing members of the company, or the manager of the warehouse obtains certain indispensable and important industrial products only with greatest difficulty.

Such an action constitutes a crime under article 286, paragraph 1, of the Criminal Code.

Source: Yearbook of Collections 1952, No. 60.

f) Case No. K 1290/48:

All persons employed in a government or government-controlled enterprise(s), and therefore also workers at the workbench must be considered as government officials.

Source: Panstwo i Prawo, 1952, No. 11, p. 636.

g) Case No. K 1344/49:

A milkmaid on a government farm may be prosecuted under article 286 of the Penal Code, as article 46 of the small Penal Code extended the application of criminal provisions for officials to the functionaries of government enterprises.

Source: Panstwo i Prawo, 1952, No. 11, p. 639.

The following statements by witnesses show to what punishments such a law leads in individual cases and upon what incidents such punishments are based.

DOCUMENT No. 88

(POLAND)

Deposition: Appeared Edward Agacki, born 15 September 1917 in Lodz, lately domiciled in Allenstein, whence he fled on 26 August 1953, who says as follows:

"The director of the Sovkhoz (state owned farm) Zakrzewo, a man named Stefanski, is known to me personally. This man was sentenced to seven years' imprisonment in 1951 because he had not carried out the harvest work on his Sovkhoz promptly. The cause, which, because of my knowledge of the conditions then obtaining, I can explain fully, lay entirely in the fact that he had not enough manpower to carry out the work. He tried every means within his power to obtain labourers. He sent an employee to the Lublin region to try and raise workers and could produce evidence as to the negative result of his efforts in this direction. In spite of this, he received a sentence of seven years' imprisonment. The sentence was, however, reduced by a third at the amnesty."

Read, approved, and signed.

Nuremberg, 17 March 1954.

DOCUMENT No. 89

(POLAND)

Deposition: Appeared Edward Agacki, born 15 September 1917 in Lodz, lately domiciled in Allenstein, whence he fled on 26 August 1953, who says as follows:

"Until 1948 I was an accountant at the regional headquarters of the sovkhoses in the region of Allenstein. This headquarters was responsible for the supervision of 47 sovkhoses, with especial reference to the keeping of accounts. In the middle of June 1948 I was instructed that the balance-sheets of the 47 sovkhoses must be completed within 14 days, that is, by 1 July. In spite of every effort and working overtime I was unable to complete the task since the deadline was fixed much too early. In any case, they were not all ready on 1 July. Thereupon I was arrested for 48 hours, first on a charge of sabotage, but subsequently released with the information that the trial would follow later. Being aware that on a sabotages charge I could expect a very heavy sentence, I tried to cross the frontier illegally following my release from custody. I was caught, and sentenced to five years imprisonment for sabotage and for attempting to cross the frontier illegally. As a result of the amnesty in autumn 1952, I was released in spring 1953 and returned to my old post as accountant. I had to report to the police once a week, as I was still under suspicion as a result of my attempted flight."

Read, approved, and signed.

Nuremberg, 17 March 1954.

DOCUMENT No. 92

(BULGARIA)

From: Penal Code of 1951 of the People's Republic of Bulgaria.

Article 333:

Public official in the meaning of the present law is anyone who is charged with the performance of service in a government office, or managerial work in a government enterprise, co-operative, or other public organization or who is entrusted with safeguarding public property — (employed) for a salary or gratuitously, permanently or temporarily.

**IV. CRIMINAL RESPONSIBILITY IN THE
ECONOMIC PLAN**

Not only the delivery of industrial produce of bad quality, but also the delivery of products which deviate from the standard set by law can cause directors, engineers and managers to be punished. Persons who omit to, or are late in, fulfilling obligations arising from contracts with economic State companies are also liable to be punished.

DOCUMENT No. 93

(USSR)

From: Penal Code of the RSRSR of 22 November 1926 (edition of 1 January 1952).

Article 128a:

For the output of defective or incomplete industrial production and for the output of products in violation of the standards set by law, directors, chief engineers, and chiefs of the department for technical inspection of industrial enterprises shall be punished as having com-

mitted a crime against the State of equal importance with wrecking, and shall be imprisoned for terms from five to eight years.

(Decree of the Supreme Soviet of the RSFSR of 16 November 1940).

Mass or systematic supply of under-quality goods for commercial enterprises entails deprivation of freedom for terms up to five years, or corrective labour at one's place of employment for a term up to one year...

Article 131:

Failure to perform an obligation arising from a contract made with a governmental or public office or enterprise, if during a civil trial the malicious character of the failure to perform is established, shall be punished by deprivation of liberty for not less than six months plus confiscation of property in whole or in part...

DOCUMENT No. 94

(ROUMANIA)

*From: Penal Code of the People's Republic of Roumania
According to Edict No. 202.*

Article 268:

- (2) The delivery of industrial products of inferior quality and faulty workmanship or of products which do not reach the prescribed norm will be punished with corrective labour for a period ranging from two to seven years. The wholesale or retail sale of goods of inferior quality by industrial undertakings will be punished with corrective labour for a period ranging from one to three years. Punishment also awaits those who do not promptly fulfil obligations arising from contracts with economic agencies of the State.
- (11) Failure to fulfil obligations arising from a contract concluded with a unit or economic collective organization shall be liable to corrective imprisonment for a period ranging from three months to two years, when malicious intent has been proved in the course of a civil trial or when such intent becomes apparent even without a civil trial.

DOCUMENT No. 95

(BULGARIA)

From: Penal Code of the People's Republic of Bulgaria.

Article 115:

Any person who, in his capacity as the manager of an undertaking or public utility, knowingly conducts an unfavourable deal which results in losses for such an undertaking or utility, will be liable to a maximum of five years' imprisonment.

Article 120:

Any person who, in his capacity as manager, knowingly orders or permits the production of inferior or defective goods or of goods that do not conform to regulations laid down in respect of their nature, type and design, will be liable to from three to ten years' imprisonment.

The manager of a commercial firm who systematically offers such goods for sale, will be liable to up to three years' imprisonment or corrective labour.

DOCUMENT No. 96

(HUNGARY)

"The Court of the X-District sentenced Sandor Fabik, director of the Bördex (leather and textiles) shoe-factory and Johann Baricz, technical manager, to 15 months' imprisonment because of the shoes made in the factory between 21 January and 23 February, nearly 30 per cent were technically defective."

Source: Nepszava, 8 May 1954.

Erich Otto and Oskar Semerau were the owners of a saw-mill, in which mill they had cut according to order wood that had been delivered to them for cutting by peasants. When these peasants could not produce an authorization for the cutting of this wood, Otto and Semerau were sentenced to terms of hard labour and their property confiscated.

DOCUMENT No. 97
(SOVIET ZONE OF GERMANY)

K II 79/53
2 Ds 54/53

In the Name of the People!
"Criminal proceedings against:

- 1) Erich Walter Paul Otto, master bricklayer, born on 30 April 1906 in Herzberg, residing at Herzberg/Elster, Neumarkt 6;
- 2) Hermann Oskar Semerau, architect, born on 9 November 1898 in Hohenwalde, residing at Karl-Liebkecht Strasse, Herzberg/Elster; for economic crimes.

"The Kreis Court, criminal chamber, in Herzberg/Elster, at its sitting on 19 May 1953, at which the following took part:

Kreis Court Director Wozniak as President,
Else Sessler, housewife of Herzberg/Elster, and Johann Rautenberg, labourer of Herzberg/Elster, as lay assessors.
Kreis Public Prosecutor Schmidt representing the Public Prosecutor,
Court employee Thiele, as clerk to the court;

has pronounced judgment as follows

"The accused Otto is sentenced, for endangering the economic plan, in accordance with article 1, paragraph 1 (3) of the Economic Penal Ordinance, to fourteen months penal servitude.

"The accused Semerau is sentenced for endangering the economic plan, in accordance with article 1, paragraph 1 (3) of the Code of Criminal Procedure, to two years' penal servitude.

"The property of the accused shall be confiscated.

"The accused shall bear the costs. The property of the firm shall be confiscated in accordance with article 16 of the Rules of Criminal Procedure. The period spent in custody is included in the sentence.

From the findings:

"The accused are in general partnership. They are also responsible for the smooth running of the works. Most of the work was carried out by the accused Semerau because the other accused, Otto, suffers from palsy and is 75 % disabled. At the inspection carried out on 13 February 1953 by the State Forestry Administration, it was discovered that more wood had been cut by the defendant's firm than the amount for which authorizations could be produced. It came to light at the trial that not only had the authorized amount been cut at the sawmill, but also the wood brought in by the individual peasants. The management of the works with reference to timber cutting against payment was so casual that it could happen that not only the authorized quantity of 19.74 cubic metres of wood was sawn up in the workshops but as much as a total of 27.32 cubic metres was handled. This happened on several occasions. The accused admitted having processed more wood than was authorized. The accused not only handled wood without any authorization to cut it, but they cut it without even having a wood permit or indeed any chit at all for the transport of raw wood. At the inspection a surplus of 3.8 cubic metres of cut wood was discovered. It is possible that this wood is the property of the accused Semerau. However, it became the property of the firm the moment the accused allowed part of this surplus of wood to be used for work for the firm. The action of the accused is directed against the fulfilment of the

economic plan. They took raw material out of regulation economic channels. The removal consists in the receiving of the wood and in the handling of it. In processing the unauthorized quantity, they removed from regular channels wood in the round. This action constituted a second removal of the wood from the normal economic channels. By this second action, the acquisition of wood by the agents of the economic administration was rendered more difficult. The raw materials were removed from the regular economic channels in view of the fact that no authorization had been issued for the quantities in question. Thus the economic plan has been further jeopardized, because the whole matter must be viewed in the light of present circumstances. Taken by itself, 30 to 40 cubic metres of wood constitutes a very small amount, but when the difficulty of obtaining timber is taken into account, this amount is considerable. Therefore this cannot be judged a trivial case, since the whole matter represents a potential danger to the economic plan. The accused have acted deliberately: they knew that, through the unauthorized handling of the wood, the economic plan was jeopardized. In addition to this, they were aware that the wood would be lost to the economy. The accused desired this, or at least they were fully prepared to risk endangering the economic plan. The accused have thereby fulfilled the conditions of article 1, paragraph 1 and 3 of the Economic Penal Ordinance...

"The public prosecutor demanded that the accused Otto be sentenced to 18 months' and the accused Semerau to two years penal servitude. The court had to agree in general with this opinion. As regards the length of the term of sentence for the accused Otto, the court deviated from the demand because it did not establish such a high degree of guilt as in the case of the accused Semerau. The measure taken under article 16 of the Economic Penal Ordinance is necessary in order to ensure that the accused will never again have the opportunity of committing such a crime. The decision on the inclusion of the time spent in custody rests on article 219, paragraph 2 of the Code of Criminal Procedure. The decision as to costs is based on article 353 of the Code of Criminal Procedure."

Signed: Rautenberg, Wozniak, Sessler.

V. HEAVY PENALTIES PROTECT PUBLIC PROPERTY

Within the communist realm, state property — in some countries called the people's property — enjoys the special protection of the Criminal Law. Not only do persons who committed crimes, as, for example, theft or embezzlement of state property, receive harsh sentences, but every action or omission which could have any semblance of adverse effect in the sphere of property is punished. Particularly severe minimum punishments stipulated in individual laws and edicts are designed to have a generally deterrent effect. In the case of such criminal laws, too, it is particularly worthy of note that the content of individual sections has been purposely couched in such extraordinarily adaptable and vague terminology as to make anything even remotely harmful fit these penal clauses.

DOCUMENT No. 98

(USSR)

*Concerning Criminal Responsibility for theft of Governmental and Public Property.
Decree of the Praesidium of the Supreme Soviet of the USSR of 4 June 1942.*

In order to unify legislation concerning the criminal responsibility for theft of government and public property and strengthening the fight

against these crimes, the Presidium of the Supreme Council of the USSR has enacted as follows:

1. Larceny, misappropriation, embezzlement, or any other theft of governmental property shall be punished by imprisonment in a corrective labour camp from 7 to 10 years with or without confiscation of property.
2. Theft of government property committed as a second offence, or committed by an organized group, or if large in scope, shall be punished by imprisonment in a corrective labour camp from 10 to 25 years with confiscation of property.
3. Larceny, misappropriation, embezzlement, or any other kind of theft of the property of a collective farm, a co-operative, or any other public property shall be punished by imprisonment in a corrective labour camp from five to eight years with or without confiscation of property.
4. Theft of the property of collective farms, co-operatives, or any other kind of public property committed as a second offence, or committed by an organized group, or if large in scope, shall be punished by imprisonment in a corrective labour camp from 8 to 20 years with confiscation of property.
5. Failure to report to public authorities a premeditated theft of government property specified in Sections 2 and 4 of the present edict shall be punished by 2 to 3 years' deprivation of liberty or 5 to 7 years exile.

Source: *Vedomosti*, 4 June 1947, No. 19.

DOCUMENT No. 99

(HUNGARY)

Decree No. 24 of 1950 of the Council of Ministers of the Hungarian People's Republic on the Penal Defence of the Public Property.

The Constitution makes the defence of the public well-being and the establishment of the public property the duty of every citizen. The purpose of this decree is the defence of the public property with the weapons of penal law.

Article 1:

The public property, as the fortune of the working people, needs a strengthened penal defence.

Article 2:

- (1) In accordance with article 4 of the Constitution public property is: the property of the State, of the treasury and of companies.
- (2) Accordingly, a property is public property if it is in the possession of the State, an enterprise, a company or another public establishment.

In the application of this Decree a property which is being used or administered or which it at the disposal of the State, an enterprise, a company or another public establishment is to be regarded as public owned property.

Article 3:

Theft, embezzlement, unlawful confiscation of property, and damaging of a part of the public property will be punished with imprisonment for up to five years. Furthermore, cases of fraud concerning public property will be punished.

Article 4:

Whosoever abuses his position as administrator or supervisor of public property by damaging public property in his own interests or in the interests of a third party, shall be punished with imprisonment for up to five years.

Article 5:

- (1) If the penal offence against public property causes a great deal of damage, the period of imprisonment can run up to ten years.
- (2) Imprisonment for up to ten years is also the penalty for a person who repeatedly commits crimes against public property or in cases in which two or more members of a gang of criminals take part. If such criminal acts cause excessive damage they will be punished by the death penalty.

Article 6:

Arson, intentional causing of an explosion, and robbery of public property resulting in excessive damage will also be punished by the death penalty.

Article 7:

Whosoever hears a credible report of a contemplated crime which is punishable under the present decree and wilfully neglects to report it to the authorities shall be punished by imprisonment for up to one year.

Article 8:

Whosoever by thoughtless or negligent administration causes damage to public property shall be punished by imprisonment for up to two years.

Article 9:

- (1) Furthermore, those offences will be considered violations of the law which are mentioned in this decree and which are directed against the public property, if the value of the public property does not exceed 30 Forints.
- (2) If the penal offence according to this decree at the same time constitutes an official offence, then the law will be applied which demands the most severe punishment.
- (3) Articles 2, 4, and 5 of Decree 2560/1949/III regarding the special penal protection of the organizations, members, and property of productive associations are hereby annulled.

Signed Rónai Sándor p. m.
President of the Council of Ministers of the
People's Democracy.
Szabó Piroska p. m.
Secretary of the Council of Ministers of the
People's Democracy.

Source: *Magyar Közlöny*, 14 July 1950, No. 118-120.

DOCUMENT No. 100

(POLAND)

*Directives for the Administration of Justice and Court
Practice in Trials of Cases Involving Deficiencies.
(AZ. K.O. 145/52).*

The Supreme Court at a closed session of the whole Criminal Division held in Warsaw on 11 July 1952 reviewed the motion of the Minister of Justice and the Attorney General to establish directives for the administration of justice and judicial practice in cases of criminal liability of officials for deficiencies.

After hearing the motion submitted by the Attorney General the Supreme Court arrived at the following decisions based upon articles 2, 3 and 24 of the Judiciary Act (Journal of the Polish People's Republic 1950, No. 39 Law No. 360):

The tasks connected with the carrying out of the six-year plan pose as one of the most important problems the need to intensify the protection of socialist property.

For the machinery of the administration of justice this involves the necessity to improve the work of the investigating agencies, the

prosecuting authorities and courts, the scrupulous examination and checking of evidence, precise prosecution and severe punishment of those pilfering people's (socialized) property, as well as persons guilty of offering aid to those committing crimes against socialized property or tolerating such crimes.

In order to meet these tasks, the courts in deciding cases regarding offences against the interests of national economy have to take the following into account:

- 1) the functioning of every economic unit and the tasks devolving upon its personnel must be evaluated in each instance in conjunction with the work of other sectors in the economic machinery, taking into consideration their mutual associations and relation to each other. In particular, the manager of a department is responsible for the smooth running of the branch entrusted to him. He must so allocate the work and supervision that it corresponds exactly to the directives and precludes any possibility of abuse. Negligence on this front, as, for example, poor organization of work or lack of regular supervision, renders the offender liable to prosecution under article 3, paragraph 1, of the Penal Code.

In the Soviet Zone of Germany removing his personal possessions and property out of the zone and taking them to Western Germany is prosecuted. This was so in the case of Kurt Berthold, who was sentenced by the Kreis Court at Chemnitz to seven years' penal servitude. His wife, who had sorted out the possessions that Berthold wanted to take with him, was sentenced for this assistance to one year's imprisonment. The co-defendant, Horst Ficker, was sentenced to five years' penal servitude because he brought clothing and DM. 2,000 belongings to Berthold to West Berlin.

DOCUMENT No. 101

(SOVIET ZONE OF GERMANY)

Judgment.

In the Name of the People!

In the criminal proceedings against:

1. Kurt Berthold, born 18 June 1898 in Chemnitz, tradesman, domiciled in Chemnitz, Ernst-Georgi Str. 33, at present fugitive,
2. Marianne Elli Berthold, née Ficker, born 28 March 1904 in Chemnitz, domiciled in Chemnitz, Ernst-Georgi-Str. 33, at present held in remand prison No. 2,
3. Horst Theodor Ficker, born 1 September 1909 in Chemnitz, commercial clerk, domiciled in Chemnitz, Sonnenstrasse 80, at present held in remand prison No. 1.

In the case of the first and third accused, for crimes under articles 1 and 2, paragraph 1 and 2(7) of the Law of 21 April 1950 for the protection of intra-German trade and, in the case of the second accused, for offences under article 9 of the Economic Penal Code of 23 September 1948 and the orders issued for its implementation, the criminal chamber of the district in Chemnitz, municipal division 7, at its sitting of 20 March 1953, at which the following were present:

District Court Director Görner as President,
Margarete Hanschmann and
Richard Jaschek as lay assessors,
Public Prosecutor Oehme representing the public prosecution
of the urban district of Chemnitz,
Court clerk Zschockelt as court reporter,

has pronounced judgment as follows:

The following sentences were passed:

- 1) The accused Kurt Berthold (at present fugitive) and the accused Horst Ficker, both for crimes under article 1 and 2, paragraphs 1 and 2 (7) of the Law of 21 April 1950, for the protection of intra-German trade, were sentenced as follows:

The accused Kurt Berthold to seven years penal servitude.

The accused Kurt Berthold to seven years penal servitude;

The property of both accused is confiscated.

- 2) The accused Marianne Berthold, née Ficker, for offences against article 9 of the Economic Penal Code of 23 September 1948, in conjunction with the directive of 21 September 1948 and the orders issued for its implementation, is sentenced to one year's imprisonment.

In the case of the accused Marianne Berthold and the accused Horst Ficker the time spent in remand will be counted towards the sentences of imprisonment which have been pronounced. The costs of the trial are to be borne by the accused.

Findings:

"The accused Kurt Berthold and Marianne Berthold are husband and wife. The accused Kurt Berthold first worked as a traveling salesman and later as a wholesale trader in toys. He had a good, adequate income and possesses a plot of land. When he imagined that he would not be able to earn his living as a wholesale trader in toys because of his age — he is at present 55 — he decided to go to Western Germany, taking his family with him. He had received an invitation from his previous employer to work for him again. This strengthened his determination and he decided to accept his former employer's invitation. He did not receive the necessary permission to leave the country when he enquired at the local office of the people's police in Chemnitz.

"He thereupon decided to go illegally to Western Germany. He discussed this plan with the co-defendant Marianne Berthold and she tried to persuade him not to carry it out since they had a good livelihood in the German Democratic Republic and their grown-up children were studying or had congenial employment. However, the accused Kurt Berthold would not be persuaded, and finally the accused Marianne Berthold agreed to his plan. Her contribution to the removal to Western Germany consisted in her *sorting out the things to be taken to Western Germany ready for her husband to pack.*

"The accused Horst Ficker was requested by the accused Kurt Berthold to take DM. 2,000 of the German 'Notenbank' and a suitcase containing clothing to West Berlin and to change the money at a bureau de change. This the accused did on 13 January 1953, acting jointly with the son of the accused Berthold, who also took a suitcase and DM. 2,000 of the German 'Notenbank' to West Berlin. By this act the accused Kurt Berthold and Horst Ficker have committed offences under articles 1 and 2, paragraphs 1 and 2 (7) of the Law for the Protection of Intra-German Trade of 21 April 1950, and are to be punished accordingly.

"The accused Marianne Berthold has, by preparing for packing household articles, linen, etc., as part of the move by her husband to Western Germany — all of which was transferred by mail or by other persons and all of which required goods permits — committed offences under article 9 of the Economic Penal Code of 23 September 1948, in conjunction with the directive of 2 December 1948, and the orders issued for its implementation, and must be punished accordingly.

"In the case of the accused Ficker it must be taken into consideration that he felt himself under an obligation to the accused Kurt Berthold in that he had borrowed DM. 150,000 from him, which he was to repay by the middle of 1952, and had not been in a position to do through prolonged illness and subsequent unemployment. Furthermore, the accused Kurt Berthold had reproached him with the fact that he, Berthold, had taken the accused Ficker's mother into his

household some years previously without any sort of remuneration. Therefore the accused Ficker felt himself morally obliged to comply with the request that he take Berthold's goods and money to West Berlin.

"According to the testimony of the accused Marianne Berthold and the court's interpretation, the accused woman is dependent upon her husband to an extraordinary degree, increased by the fact of her ten years' happy married life and her belief that she would find happiness in Western Germany. Furthermore, she was under the misapprehension, following the turning down of her application by an official of the people's police, that she could not legally go to Western Germany and was therefore forced to move there illegally. It is true that it is laid down in the Constitution of the German Democratic Republic that every citizen can choose freely his place of residence. It must however be recognized that our Constitution is a far-sighted one, with German unity as its aim. The unity of Germany was laid down in the Potsdam Agreement, and on this basis our German Democratic Republic was formed. The reason why we have not yet reached this state does not rest with the policy of our Government: it is merely a result of the policy of division pursued by the Bonn Government. It is quite possible to move to Western Germany legally, but not quite so informally, and only in certain cases. In order to leave the country legally, the permission of our Government is definitely necessary and for this a special application must be filed. Through his actions and his false attitude to the work of our German Democratic Republic the accused Kurt Berthold has brought unhappiness not only upon his family but also upon the near relatives of his wife, by the fact that he used the feeling of obligation which they had towards him to induce them to commit criminal acts.

"The court took particular exception to the opinion expressed by the accused Kurt Berthold in a letter to a family with whom he was friendly concerning life in our German Democratic Republic, which makes it perfectly clear that the accused has not followed the rapid development, and has not recognized the constructive achievements of our working people in the German Democratic Republic. A man who openly declares: 'But I can never be a slave and never a Bolshevik clearly indicates that he is not in the least interested in the construction of a Socialist State and that he does not recognize our order of society.

"His criminal action was intended to, and did, harm our society. It therefore necessarily follows that society separates itself from such a man.

"The sentences that have been pronounced — seven years' penal servitude for the accused Kurt Berthold and the minimum sentence of five years' penal servitude for the accused H. Ficker — are therefore deemed essential.

"The mandatory confiscation of the property of both accused follows simultaneously.

"A prison sentence of one year is absolutely necessary in respect of the criminal action of the accused Marianne Berthold, but this term is also considered to be sufficient. Since it is to be expected that she recognizes the criminality of her action and since she has, now, to fulfil worthily her role of mother at the side of her children and has to live up to other moral obligations, she will have to place herself at the disposal of the construction of our democratic State.

"The decision regarding costs rests on article 352 et seq. of the Code of Criminal Procedure."

(signed) Jascheck, Görner, Hanschmann.

The penal provisions regarding overdue payment of taxes and compulsory insurance contributions are in accordance with the penal protection of the people's property. In this connection it

is remarkable that in the Soviet Union the members of certain classes (kulaks) are liable to more severe punishment than other offenders. Consequently, there is no equality before the law.

DOCUMENT No. 102

(USSR)

*From: Penal Code of the RSFSR of 22 November 1926
(edition of 1 October 1953).*

Article 60:

Non-payment on the due date of any tax or any compulsory insurance contribution, by any person having the means to pay, in cases where measures of recovery are taken by making an inventory of property or by selling at auction the property thus inventoried, entails — even if the offence has been committed only once during the preceding or the current year of assessment —; for the first offence, a fine proportionate to the payments evaded; for the second offence, compulsory labour for a period not exceeding six months or a fine equal to twice the amount of the payments evaded.

If these acts were committed by several persons after mutual agreement, or without previous mutual agreement by persons belonging to agrarian enterprises which, according to the special decrees (enacted on the basis of the Decree on the Agrarian Taxes) are to be regarded as kulak enterprises, or by persons who belong to group 3 of the income tax scale: imprisonment or correctional labour for a period not exceeding one year or a fine not exceeding ten times the amount of the payments evaded.

Article 61:

Refusal to perform tasks in kind and services, nationwide tasks and works of national importance shall be punished by fine... five times the cost of the assigned task, service or works, by deprivation of liberty or corrective labour for a period up to one year; the same acts committed by kulak elements or other persons under aggravating circumstances, such as conspiracy or active resistance to authorities in carrying out tasks, services or work shall be punished by deprivation of liberty for a period up to two years, with confiscation of property in whole or in part, with or without deporation. Note I to article 40 of the Criminal Code of the RSFSR: The property of kulak enterprises is excluded from confiscation only insofar as it comes under article 3 of the specification (confirmed by the SNK of the RSFSR of 3 March 1933) of the items of property which may not be used for purposes of collection of tax arrears and arrears concerning other public financial obligations.

Finally, penal regulations concerning administrative penal law have been enacted in the Communist orbit which have the character of a general clause. In cases where the facts of a case do not permit a politically desired punishment to be imposed, it may be alleged that the accused has infringed some legal regulation regarding the carrying out of tasks in the framework of the economic plan. Owing to the great number of administrative regulations, knowledge of all these regulations by the person concerned is impossible. This is not taken into account, however; to successfully conduct the criminal proceedings it is sufficient to ascertain that such regulations, which are perhaps completely unknown to the accused, have been infringed.

DOCUMENT No. 103

(BULGARIA)

From: Penal Code of the People's Republic of Bulgaria.

Article 117:

Whoever fails to carry out a legal regulation for the performance of certain work or delivery of products in connection with the government economic plan or the economic undertakings of the government shall be liable to a maximum of 3 years deprivation of liberty, in less severe cases by corrective labour, or a fine up to 20,000 leva.

IV. ABOLITION OF THE FREEDOM OF THE LEGAL PROFESSION AND ENCROACHMENT UPON THE RIGHTS OF DEFENDING COUNSEL

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Art. 10, United Nations Universal Declaration of Human Rights.

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Art. 11, United Nations Universal Declaration of Human Rights.

In a constitutional State every accused is entitled to all the safeguards necessary to his proper defence. Effective defence implies the right of the accused to retain free and independent counsel armed with power to investigate all the relevant aspects of the offences charged to the accused and to do everything necessary to ascertain the true position as it affects his client.

In the Communist territories lawyers have not been either free or independent for a long time and in the satellite States this has been the case for several years. The State regards itself as bound to control all activities within its jurisdiction and this attitude is now applied to lawyers generally, thus completely restricting the freedom of the advocate.

Lawyers practise almost exclusively as members of lawyers' collectives, and a lawyer can only become a member of a collective if he is regarded as politically "safe" from the point of view of the State. He is only acceptable if the State feels sure that it can count on his loyalty.

DOCUMENT No. 104

(USSR)

"On the Fundamentals of Soviet Law: Reorganization of the Legal Profession", by P. Kudryatsev, Vice-Minister of Justice of the USSR.

"The legal profession in the Soviet Union can and must consist of people whole-heartedly devoted to the party of Lenin and Stalin, ideologically fortified, politically and juridically trained, and possessed of a high level of cultural attainment. Not until Soviet lawyers have been thus educated will they refuse to defend dubious cases and refrain from petty forensic devices.

"The strengthening of the cadres and definite intensification of the ideological-political education is all the more necessary, as it is the duty of lawyers to present their case in court with circumspection and they are called to play a highly important part in the legal proceedings of the court.

"When acting as defence counsel they should bear in mind that it is their duty never to forget the paramount interests of the Soviet State. The lawyer should defend the accused with logic and not without courage, but he must keep within the principles laid down for the administration of Soviet justice. He must advance all the arguments tending in favour of the accused, but must not overstep the bounds laid down for defending counsel in the Soviet State, which are that he must think first of the interests of the State and its people, and that his primary duty is not towards the individual, his client.

"Unfortunately, even at the present day, we still find among lawyers isolated individuals who use every means to insure that their case is put back for further investigation, or who suppress material important for the court's decision in order to utilize it in the appeal court, or who take exception to particular members of the court. We even know one case in which a lawyer named Kvanskov advised his client to object to a public prosecutor, since her case would be easier to defend if they were successful in getting this prosecutor removed.

"The Ministry of Justice of the Soviet Union and its subordinate departments in the provinces are taking measures to assure good order within the legal profession. This alone, however, will not be sufficient. Strict adherence to democratic principles by the leaders of the lawyers' collectives, large-scale criticism and self-criticism within the collectives, and greatly intensified ideological and political education are necessary in order to make all lawyers play an active part in the fundamental reorganization of the collectives of which they are members."

Source: *Literaturnaya Gazeta (Moscow)*, 7 June 1951.

DOCUMENT No. 105

(CZECHOSLOVAKIA)

Czechoslovak Law No. 114, dated 20 December 1951.

Article 13:

Only persons who conduct themselves impeccably as citizens and are devoted to the regime of the people's democracy can be permitted to practise as lawyers.

Source: *Sbirka Zakonu*, 28 December 1951, No. 52, text 114.

DOCUMENT No. 105 a

(CZECHOSLOVAKIA)

Motives of Czechoslovak Law No. 114, dated 20 December 1951.

"The legal profession must be reorganized if it is to fulfil its tasks within the "norms" of Socialist community life and to contribute its share to the building of the people's democracy, to the establishment of a new rule of law, stemming from the people, and to the protection of socialist legality.

"Further legislation to make possible a complete reorganization of the legal profession appears to be indispensable.

"The fundamental principles of this New Plan are as follows:

"Only persons can practise as lawyers who are members of an "office of legal consultants..."

DOCUMENT No. 106

(BULGARIA)

Law Concerning the Legal Profession in Bulgaria, dated 3 June 1952.

Article 3:

No person shall become a lawyer or a student of law, who

- a) ...
- b) ...
- c) has a bad public reputation;
- d) is filled with a fascist or reactionary attitude;
- ...

DOCUMENT No. 107

(BULGARIA)

Law Concerning the Legal Profession in Bulgaria, dated 3 June 1952.

Article 7:

The Minister of Justice shall plan and allocate lawyers and students of law to the lawyers' collectives according to the volume of work within the framework of the general plan for the year approved by the Council of Ministers.

1. *Lawyers' Collectives*

Article 8:

A lawyers' collective is a voluntary organization of all persons engaged professionally in legal work. Such collectives shall be formed in the area of each district court.

A lawyers' collective can also be formed, if the Ministry of Justice so decides, whenever a people's court sits...

Article 14:

The council of the lawyers' collective shall be entitled to suspend any lawyer and to remove his name from the register of practising lawyers for any of the reasons laid down in Articles 3...

Article 16:

No lawyer can follow his profession unless he is enrolled in a lawyers' collective and is a member of an office of legal consultants. This also applies to persons falling under Article 3 (e). The only case where membership is not obligatory is when the lawyer practises at a place where there is no office of legal consultants...

Article 19:

The secretariat alone shall negotiate with clients. It distributes work between the individual lawyers and supervises its carrying out. Wishes of the clients should be considered when assigning the work...

Article 30:

The Minister of Justice shall direct and supervise the work of the lawyers' collectives and of the offices of legal consultants...

In the Soviet Zone of Occupation in Germany, the freedom of the legal profession was to all intents and purposes done away with in May 1953. The "Decree Concerning the Establishment of Lawyers' Collectives" dated 15 May 1953, (Gesetzblatt, 1953,

p. 725) and the "Model Statutes for Lawyers' Collectives", published simultaneously, emphasize that enrollment in a lawyers' collective is voluntary; at the same time, however, the statutory disabilities to which lawyers who do not join a lawyers' collective will be subject are made clear.

DOCUMENT No. 108
(SOVIET ZONE OF GERMANY)

Regulation Respecting the Establishment of Lawyers' Collectives.

Article 3:

Only such lawyers as are members of a lawyers' collective shall be retained as defence counsel (Article 76, Code of Criminal Procedure) or assigned as counsel in civil cases (Article 115, Code of Civil Procedure)...

Article 4:

1) The Ministries, State Secretariats, and other central agencies of the German Democratic Republic shall direct the nationalized enterprises and public institutions to employ as lawyers, in all matters requiring the employment of a lawyer, only such lawyers as are members of lawyers' collectives...

Source: *Gesetzblatt*, 1953, p. 725.

DOCUMENT No. 109
(SOVIET ZONE OF GERMANY)

Regulations Respecting the Establishment of Lawyers' Collectives.

Article 2:

The tasks of the collective include furthermore:

- 1) The political education and technical training of its members as well as furthering the training of law students;
- 2) The provision for the welfare of its members in case of disability and old age;
- 3) The establishment of offices of legal consultants who shall be state officials and provide their service free of charge...

Article 6:

1) Admission to the collective shall be refused where the candidate's character on personal grounds, or having regard to his previous professional activities, does not ensure that he will carry out his functions as a lawyer in accordance with the requirements of democratic justice, with the aim of building up a socialist regime and with the aims of the collective...

Article 23:

- 1) Fees shall be charged in accordance with a scale of charges published by the Minister of Justice, which shall be displayed in all branch offices for the information of persons concerned.
- 2) No member of the collective shall be allowed to collect fees personally.
- 3) No fees shall be charged for legal information or advice given orally...

Article 30:

Supervision of the activities of the collective and of its members shall rest in the hands of the Ministry of Justice.

Article 31:

The Ministry of Justice is authorized to rescind any resolution passed by the general meeting of members or of the executive committee when such resolution contravenes the law or the statutes of the collective.

Article 32:

The Minister of Justice shall have the right to remove members, including members of the executive committee...

DOCUMENT No. 110
(SOVIET ZONE OF GERMANY)

First Implementing Rules to the Regulation on Establishment of Lawyers' Collectives, dated 21 May 1953.

Article 2:

If a lawyer was appointed notary public, his appointment expires upon his being admitted to a lawyers' collective. The chairman of the committee of the lawyers' collective shall inform the lawyer thus admitted of this fact. At the same time the termination of the appointment shall be communicated to the local office of the Ministry of Justice.

Source: *Gesetzblatt*, 1953, p. 769.

Rigorous coercive measures were adopted against lawyers who made serious attempts to protect their clients' interests and who have not followed the lines laid down by the State in conducting their cases, as well as against lawyers who have refused to join a lawyers' collective.

State and party officials have not hesitated to intimidate lawyers and to make the really free conduct of a case or a defence impossible where it was a question of achieving some desired political aim. Lawyers have been threatened and pressure has been brought to bear not only on individuals but also generally by means of attacks in the press. If intimidation was ineffectual or was considered inadvisable they were prosecuted for an offence which rested solely on their actions in conducting a defence or the advice they gave or on any other of their actions.

DOCUMENT No. 111
(POLAND)

Deposition: Appeared Dr. Herschdorfer, previously a defence counsel before the Military Court at Lublin, Poland, who says as follows:

"Case of a lawyer named Timme (woman).

"In 1950 a case was heard by the Military Court in Lublin in the building of the provincial security department. Timme had undertaken the defence. When she demanded to be allowed to converse with the accused privately she was told that this could not be allowed and that a policeman must be present. She complained to the court that she had been unable to communicate with the accused and asked the court's assistance. The only result of her action was that her name was struck off the list of defending counsel practising in the Military Court."

Read, approved, and signed.

1 December 1954.

DOCUMENT No. 112
(POLAND)

Deposition: Appeared Dr. Herschdorfer, previously a defence counsel before the Military Court at Lublin, Poland, who says as follows:

"Case of N. Skibinski.

"In September 1950 N. Skibinski and his five comrades were charged before the Military Court at Lublin with belonging to an illegal organization and deserting from the militia. This happened in 1946. Later an

amnesty was declared for members of illegal organizations. Skibinski and his five comrades appeared before the amnesty commission and declared that they would not join an illegal organization in future and would lead normal lives. The amnesty commission granted their wish and the security services allowed them to return home.

"Three years later when these men had founded families, worked properly and had had nothing to do with politics, all six of them were suddenly arrested on a charge of deserting the militia (and removing their arms) and of belonging to an illegal organization. Legally former members of the militia were not covered by the amnesty. But why then did the authorities allow them to return home, live in peace and found families?

Why did they after three years respite come back to the old story?

"The public prosecutor asked for the death penalty. The defence took the line that they were within the purview of the amnesty which was to establish normal conditions in Poland and that it is not right to arrest people who had given up all connection with anti-government movements. This availed the defence nothing, as the security service was particularly out to mark down these men who had deserted from their ranks. Each accused got 10 years.

"The defence counsel was given to understand that nothing could be hoped for from an appeal, in fact, that certain persons would see to it that the sentences were increased. Further, that something 'might happen' to him."

Read, approved and signed.

1 December 1954.

DOCUMENT No. 113

(POLAND)

Deposition: Appeared Dr. Herschdorfer, previously a defence counsel before the Military Court at Lublin, Poland, who says as follows:

"The Case of Mr. Okolo-Kulak.

"In 1950 a man named Okolo-Kulak sued the co-operative stores in Lublin for the return of his bakery which the co-operative stores had taken from him illegally. Actually the co-operative stores could have requisitioned the bakery under the regulations applicable but had inadvertently overlooked this. Consequently Okolo-Kulak was perfectly justified in claiming the return of his bakery and compensation for loss of profits.

"Before the first hearing the defence counsel, Dr. Herschdorfer, received a telephone call from the deputy secretary of the district office of the Polish United Labour Party in Chelm-Lubinski, to the effect that he (the advocate) was called upon by the party secretary so to conduct the case that the petitioner would lose it. This was said to be the wish of the party secretary and of the local committee of the party. Although the court was inclined to take the petitioner's view, he refused to proceed and allowed proceedings to terminate in view of the pressure put on him and in fear of reprisals."

Read, approved and signed.

1 December 1954.

DOCUMENT No. 114

(CZECHOSLOVAKIA)

Deposition: Appeared on 11 February 1954, Jaroslav Schubert, a Catholic priest, resident until his flight in July 1953 at Benesov nad Cernou in the district of Kaplice, Bohemia (Czechoslovakia), who says as follows:

"I know the former lawyer, Dr. Hirsch, who practised in Cesky Krumlov. I know that this lawyer had conducted with great energy the defence of his clients in various trials of so-called enemies of the

people, and was, therefore, considered hostile to the regime. When the lawyers' collectives were formed in 1951, he was not admitted as a member; he was, therefore, unable to pursue his profession and ended up by working in a factory as an unskilled labourer.

"I know quite a number of other lawyers who were not admitted to the lawyers' collective. Quite a number of these lawyers were drafted into the Army where, however, they were not assigned to fighting units, but to the P.T.P. (pomocny technicky prapor).

These are auxiliary technical units of the Army, for which persons were also enlisted. In these units the duration of service is indefinite, whereas persons drafted for normal military service are automatically released after two years.

"The fact that a number of lawyers are working in these labour units was related to me by friends, mostly priests, who had themselves been drafted to these units. But I have also heard that some of them were employed, underground, in the mines as miners.

"My brother, who originally worked as a mechanic on the railway, became politically suspect and was then forcibly assigned as a labourer to the Lenin Works (the former Skoda Works). He informed me that a number of lawyers were similarly assigned to those works. Here again it was a case of lawyers who had not been admitted to the lawyers' collectives and have now been compulsorily directed to such work."

Read, approved and signed.

DOCUMENT No. 115

(HUNGARY)

Deposition: Appeared William X..., who says as follows:

"My name is... I was born on ... in... and I am an automobile mechanic. My last occupation was as owner of a private hire-service of threshing machines and tractors. I lived in... (centre of Budapest) and fled from there on 3 March 1954; I now live at...

"Some of the lawyers in my home town were very good friends of mine and we mixed with each other socially a good deal. These lawyers kept on telling me that the Communist Party put constant pressure on them. If in a criminal matter the Communist Party was interested in getting the accused severely punished the lawyer in charge of the defence was warned not to exert himself too much for his client.

I do not, however, in fact know of any case where a lawyer who did try his best for his client was afterwards penalized. Every lawyer knew that he was constantly under observation and that every word he uttered was weighed up and that if he was not very careful about what he said sooner or later proceedings would be taken against him. The natural consequence was, as lawyers admitted to me openly, that they did not exert themselves so hard for their clients, in order to avoid risking their livelihoods or running the danger even that proceedings might be taken against them.

"My friends told me too that when the Communist Party was interested in the conviction of the accused, the court was instructed beforehand what punishment was to be meted out. The lawyers engaged on the case soon noticed from the attitude of the judges how the land lay and knew that any exertions for their client were senseless in any case and might very well bring them (the lawyers) in danger. Consequently they made no serious attempt to save their clients. One of my friends, whose name I do not want to give, told me that in such cases he made a very pretty speech, not in his capacity as defence counsel, but because he was paid and had to produce something, in return for the money paid to him. This counsel was an honest man and used to tell his clients in such cases that it was senseless for him to put up a defence and it was simply wasting their money. But generally clients insisted on his defending them, because in the past he had had a very good name."

Read, approved and signed.

28 October 1954.

DOCUMENT No. 116

(HUNGARY)

Kulak-Lawyers (Newspaper article).

"The enquiries made by the local Chamber of Lawyers and by the Ministry of Justice, which were set in motion by articles in the press and complaints from various persons show that some lawyers have prostituted their knowledge of the law and the position guaranteed to them by the people's democracy to the service of kulaks and have deflected socialist justice by voting the agricultural producers' co-operatives with a flood of claims and with suits which had no justification in law.

"The Ministry of Justice and the Chamber of Lawyers have found as a fact that numerous lawyers have co-operated in a manner not permitted by the Regulations for Lawyers to profer unfounded claims on the co-operatives and have even made suggestions as to how claims could be formulated. The enquiries made prove that lawyers who were class-enemies or at least dragged along by such elements have not only co-operated but have also even suggested legal steps against the co-operatives. The kulak-lawyers have flattered little peasants who withdrew from the co-operatives and persuaded them to sue the co-operatives for quite unjustifiable sums.

"The head of the lawyers' collective in Cegléd, Dr. Janos Rubin, in conjunction with three other lawyers, pressed doubtful and illegal claims of various kulaks on several co-operatives in the neighbourhood of Cegléd, and on a co-operative in Nagykörös. Several co-operatives under threat of proceedings have been compelled to pay out claims which had no legal basis. Together with the head of the lawyers' collective in Baja, Dr. Péter Bakonyi and other lawyers such as Dr. Janos Rump, Dr. Sandor Szerdahelyi and Dr. Béla Vékony they put up 54 claims against co-operatives. Dr. Rump made an organized business of these claims. But the underground activities of the enemies of the people are shown best in the case of the lawyer Dr. Kasdy Körtvelyesi of Hodmezövasarhely. Körtvelyesi is himself a kulak. His family has estates comprising over 180 holds of agricultural land, which they have registered under the name of various members of the family. But the areas above registered to the names of some of the individuals concerned justify describing him as belonging to the kulak-caste. Last December Körtvelyesi summoned his old client, Josef Buzas, who had received land in exchange in 1949, when the whole area was divided up, which was put up for disposal in 1952, and told him that he could not reclaim his lands. Körtvelyesi submitted on behalf of the kulak Tomas Gazda a claim which was entirely baseless for 21620 forint against the co-operative „Ferenc Rozsa". He also put in a claim which was baseless on the co-operative "Friedrich Engels" for 34250 forint in the name of a Kulak client called Dr. Pavl Nagy. Moreover he had lodged unfounded complaints in many other cases against co-operatives.

"In the cases of Tomas Gazda and Dr. Pavl Nagy, who although they had property, obtained without any justification certificates from the Council that they were without means, Körtvelyesi sued for them on legal aid. Körtvelyesi petitioned the court on the basis of the legal aid granted to appoint a poor man's lawyer and submitted his own name as appointee. By means of these certificates of legal aid, which were wholly improper, Körtvelyesi succeeded on the one hand in getting the court fees for an object which had considerable value reduced to nothing, and on the other hand in escaping having to enter the fees which he got from his clients on the register (which incidentally is extremely badly kept).

"Körtvelyesi is a well-known man in Hodmezövasarhely. He conducted most of the cases sued out before the court there. His machinations were, however, not apparent to the head of the Town Court of Hodmezövasarhely. They could not be apparent, for the head of the court, together with some of its employees were numbered among the friends of Körtvelyesi. The head of the court has been suspended with immediate effect.

"These cases convince us without a shadow of doubt that we are confronted with activities of kulak-lawyers which are a danger to and harm the interests of people and state. Energetic counter-measures are needed. The competent authorities have already taken action against some kulak-lawyers and disciplinary action has been taken in a number of cases. But it is necessary to make clear that the Chambers of Lawyers have not always acted with sufficient energy and severity. The decisions in such cases, e.g. suspension from practice for a few months; money penalties to the tune of a few thousand forint and the mere suspension of Körtvelyesi, convince us that the penalties inflicted stand in no relation to the serious antisocial offences. The current enquiries must end in quite different sentences.

"The people's democracy grants lawyers who in the spirit of the justice of the people's democracy protect the rights of workers, and arrange their affairs, every support, but it will not tolerate kulak-lawyers, who are fed on kulak wealth, conspiring against the property of co-operatives which stands under protection of socialist justice, and acting as though they were hyenas tearing asunder the property of co-operatives. The protection of socialist justice demands that we should deal with such kulak-lawyers with the utmost severity."

Source: *Szabad Nep*, 14 May 1954.

DOCUMENT No. 117

(HUNGARY)

Kulak and Lawyer Sentenced for Malicious Defaming of a Kolkhoz.

"The kulak Karoly Morguly from Nagyecséd surrendered his land to the state. The state in turn handed the fruit farm to the agricultural production co-operative in Nagyecséd. The kulak endeavoured to get back the land already surrendered to the state and entrusted his claim to the lawyer Dr. Tomas Szuëcs of Mateszalka (who has been since prohibited practising as a lawyer). The lawyer was to enter a protest at the office of the public prosecutor on the ground that the agricultural production co-operative was in illegal possession of his property, which was a 7½ holds farm, had pulled down his barn and used the wood elsewhere, destroyed other buildings on the estate and neglected the land so badly that the fruit farm had to be abandoned.

"The judicial enquiry proved that the statements made in the claim were untrue. The Mateszalka circuit court condemned Dr. Tomas Szuëcs to imprisonment for one year and Karoly Morguly to 16 months imprisonment for the crime of maliciously defaming the agricultural production co-operative."

Source: *Nepszava*, 17 July 1954.

DOCUMENT No. 118

(HUNGARY)

Lawyer Sentenced for Maliciously Defaming an Agricultural Production Co-operative (collective).

"The kulaks, Istvan Györe, Gyula Kovacs and Istvan Major living at Som asked the lawyer Dr. Gyula Zsemberi from Siofok who had held high office in the province (Komitat) and was also a mayor, to reclaim by legal means the estates which they had offered to the state previously.

"The lawyer accepted his commission; he maliciously defamed the council of the town and the agricultural producer co-operative called "Beke" (peace). In the same matter he wrote on behalf of one Zeno Kugler to the agricultural production co-operative "Beke" (Peace) of Balatonszarszo from which he demanded the return of the vine-yard which had been offered to the agricultural production co-operative on behalf of his client.

"The Chamber of Lawyers set in motion proceedings against Zsemberi and has prohibited his practising as a lawyer for ever. The District

court at Siofok sentenced Gyula Zemberi for maliciously defaming an agricultural production co-operative to two years imprisonment, to a fine of 1000 forint and to loss of his civil rights for 3 years."

Source: *Nepszava*, 25 June 1954.

DOCUMENT No. 119

(HUNGARY)

Quack-Lawyer Sentenced for Defending a Kulak.

"Dr. Julius Maroszi (Mareczki) who had been an official in the Ministry of Finance, conducted with the help of his family, who were kulaks, and of his friends, an organized attack on the agricultural production co-operative "Beke" in Kekesszentandras with the object of recovering the cattle and the land belonging to the kulak Jozsef Nady and Ferenc Czernyus although the land had passed into the ownership of the "Beke" agricultural production co-operative either as a result of an alteration of the landregister or by physical surrender.

"Julius Maroszi threatened on behalf of the two kulaks to start "legal proceedings" in order to recover possession of the cattle and of the land.

"The Bezirk court at Szarvas condemned Dr. Maroszi for conspiring against agricultural production co-operatives and usurping the functions of a lawyer when unqualified thereto, to 3½ years imprisonment and 5 years' loss of civil rights.

Source: *Szabad Nep*, 6 July 1954.

DOCUMENT No. 120

(SOVIET ZONE OF GERMANY)

Chief Public Prosecutor
for the District of Muhlhausen
Ref. No. Du/Ko

Muhlhausen, Thuringia
15 January, 1952
Telephone No. 2161

Personal.
To Herr Bouillon,
Solicitor,
Heiligenstadt

At the trial on 8 January 1952, in Heiligenstadt of the scrap metal wholesaler, Erich Tuttas, you stated, inter alia, that, if the car of the accused were to be confiscated, one might just as well confiscate his suit and his wallet.

I need hardly tell you that I most emphatically disapprove of this utterance, and I wish to point out to you that if such a thing occurs again, I shall take steps to inform the Ministry, with a view to cancelling your appointment as a defence counsel for the district under the Court (Landgericht) of Muhlhausen.

DOCUMENT No. 121

(SOVIET ZONE OF GERMANY)

In the Name of the People!

Ref.: 1 Ds 227/53

Criminal matter

against the lawyer Karl Juhnke, born at Hildburghausen on 16 April, 1909, resident at 7, Wilhelm-Pieck-Strasse, Bad Salzungen, German citizen, married, without previous convictions,

for slander.

The Court (Schöffengericht) of Bad Salzungen at the hearing on 30 April 1953, at which took part —

Kreis Court Director Hauk, chairman,

Paul Pschierer and Hans Bohm, as lay assessors,

Public Prosecutor Neumann, representing the prosecuting authority,

Clerk Donner, court recorder,

has pronounced judgment as follows:

the accused Juhnke is sentenced to 18 months imprisonment for slander against the prosecuting authority or for months alternately contempt of public institutions. The time spent in custody is to be fully taken into account. Costs of the proceedings to be borne by the accused.

From the judgment:

On 5 March 1953, Erxleben and his wife were prosecuted at the Kreis court (criminal matters) at bad Salzungen. Both accused were sentenced to 18 months' penal servitude and forfeiture of their property. The appeal of the accused was dismissed and the sentence is, therefore, inappealable. At this trial the accused, Juhnke, had undertaken the defence of the Erxleben couple. During the trial Herr and Frau Dohrer gave evidence. These witnesses were in the employ of the fugitive economic criminal Beutelmeyer. They knew of the transfer of milk, cream, and eggs to the Erxleben couple. These witnesses had not been named in the indictment as it was only later discovered that they knew something about this matter. The Kreis public prosecutor had interrogated witnesses just before the trial of 4 March 1953 and had filed a request to summon them to court. At the trial these witnesses seriously incriminated the accused, although in so doing they exposed themselves to the risk of being prosecuted as well. The accused Juhnke, pleading for the Erxleben couple, suggested that the two Dohrer witnesses could not be believed. He arrived at this conclusion because both witnesses gave identical evidence and on the assumption that these witnesses had a strong interest in incriminating others in order to exonerate themselves. Thereupon he made a statement which ran as follows both in word and in content: "At one moment the evidence of the Dohrer couple was not there; at the next, it suddenly appears, and nobody knows where it has come from. This is a case of witnesses put up by the prosecuting authority to give evidence." Juhnke then continued: "This should have been done more cleverly," or "this should have been better handled." When the accused made this statement, the presiding judge, Kreis Judge Eden, interrupted him and pointed out the impropriety of his remarks. The accused then corrected himself, explaining that when he used the term "clever" he was in no sense referring to the prosecuting authority, nor to the court, but merely to the witnesses Dohrer. Later on in his speech for the defence, the accused demanded the acquittal of the Erxleben couple, arguing that the facts of the case as stated in the indictment, did not constitute a crime under Section 1 of the economic penal ordinance. In this connection, he pointed out further that the accused might possibly be liable to punishment under Section 4 and 5 of the economic penal ordinance. Replying to these statements of the accused, the Kreis prosecutor declared that the demand for a verdict of not guilty of an offence under Section 1 of the economic ordinance was ludicrous, since the quantity of rationed commodities obtained by the Erxleben couple was considerable enough to endanger the economic planning . . .

Viewing the situation in its context, one fully realizes the defendant's intention, namely, that his statements could only be applied to the prosecuting authority or alternatively to its putting up the witnesses Dohrer. If, in accordance with these findings, his statements refer to the method of producing evidence, the accused has in effect stated that the party offering the evidence, viz., the prosecuting authority, should have proceeded more cleverly. In addition, there is the testimony of the witness Steinhauser, who declared that the statements in question were made by the accused in an ironical tone. The accused had called 10 witnesses, who had attended the Erxleben trial as members of the public. Two of them excused themselves owing to sickness. None of the other eight could recall the incident at the trial clearly. Most of these witnesses were tradesmen, wholly uninterested in community life. Besides, some of these witnesses were friends of Erxleben, the witness Jacob being actually related to him. The majority of these witnesses did not take exception to the statement made by the accused. The witness named Dittmar described his statement as correct. When

appraising the value of this evidence, these so-called unbiased witnesses can be compared with the "neutrality" of justice in the Weimar period. At that time, Herr Ebert, President of the Reich could be insulted at any time and no court would take upon itself to punish the offender, as it was generally held that the subjective prerequisites of an offense were lacking. This exaggerated objectivity of justice at that time and the indifference of the majority of the German people ultimately led to fascism.

This danger would be present again today if the majority of the people adopted the attitude of the witnesses for the defense of the accused Juhnke. However, the majority of our people consists of our working classes, whose real representatives are the witnesses named in the indictment. In appraising the testimony of the witnesses called by the prosecution, the chamber holds that the witnesses Tietz and Eden were directly concerned with what happened. That does not necessarily make their reliability questionable; it only means that they must be considered as in a certain way parties to the case. Their evidence agrees in essentials with that of the other witnesses, so that the court has no difficulty in accepting at its face value the evidence of Tietz and Eden. The witnesses Simon, Steinhäuser, Kampfe, Schumann, and Kunze are all active in public life. They have the right judgment about the matter, i.e. that the statement of the accused in the Erxleben trial amounts to a contempt of public institutions. The witness Schumann declared that part of the public laughed when the accused made this statement. This evidence was corroborated also by the witness Steinhäuser, who added that he had the impression that the intention was to expose the court and the prosecuting authority to ridicule. The witness Deicke, who acted as recording clerk at the Erxleben trial, was unable to recall details of the incident. This is explained by the fact that during the pleading the witness was busy completing the record she had taken down in shorthand.

As regards the so-called subjective element of the culpability of the accused Juhnke, it has already been stated that the accused, being a lawyer and an official of a Bloc party, must be expected to be subject to more exacting standards of criminal responsibility. In addition, in view of the experience he must have had, having regard to the previous admonitions of the Ministry of Justice, the accused must have known the effects of his statement in the Erxleben trial.

Indeed he did know them. This is demonstrated by the fact that even the allegedly neutral audience was aware that the prosecuting authority was being ridiculed. No other reason can be found for the laughter of the public. The subsequent correction by the accused of his original statement to the effect that he meant something else, does not alter his culpability. It goes without saying that the accused, having been interrupted by the presiding judge, must have made an effort to weaken the impression created by his statement or even to erase it from the mind of the court.

The accused was therefore punishable under articles 131, 185, 187 and 73 of the Criminal Code, for having brought the prosecuting authority into contempt, knowing the contrary to be the case, and at the same time having brought this public institution into contempt.

The prosecution has demanded a sentence of 18 months' imprisonment and exclusion from his profession for a period of 5 years as a secondary punishment under article 42 (1) of the Penal Code.

Considering the defendant's special responsibility, criminal law responsibility, the court has upheld demand in respect to the term of imprisonment. As regards the restriction from the pursuit of his profession, the court holds that this measure is superfluous, as it is impossible for the accused ever to be readmitted as a lawyer and notary public. The time spent in custody was taken into account according to article 219 (2) of the Rules of Criminal Procedure.

The decision relating to costs is based upon article 353 of the Rules of Criminal Procedure.

(Signed)

In the territories under Soviet rule the principle that every accused has the right to be duly heard at a public trial is frequently violated although it is expressly laid down in the Constitutions and rules of procedure of the respective countries.

The Code of Criminal Procedure of the Soviet Union provide for the possibility of preventing the accused or his counsel from taking part in the legal arguments following on the trial of the facts.

DOCUMENT No. 122

(USSR)

Code of Criminal Procedure of the RSFSR (Edition of 1 July 1953).

Article 381:

The admittance of the prosecutor and of the defence counsel to the trial in cases falling under the jurisdiction of provincial courts is not obligatory and shall be decided upon in each case at the session held to decide questions of procedure. The decision will depend on the difficulties presented by the case, the state of the enquiries, or any special political or social interest attaching to the case.

Article 397:

Notwithstanding any previous decision regarding the admittance of the parties to the trial, the provincial court is authorized to refuse permission to either party to make final speeches, provided that the court regards the facts as having been sufficiently elucidated by the judicial enquiry.

Source: Ugolovno protsessualnyi Kodeks RSFSR (Code of Criminal Procedure of the RSFSR) (edition of 1 July 1953; Moscow, 1953).

DOCUMENT No. 122a

(USSR)

Code of Criminal Procedure of the RSFSR (Edition of 1 July 1953).

Article 382:

The provincial court is authorized to bar from the defence any person formally entitled to act as a defence counsel, if it regards that person as unqualified to appear in that particular matter on account of the special character of the matter.

According to Note 1 to Part IV of the Code of Criminal Procedure, these instructions are fully applicable to area, district, and territorial courts and therefore also to the proceedings of first instance concluded in those courts.

Even in those cases which are a matter of life and death to the accused, the Code of Criminal Procedure of the Soviet Union provides for a special procedure which is compulsory, conducted in the absence of the accused or his counsel (Art. 468). There is no appeal against sentences pronounced under this procedure and no possibility of a petition for mercy. Death sentences are carried out immediately after judgment.

DOCUMENT No. 123

(USSR)

Code of Criminal Procedure of the USSR (Edition of 1 July 1953).

Article 466:

The investigation in cases of terrorist organizations and terrorist acts against Soviet government officials (Arts. 58⁸ and 58¹¹ of the Criminal Code) must be completed in not more than ten days.

Article 467:

The indictment shall be handed to the accused twenty-four hours before the trial.

Article 468:

The case shall be heard without the presence of parties.

Article 469:

Neither appeals nor petitions for clemency shall be permitted.

Article 470:

A sentence of the supreme measure of punishment (death by shooting) shall be executed immediately after it is pronounced.

Article 471:

In cases of counter-revolutionary wrecking and diversion, the indictment shall be handed to the accused twenty-four hours before the trial.

Article 472:

An appeal in cases concerning crimes provided for in Arts. 58⁷ of the Criminal Code of the RSFSR (wrecking) and 58⁹ of the Criminal Code of the RSFSR (diversion) shall not be permitted.

Article 473:

A sentence of the supreme measure of punishment (shooting) shall be executed immediately after denial of petition from the convicted persons for clemency.

Exactly the same provisions have been made for political offenses and so-called crimes against "the people's property" in Albania.

DOCUMENT No. 124

(ALBANIA)

Law on the Activity of Terrorist Organizations.

Article 1:

The investigation of cases of banditry and of acts calculated to terrorize workers, public authorities of the people, and to spread terror in political and social organizations of the People's Republic of Albania, must be completed within ten days at the latest.

Article 2:

The indictment must be disclosed to the accused one day before the trial.

Article 3:

The trial must be held in the absence of the accused.

Article 4:

There is no appeal against the verdict and sentence of the court. Petitions for mercy are not allowed.

Article 5:

Death sentences shall be carried out immediately.

Article 6:

This law is effective immediately.

The Chairman of the Presidium of the
People's Chamber,
Dr. Omar Nishani.

The Secretary,
Sami Baholli.

Source: Zeri i Popullit, 27 February 1951.

DOCUMENT No. 125

(ALBANIA)

Decree on the Punishment of Crimes Against the People's Property.

Article 1:

Any person damaging the people's property, which forms the basis of Socialist economy, will be severely punished.

Article 2:

The indictment must be disclosed to the accused one day before the trial.

Article 3:

Trial can take place even if the accused is not present.

Article 4:

There is no legal appeal against the verdict or sentence of the court. Petitions for mercy are not allowed.

Article 5:

Death sentences shall be carried out immediately.

Article 6:

This decree is effective immediately.

The Chairman of the Presidium of the
People's Chamber,
Dr. Omar Nishani.

The Secretary,
Sami Baholli.

Source: *Zeri i Popullit*, 2 June 1952.

At present statutory provisions of this nature do not exist in the Soviet zone of occupation in Germany; actually the criminal courts of the Soviet Zone, however, adopt measures, particularly in regard to crimes with a political aspect, which amount to the practices statutorily sanctioned in the Soviet Union and in Albania. After the uprising of 17 June 1953, in the Soviet Zone, a great number of people were brought before the courts dealing with crimes having a political aspect. The trials were conducted with such speed that neither the accused nor the defence counsel formally assigned to them were able adequately to prepare their defence.

DOCUMENT No. 126

(SOVIET ZONE OF GERMANY)

The State Prosecutor for the
District of Cottbus.
Division 1

24 June 1953.

ref. I 303/53

Matter concerning Persons under Arrest
Charge

at the District Court (criminal matters) in Cottbus.

1. The serving-woman Elsbeth Maria Smolka.
2. The worker Werner Liebach.
3. The worker Gerhard Dabow.
4. The (female) worker Gertrud Zachow.
5. The (female) worker Ilse Zachow.
6. The (female) worker Gisela Thielmann.

a) the accused Nos 2 and 6

with inciting other persons against democratic institutions and organizations as well as inventing and spreading rumours which endangered peace.

On 17 June 1953, they took part in Cottbus in a demonstration started by the opponents of the German Democratic Republic and gave lip to inflaming and defaming statements against the Government of the German Democratic Republic, the People's Police and the Socialist Unity Party.

— Crime as laid down in Article 6 of the Constitution of the German Democratic Republic and KR.D No. 38 Part II Article II A III.

b) the accused Nos 1, 3—5

with taking part in an unlawful assembly at which violence was committed.

On 17 June 1953, they took part in a demonstration which was provocatively directed against the Government of the German Democratic Republic at which violence was done to various persons.

— Crime as laid down in the Criminal Code Sec. 125.

The Court is requested

- I To commence proceedings in the district court (criminal matters) for Cottbus,
- II To fix a date for the trial,
- III To order the prolongation of the arrest of the accused for the reasons applying hitherto.

(signed) Sieg,
Public Prosecutor.

— I 303/53 — The proceedings will begin on 26 June 1953 at 8.30 am.
Order of the Court

Recites:

1. The names, ages and addresses of the accused,
2. The exact words of a) and b) above,
and adds:

There is little doubt that they are guilty of the crime.

At the request therefore of the Public Prosecutor proceedings will be commenced against them in the district court (criminal matters) of Cottbus.

Their arrest will be prolonged for the reasons applying hitherto.

The period for summoning persons to attend is reduced to 24 hours.

Cottbus, 24 June 1953.
District Court. Court for
Criminal Matters.

Countersigned
by a Court official.

Signed.

I 303/53

Order of the Court

Recites:

The names, ages and addresses of the accused.

Adds:

The lawyer Bahr in Cottbus is appointed to defend the accused.

Cottbus, 24 June 1953.

Countersigned.

Signed.

The Office of the District
Court — Criminal Matters
I 303/53

Cottbus, 25 June 1953.

(Please give this number in all
written communications.)

Summons

In the charge against you

You are summoned to appear before the District Court (criminal matters) to attend your trial on Friday, 26 June 1953, at 8.30 am.

District Court of Cottbus
I 303/53

In the Name of the People

In the trial of

- 1) the worker Werner Liebach, born 15.II.19 in Cottbus, now of Brunswiger Str. 1, Cottbus,
 - 2) the female worker Gertrud Zachow, born 4.VI.34 in Cottbus, now of Bautzener Str. 5, Cottbus,
 - 3) the female worker Gisela Thielmann, born 19.III.35 in Cottbus, now of Petersilien Str. 5, Cottbus,
- for crimes under Sec. 6 and Sec. 125 of the Criminal Code the following were present at a sitting of the District Court (criminal matters) held on 26 June 1953

Senior Judge Hermann, chairman,
Annemarie Katze, chemical worker of Cottbus,
Gertrud Kowack, married, of Cottbus, both as people's judges,
Public Prosecutor Sieg, representing the district public prosecutor,
A. Schulz as court recorder
and the decision of the court is that:

the accused Liebach and Thielmann are found guilty of offences under Article 6 subsec. II of the Constitution of the German Democratic Republic and Part II Article III A III of the KR D No. 38 and sentenced as follows:

- 1) the accused Liebach to 18 months imprisonment,
 - 2) the accused Thielmann to 2½ years imprisonment.
- Furthermore, the provisions of the KR D No. 38 Part II Article II Nos 3—9 regarding reparation for damage done are hereby declared to be applicable to both accused, but the time limit under No. 7 shall not exceed 5 years in both cases. The accused Gertrud Zachow is found guilty of riotous behaviour under sec. 125 of the Criminal Code and sentenced to 18 months imprisonment.
The period spent under arrest since 17 June 1953, counts as time served.
The accused bear the costs of the proceedings.

(signatures)

A similar procedure is being followed in practice in Hungary. A certain Janos Füvesi, according to a report by the Hungarian newspaper Szabad Nep, had purposely set a stable on fire. The Hungarian court pronounced a death sentence against which there was no appeal and no petition for mercy was allowed. Janos Füvesi was executed within ninety minutes of the pronouncement of the sentence.

DOCUMENT No. 127
(HUNGARY)

"... Janos Füvesi made up his mind to carry out a scheme which he had harbored for a long time. At one o'clock in the morning he went to the stables and set fire to the straw in two different places. Then he lay down and went to sleep. He felt no pity for the wretched animals. He was completely obsessed by his aim, which was to ruin the kolkhoz. When the fire was discovered, he was even bold enough to ask innocent questions in order to divert suspicion from himself. In this he failed. Now Füvesi stands in the dock. He does not dare to raise his eyes, sensing the wave of hatred.

"When the general court pronounces the death sentence, he breaks down. "Mercy", he pleads. His crime is grave, and his sentence correspondingly severe — he will hang. The sentence is applauded by the public attending the trial. The people have passed sentence on its enemy.

"The sentence was carried out an hour and a half after the trial was concluded."

Source: *Szabad Nep*, No. 315, 17 December 1952.

In 1951 a Dutch subject, Leo van Aerde, gained first-hand experience of the procedure of a Hungarian criminal court. He reports on his trial as follows:

DOCUMENT No. 127a

(HUNGARY)

"Behind a table sat a man in a red shirt with his sleeves rolled up. Beside him sat two workers as representatives of the people. On the left a man who appears to have been the public prosecutor, or something of the sort, and on the right the court clerk.

"That was the whole court.

"When we were led in, the "judges" rose from their seats. When they sat down again we were given to understand, by a severe blow in the ribs, that we had to stand up. The man in the red shirt then said something about the People's Republic of Hungary and declared the trial open.

"I asked for a lawyer and an interpreter, for I understand very little Hungarian. The judge replied, however, that I needed no counsel, and that an interpreter would also be unnecessary, as they would make me understand everything.

"When the judge has passed the sentence, repeatedly thumping the table with his fist, I was informed in German that I had been sentenced to four years' imprisonment for illegally entering Hungarian territory, for being an enemy of the Hungarian people, and for espionage. I immediately filed notice of appeal; but so did the prosecutor, on the grounds that the sentence was too mild in his opinion..."

Read, approved, and signed.

In Poland until 1 January 1955, not only the ordinary courts but also special departments of the Executive were empowered to sentence for criminal offenses. The special departments were formed to carry on the "Fight Against Malpractices and Economic sabotage". Under Art. 7 of the Decree of 16 November 1945, as revised dated 31 August 1950, these departments of the Executive were authorized to inflict penalties not exceeding 2 years compulsory labour and 150,000 zloty. They were further authorized to direct confiscations of property, to impose restrictions of the right of residence, and to order business to be closed down. Despite their far-reaching power in regard to the personal freedom and the property of anyone charged before them there was no possibility of employing defense counsel at the hearings of these departments nor was there any appeal against their decisions. The special departments were only abolished as from 1 January 1955 by a decree dated 23 December 1954.

In the Soviet Union a drastic restriction of the rights of the accused, in political trials has been permitted since 1936.

DOCUMENT No. 128

(USSR)

"The summary system is adopted either in straight-forward cases or when, for political reasons, the accent is placed upon the rigorous and swift repression of class enemies in cases involving crimes which bear the stamp of a class struggle by class-hostile elements and their agents against the socialist regime and the dictatorship of the proletariat. In

such cases, it is permissible to restrict the right of the accused in court and to limit a number of procedural phases customarily found in the amplified form of Soviet procedure."

Source: A. Ya. Vyshinsky and V. S. Undrevich, *Kurs ugolovnovo protsessa (Text-book of criminal procedure)* (2d ed.; Moscow, 1936), pp. 64-65.

In the Soviet-occupied zone of Germany, the new code of Criminal Procedure, dated 2 October 1952, which came into force on 15 October 1952 (*Gesetzblatt*, 1952, p. 977) provides that the indictment need not be placed in the hands of the accused in every case; for so-called "important reasons", the accused has only be allowed to peruse the indictment, after which he must return it. "Important reasons" would always be assumed to exist where the proceedings involved a crime having a political aspect.

DOCUMENT No. 129
(SOVIET ZONE OF GERMANY)

Code of Criminal Procedure of the German Democratic Republic, dated 2 October 1952.

Article 180: Communication of the Indictment to the Accused.

- (1) The indictment must be served upon the accused not later than the issue of his summons to trial.
- (2) Where are important reasons, the accused shall merely be given cognisance of the indictment.

A confirmation given by the accused that he has so taken cognisance shall be filed in the records.

Source: *Gesetzblatt*, 1952, p. 977.

The methods of proving evidence are now so designed as to operate very largely to the detriment of the accused. The rule that proof of evidence must be taken directly by the court trying the case has been cut down to such an extent that the accused has scarcely any chance of defending himself successfully against any charge brought and against evidence which is either false or manufactured. In the Soviet Zone of Germany an accused, who has once made a confession during the investigations by the police or the State Security Service and has signed the written note of his confession, is definitely committed to it.

At the trial in court he cannot suggest that the confession was extorted from him under duress or by other irregular means. The record of his confession can always be read out as fully valid evidence.

DOCUMENT No. 130
(POLAND)

Code of Criminal Procedure of the People's Republic of Poland.

Article 229:

- (1) Official records of witnesses' statements in evidence made during the preliminary investigations or during judicial proceedings may be read at the trial if it has been impossible to serve a summons on a witness or if a witness failed to attend owing to insurmountable or barely surmountable difficulties or owing to the considerable distance of his place of residence from the court, or if the witness, although present, gives evidence that differs from his testimony at previous proceedings, or declines to answer questions, or declares he can no longer remember certain details.

- (2) During a trial, records of witnesses' statements in evidence made in the course of the preliminary investigation or in other judicial proceedings may also be read if the evidence of the witness was duly taken and the conditions laid down in subsection (1) apply.

Article 300:

There may also be read out:

- (6) Other official or private documents placed on file.

Source: *Kodeks Postepowania Karnego* (Warsaw, 1952).

That these regulations are applied quite openly to the detriment of the accused is shown by a judgment of the Supreme Court of the People's Republic of Poland, which in effect lays down that evidence given by witnesses in favour of the accused at the trial should not be believed and the contrary is to be presumed if these witnesses have given the Police, the State security service, or the public prosecution, different testimony during the preliminary investigations.

DOCUMENT No. 131

(POLAND)

Judgment of the Supreme Court of the People's Republic of Poland of 31 October 1950. (Reference: AZ : K. 860/50).

In the criminal matter of Wladislaus W. and Stefan T. accused under Art. 286 of the Criminal Code, the Supreme Court has considered the demand of the Chief Public Prosecutor of the Supreme Court that the questions of law on which the judgment of the Appeal Court in Lodz on 14 December 1949 was based should be retried as a special issue.

The Supreme Court in conformity with Articles 394, 396, 400, 383 (3) and 388 of the Code of Criminal Procedure has quashed the verdict and remitted the case to the lower court for retrial.

The demand for retrial submitted by the Chief Public Prosecutor of the Supreme Court calls for the quashing of the verdict referred to and the remission of the case to the Appeal Court in Lodz for retrial. The demand for retrial is based on the objection that Art. 308 (at present 299) of the Code of Criminal Procedure was infringed since no reference was made by the court to the evidence of certain witnesses given during the preliminary investigations which differed in material matters from the evidence these same witnesses offered during the trial. This fact justified the objection that the true facts were not, and could not have been, ascertained.

The position taken by the Supreme Court appears in its judgment:

The witnesses' evidence at the trial differed from that given at the preliminary enquiry. The Appeal Court was therefore bound to make use of its right to order the reading of the statements made by these witnesses during the preliminary investigation.

Although Art. 308 (now 299) of the Code of Criminal Procedure speaks of the right to read out statements that contradict evidence given to the court ("they may be read..."), it must be borne in mind that this provision was taken over from the former Rules and must therefore be interpreted in accordance with the principles underlying the new Code of Procedure promulgated in the amending Law of July 1949.

The main features of the reformed Court procedure are among others:

- 1) the paramount duty of the court to arrive at the real facts (Articles 8, 260, 324 (1), 399 and other Articles of the Code of Criminal Procedure).
- 2) the principle that evidence collected in a preliminary enquiry must be granted the same status as evidence produced before the court.

Article 308 (now 299) of the Rules of Criminal Procedure cannot be applied in the same way as the rule it was derived from, i.e. Articles 340 of the former Rules of Criminal Procedure, primarily because reading out statements as instituted by Art. 340 rested on the principle — recognized today as false and out of date — that evidence gathered in a preliminary enquiry has an inferior status to evidence produced at the trial.

If therefore a witness contradicts during the trial what he declared during the preliminary investigation, it is the duty of the court to clear up the discrepancies in order to arrive at the material truth.

Modern procedure in criminal trials compels the court to concern itself positively with the evidence produced, for instance, by calling fresh evidence (Art. 260 of the Rules of Criminal Procedure), and by first taking note of any discrepancies and then by clearing them up to uncover and establish the truth of the matter. The court's right to have read out statements which contradict the evidence given at the trial ceases therefore to be merely a right. It becomes the actual duty of the court, in all cases when failure to make use of this right could make it possible for discrepancies to subsist in spite of the endeavour to arrive at the actual truth, and that can be particularly the case where statements made before the trial, that is, at a time when the facts were still fresh in the witness's minds, and may therefore often be nearer the truth than statements made during the trial, are ignored.

DOCUMENT No. 132

(POLAND)

Deposition: Appeared the bookkeeper, Edward Burlaga, Bydgoszcz Grudianka 31, at present in the transit camp for fugitives from the East-Bloc states, who says as follows:

"Until 1947 I was an official in the Polish Ministry for National Defence, Supply Department, Technical Division in Warsaw — Praga, Radzymiuska. On 20 June 1947, I and 27 colleagues from my Ministry were arrested by the Polish criminal police (UB). No reason was given. I learnt from subsequent inquiries that I and all my colleagues under arrest were accused of misappropriating public money. I personally did not enrich myself at the state's expense.

"I was kept under arrest pending trial for 27 months. I could not communicate with the outside world during this time. Although I repeatedly demanded that I should have a lawyer, this was denied me even at the trial which took place later.

"During my arrest pending trial I was frequently mishandled. Four teeth were knocked out, I was kicked in the ribs and three were broken. I was repeatedly struck with hard objects on the back. I still bear the scars from this treatment.

"For the greater part of the arrest pending trial I was held by the Russians.

"On 21 September 1949, the trial before the Supreme Military Court took place in Warsaw. The trial was not held in public and no witnesses were summoned to it. Merely the official notes of the statements of witnesses were read out. I was condemned to 15 years' imprisonment under Article 1 (28) of the Military Criminal Code. I was told when the sentence was pronounced that there was no appeal, that this was the first and last court. It was merely suggested to us that we could petition the Polish President, Bierut, or the Commander of the Polish National Forces, Marshall Rola-Zymierski for mercy.

"On 23 February 1953 I was discharged from prison in Gdansk. I had served over 5 years of my punishment, five years were remitted thanks to the mercy of the President and I was let off the rest of my sentence because I promised to work for the "UB". I only gave this promise to secure my early release. In September 1953 I fled to West Berlin from Görlitz."

Read, approved and signed.
5 April 1954.

DOCUMENT No. 133
(CZECHOSLOVAKIA)

Code of Criminal Procedure.

Article 157:

1. At a trial the court shall dispense with the examination of a witness and rely on the record or his evidence not taken before it.
...
- a) if the witness is dead, if he has become of unsound mind, if his whereabouts are unknown, or if bringing him to the court would cause undue difficulties or unwarranted expense in view of his age, of his state of health, of the distance of his residence from the courts or for any other reasons.
2. For the examination of an expert witness before the court, there may be substituted the reading of the official note of a statement made by an expert otherwise than before the court.
...
- b) if the presence of the expert would entail undue difficulty or unwarranted expense.

What "other reasons" could entail undue difficulty is not made clear.

DOCUMENT No. 134
(SOVIET ZONE OF GERMANY)

Code of Criminal Procedure of the German Democratic Republic.

Article 207: Reliance on first hand evidence.

- (1) To substitute for the hearing of a witness or one of several accused at first hand the reading of the official record of his previous interrogation by a member of an investigating body, by a public prosecutor, or by a judge is permissible only in the following cases.
 1. If the witness or one of several accused is dead or has become of unsound mind, or if his whereabouts cannot be ascertained;
 2. If sickness, inherent feebleness or some other insurmountable disability would postpone the appearance of a witness or one of several accused for a long time or for an indefinite time.
 3. If it would be impracticable to produce the witness within a reasonable amount of time.
 4. If the public prosecutor, the defence counsel and the accused agree to its being read.
- (2) In the case stated in (1), it is also permissible to read the minutes recording other hearings or statements as well as written statements of a witness or of one of several accused...

Article 209: Reading of earlier statements.

- (1) Declarations of the accused, and in particular a confession, which form the subject matter of the written notes of former hearings, may be read as evidence as far as necessary.
- (2) The same applies to the reading of earlier statements by a witness...

In the criminal matter of the driver Müller and the storekeeper Grieshammer (the full findings of the court are set out in Document 15) the evidence for the prosecution rested practically entirely on the statements of two members of the People's Police. Neither witness was present at the trial. The court merely read a report prepared by these policemen in writing and accepted the facts stated in the charge as proved.

DOCUMENT No. 135
(SOVIET ZONE OF GERMANY)

ref.: I a KS III/53
I — 153/53

Judgment.

In the Name of the People.

In the trial of

1. the driver Adfred Müller, born 10.1.13 in Leipzig, of Lindenthalerstrasse 55, Leipzig N 22 now under arrest pending trial
2. the store-keeper Gerhard Grieshammer born 28.2.16 in Leipzig of Wangerooger Weg 2a Leipzig N 22 now under arrest pending trial.

Extract from the judgment :

The facts of the case are disclosed by the statements made by the witnesses Weigel and Friesecke which so far as they go can be trusted and the report of the witnesses Mehnert and Rölke which was sent out during the trial in accordance with sec. 207 (1).

The admissions which the accused made in the preliminary enquiries practically constitute a confession that they committed the offence they are charged with.

At the trial both took the line that they were so drunk at the time they committed the crime, that they cannot remember anything about what happened. The court is not disposed to accept this story. The evidence of the witnesses leaves no doubt that the accused were under the influence of alcohol but by no means "dead-drunk".

DOCUMENT No. 137 (No. 136 not used)
(HUNGARY)

Deposition: Appeared Deszö Szücs, born on 26 March 1930, former apprentice in the textile and machinery-construction industry, lived lastly in Budapest, fled on 25 June 1953, and now resident at Wels (Austria), who says as follows:

"When I was in prison in Vaz — I had received a sentence of 12 years' imprisonment for treason and espionage alleged against me — a certain Tomas Pasztor was in my cell. He would have been in the early forties; he had been a member of the Landtag and belonged to the "Landwirte" party. Some time in the autumn of 1952 he was one day taken out of the cell and did not appear again for a fortnight. He arrived with a parcel of some size which, however, he had to leave outside by the door of the cell. This parcel contained, as we afterwards found out, a considerable quantity of cigarettes and foodstuff. Pasztor was not allowed to consume the contents in the cell, but one of the warders would fetch him out at various times of the day and then some of the contents of the parcel were handed to him for consumption.

"Directly after his return Pasztor told us, i.e. the other inmates of the cell, — we were seven in all, — the following story: He was originally condemned to death and then reprieved, but his sentence was converted to imprisonment for life. But as he was still an object of suspicion in view of the fact that he had been previously one of the leading members of the peasants' party which the authorities had dissolved, it was suggested to him that he should rehabilitate himself. He was to do this by making a false statement as witness in an espionage case. The case was the trial of one Nyikos for espionage. Several other accused were to be tried at the same trial who had had nothing to do with Nyikos at all. Nyikos' statements confirmed that he had never spoken to these people nor had had anything to do with them. But as the authorities were dead set on putting these persons out of the way, false witnesses had to be employed to procure their conviction. Pasztor was instructed by the police to say that he had once spoken to Nyikos and that during the conversation Nyikos had stated that the other accused were in touch with him. These people were actually found

guilty, as a result of Pasztor's evidence, of being accomplices in the espionage plot. They were sentenced to terms varying from imprisonment for life to 15 years. Pasztor wept as he told us the story and pointed out that he could not offer any resistance to the pressure of the police on him to give pre-arranged evidence as a witness. He repeated again and again that he was terrified that they would change back his sentence to the death sentence or would put him in police prison where he could be maltreated. The names of the inmates of the cell who heard Pasztor's statements and can confirm what I say are:

Karol Perczel (architect),
Ferenc Pikler (electrical engineer),
Karol Rath (colonel in the secret police),
Peter Balaban (broadcasting editor for Yugoslav programmes),
Istvan Matyas (duty police chief of Budapest).

"I am convinced that Pasztor later became a spy in the prison. It has been pointed out to me that I am bringing serious charges against Pasztor. But I stick to what I have said and am prepared to repeat it on oath."

Read, approved, and signed.

21 July 1954.

In Poland, the decree of 16 November 1945 authorising the adoption of court martial procedure is still in force, as appears from the judgment of the Supreme Court under date of 15 April 1952. Even in times of emergency one may have doubts about the justification for a decree of this nature; to-day however there is no possible constitutional justification.

DOCUMENT No. 138

(POLAND)

Decision of the Supreme Court (Criminal Matters) of the People's Republic of Poland, of 15 April 1952 (A.Z.: K. 7. 136/51).

- 2) The decree of 16 November 1945 authorising the adoption of court martial procedure lays down the particular procedure to be followed. It is abbreviated, simplified, and limited to trial by one court; and it allows a considerable increase in the punishments inflicted in that it prescribes sentences varying between 3 years' imprisonment and the death penalty regardless of the penalty otherwise provided for the offence concerned (Sec. 2). There is no appeal against the verdict and the sentences awarded by the court (Art. 13 (4)).
- ...
- 3) According to Art. 13 (4), the verdict and sentence awarded by a court applying court martial procedure are unappealable. The Supreme Court has no jurisdiction and cannot entertain an appeal against a decision of a court applying court martial procedure nor give consideration to an application to have the legal basis of a verdict of such a court reviewed.

DOCUMENT No. 139

(POLAND)

Decree of 16 November 1945 on Procedure in Special Courts.

In view of the provisions of the Law of 3 January 1945, on the procedure regarding the issue of decrees with force of law (Dziennik Ustaw, No. 1, item 1), the Council of Ministers decides as follows, with the approval of the National Council:

Article 1:

(1) Special court procedure applies :

...

- d) 1) to offences involving damage to the State treasury, the local administration, any institutions of a public nature, co-operatives, enterprises that belong to the State or are under State administration, or enterprises controlled by local administrations, by institutions of a public nature or by co-operatives;
- 2) to other offences, where the economic interests of the Polish people have suffered grave injury...

Article 2:

(1) Irrespective of the penalties provided for the particular offence in the law the following penalties are to apply in principle in respect of all offences which are tried by a special court:

- a) the death penalty, or
- b) life imprisonment, or
- c) imprisonment for not less than 3 years,
- d) fines for cases dealt with in Art. 42, Sec. 2 of the Penal Code.

Article 3:

Except where this Decree provides to the contrary the proceedings of the special courts follow the lines laid down by Criminal Procedure...

Article 11:

- (1) Within 24 hours of receipt of the indictment the chairman of the court shall fix a date for the trial and arrange for all the necessary persons to be summoned to appear with or without documents.
- (2) Should the accused be sick and unable to leave his bed, the trial may be postponed until he has recovered.
- (3) The provisions of Art. 262 (now 253) of the Code of Criminal Procedure are inapplicable, and the period laid down in Art. 265 (now 256) of the Code of Criminal Procedure shall be reduced to 3 days.

Article 13:

(4) There is no appeal against verdicts and decisions of the court.

...

Article 253:

- (1) At least seven days must elapse between serving of a summons to an accused person and the date of the trial.
- (2) An accused person may demand that the trial be adjourned if the said period of seven days had not elapsed...

Article 256:

- (1) An accused person has the right, within a period of seven days reckoned from the day of serving the copy of the indictment to demand the summons of others persons and the production of other evidence than those persons or that evidence mentioned in the indictment, and that he has this right must be made clear to the accused at the time the indictment is handed to him.

Source: Dziennik Ustaw, 1949, No. 33, item 244, including amendments.

Despite the existence in the Soviet orbit of many provisions ruling out the possibility of appeal against the decisions of a Criminal Court, ordinarily the Code of Criminal Procedure do of course permit appeals. In the Soviet Zone of Germany the prosecution's right of appeal is called "the objection" ("Protest"), that of the accused "the appeal". The new Code of Criminal Procedure makes it extraordinarily difficult for the accused or his counsel to formulate their arguments in support of the appeal with a chance of success. In contrast to the Codes of Criminal Procedure which used to apply in

Germany a definite period is no longer allowed for submitting the arguments; they must in fact be stated in writing or dictated to an official for the record at the same time as the appeal is lodged.

DOCUMENT No. 140
(SOVIET ZONE OF GERMANY)

Code of Criminal Procedure of the "German Democratic Republic", of 2 October 1952.

Article 281: Form and Time allowed for Lodging Appeals and the Relevant Reasons.

- (1) The objection must be lodged in writing with the lower court not later than one week after the sentence was pronounced, and the reasons supporting the objection must be submitted at the same time.
- (2) The appeal must be lodged through a lawyer, subject to the same time limit; it shall be lodged in writing or dictated to an official for the record at the office of the court, and the reasons supporting the appeal must be submitted at the same time.

Source: Gesetzblatt, 1952, p. 997.

The Supreme Court of the Soviet Zone of Germany does not permit a second formulation of the reasons for appeal, even if lodged within the time allowed for entering an appeal.

DOCUMENT No. 141
(SOVIET ZONE OF GERMANY)

Decision of the Supreme Court of 23 January 1953.

(ref.: 1 b Ust 11/ 53)

Article 281 of the Code of Criminal Procedure.

Resubmission of a statement of the grounds for appeal in lieu of a former statement vitiated by some formal defect or the addition of further matter to an appeal already lodged is not permitted by the law, even if the time for lodging the appeal has not expired when the resubmission or the submission of the additional matter was effected.

Extract from the judgment:

The appeal was lodged within the requisite period on 2 January 1953 with the District Court but it was not accompanied by the statement of reasons required by the law. (Article 281 of the Code of Criminal Procedure). The appeal is therefore ineffective. Resubmission and subsequent submission of additional matter do not cure a defect of form in the original submission, and this is so even if the second submission is lodged in correct form and received by the lower court within the time allowed for entering the appeal. The law does not provide for such procedure.

These legal provisions, which have been devised solely in order to harass accused persons and — as practical experience shows — actually have that effect, are rendered a particularly severe handicap by the fact that judgments of the lower courts and the reasoning on which they are based are withheld from the defendants' lawyers. It is, of course, well known to public prosecutors and judges that it is impossible for a lawyer to formulate his reasons for appeal if he is denied the knowledge of the reasons on which the appealed judgment rests. This is precisely

the reason why this procedure has been adopted, as will be seen from the minutes of a discussion held at a meeting of Bezirk court directors and of the heads of Bezirk legal administrations, and submitted to the Soviet Zone Minister of Justice.

DOCUMENT No. 142
(SOVIET ZONE OF GERMANY)

Indoctrination Department

Internal circulation
(For the attention of Dr. Artzt).

To Minister Fechner

Subject: Central deductions within the scope of the large-scale indoctrination on the topic of „Conclusions to be drawn from trials of agents of the so-called Investigating Committee of Free Jurists”.

I enclose herewith the minutes of the discussion held at the meeting.

...
Taubert, head of the Dresden district administration of justice, has found that, especially in Class I cases, the lawyers demand the text of judgments for the benefit of condemned persons who reside in West Germany. We have handed over the bare judgments without the relevant statement of reasons. However, they are not satisfied with this and want the reasons too (our excuse was shortage of typists) ...

One of the principal devices employed by the Fascists of the Hitler period in their misuse of the criminal law for ridding themselves of actual or supposed opponents was to apply the law on the “analogous” principle as provided for in Article 2 of the Criminal Code as amended by the National Socialists. The Allied Control Council had this situation in mind when it expressly repealed Article 2 of the Criminal Code by Law No. 11, dated 30 January 1946. The Soviet representative in the Control Council put his name to this law, thus repealing a piece of legislation which was entirely contrary to the spirit of the constitutional state and which opened the door to unlimited arbitrary actions of the Executive. Yet in Communist territory “analogy” in criminal law has been defined in almost the same terms as were used when introducing it into German criminal law.

DOCUMENT No. 143
(USSR)

Criminal Code of the RSFSR.

...
Article 16:

If a socially dangerous act of some kind or other is not expressly covered by this Code, the nature and extent of responsibility for the offense shall be determined by those articles of this Criminal Code which are mostly closely related to it by their nature.

...

DOCUMENT No. 144
(USSR)

From “Soviet Criminal Law” by Menchagin and Vyshinskya.

Analogy in Soviet criminal law fully justified itself in the following years; it afforded an opportunity to take measures in good time to combat certain serious crimes, enabling the servants of socialist justice to act expeditiously in face of new types of crime which could develop out of class warfare. The “Fundamental Principles of Criminal

Legislation of the Union of Soviet Socialist Republics and of the Republics of the Union", and the criminal codes in force in the Republics of the Union contain rules involving the principle of analogy; the conditions under which they are to be used will be discussed below ... The recourse to the principle of analogy in Soviet criminal law is determined by the practical requirements of the socialist state and the stage of development it has reached.

Source: V. D. Menchagin and Z. A. Vyshinskaya, *Sovetskoe ugovnoe pravo (Soviet Criminal Law)* (Moscow, 1950), p. 246.

DOCUMENT No. 145

(BULGARIA)

Bulgarian Criminal Code.

...
Article 2:

- (1) Any socially dangerous culpable act (or omission) that has been declared punishable by the law constitutes a crime.
- (2) Any socially dangerous act shall also be deemed to be a crime if its nature closely resembles a state of affairs which would constitute a crime even though such action is not expressly defined by the law.

...
Article 34:

In the circumstances of Article 2 (2), the punishment for the crime shall be the penalty which is imposed for crimes most closely resembling its character.

DOCUMENT No. 146

(ROUMANIA)

Decree No. 187 of 29 April 1949 Concerning the Amendment and Abrogation of Certain Provisions of the Criminal Code.

Article 1:

The aim of the Criminal Code is the defense of the People's Republic of Roumania and of the orderly society established under it against acts which endanger its social existence by means of measures of social protection against persons perpetrating such acts.

Acts endangering social existence are punishable even though no provision in any law specifically mentions them as offences. In these cases the nature and extent of the responsibility in criminal law shall be determined by reference to provisions of the law dealing with similar offenses.

DOCUMENT No. 147

(ROUMANIA)

"...Laying down by statute a set of facts which alone could constitute the particular abstract offense is a relic of bourgeois philosophy and accordingly the method of applying sets of facts by analogy constitutes a powerful weapon in the hands of the toiling classes which are building socialism in our country".

Source: S. Kahane in *Justitia Nova*, 1950, No. 3/4.

DOCUMENT No. 148

(CZECHOSLOVAKIA)

From the Motives of Article 12 (2) of the Administrative Criminal Code.

The provisions of the Code on the basis of which punishment by imprisonment and in addition by pecuniary fines can be inflicted even when the offence is not covered by a specific provision set down in the Part of the Code devoted to particular crimes are designed in the first place for the punishment of class enemies.

V. ARBITRARY ARREST; CONFESSION AND TESTIMONY OBTAINED BY EXTORTION

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Art. 7, United Nations Universal Declaration of Human Rights.

No one shall be subjected to arbitrary arrest, detention or exile.

Art. 9, United Nations Universal Declaration of Human Rights.

Article 127 of the Constitution of the USSR guarantees the citizens of the USSR the inviolability of the individual. This Constitution further declares that a citizen may be arrested only by order of a court or with the authorization of the public prosecutor. According to Article 130 of the Soviet Constitution, it is every citizen's duty to observe the Constitution of the USSR. Supreme control of the exact application of the laws and of the obedience to the Constitution rests with the Procurator General of the USSR — Article 113. Similar provisions are in force in all other countries of the Communist realm.

However, the methods used by the secret police, the State security service, and all other criminal prosecution authorities are directly opposed to these constitutional provisions. Articles 5 and 9 of the "Universal Declaration of Human Rights" of 10 December 1948, are deliberately disregarded and violated. There is a steady flow of evidence of arbitrary arrest, torture, and cruel, inhuman, and humiliating treatment of accused persons and sentenced prisoners. Confessions are being extorted by the police and organs of the State Security Service all over the Communist realm. Methods vary; but the aim is the same everywhere: to force the accused into making the required confession.

Ex-Major Leonid Ronshin has had good insight into the methods of the Soviet Security Service (MVD) and reports his observations as follows:

DOCUMENT No. 149
(USSR)

Deposition: Appeared Leonid Ronshin, born on 1 April 1914, at Kazan, major in the Soviet army who fled from East Berlin to Western Germany at the beginning of 1953, who says as follows:

"All persons accused of political offences are arrested by the MVD without any warrant and without the knowledge of the public prose-

cutor's office. At times the arrested person has no idea of the charge against him for 10 to 30 days, or even for two months.

"For example, in 1951 the director of the central egg depot of the town of Mukatchev, Petrov Pavel Ivanovitch, was arrested in his flat at night and kept under close arrest in solitary confinement for 63 days; he was then released without having been interrogated on any charge whatsoever. During this period he was not allowed to see either a lawyer or his wife.

"A Soviet army officer who was demobilized in 1945, Captain Nikolai Fedorovitch Fedotov, was arrested in 1952 at night at his home in Moscow and taken away in a "Black Maria". He spent 40 days with the MVD in Moscow and was there sentenced, by the MVD, to eight years on the grounds of his allegedly counter-revolutionary propaganda activities. The question he had asked himself was why the Russian people had fought against Hitler: was it for the Fatherland of for Stalin? In January 1953, I received a letter from him from Krasnoïarsk, which said he had to work for 16 hours a day, and he begged me to send him something to eat, if only dry bread.

"The MVD has all manner of means at its disposal to exercise its power over the population. Without any court order, the MVD orders special trains with barred windows to be kept in readiness at certain stations. Whole families are torn away from their homes, brought to the station by lorries, threatened with weapons, put on the train and taken away to unknown destinations. They are only allowed light luggage. Anybody who resists is sent to a camp and there sentenced by the MVD. From the villages that lie between Stryj and Skolje in the district of Lwow (Western Ukraine), about 2,500 persons were deported to Siberia in 1950, because they were alleged to have committed sabotage and did not want to join the kolkhozes."

Read, approved, and signed.

18 December 1953.

DOCUMENT No. 150

(USSR)

Deposition: Appeared Leonid Ronshin, born on 1 April 1914, in Kazan, major in the Soviet army who fled from East Berlin to Western Germany at the beginning of 1953, who says as follows:

"I visited the prison in the town of Gorki and saw cells there in which there were so many men that they could only stand pressed close to one another. Whoever could not endure this torture called the guard, who conducted him to the examining magistrate. There he could confess to a crime of which he was not guilty.

"I often visited the prison in Gorki with the help of my friend, who was employed there as a free worker — namely as a bookkeeper. His name was . . . At every visit I asked him to show me, if possible, several cells containing prisoners. The cells always held at least five or six times as many people as they were supposed to. These people stood, and only by taking turns could they get room to sleep for one or two hours on the stone floor. However, in accordance with an order from Moscow, food was provided for the normal number of prison inmates: consequently each man received such a pitiful portion that he swallowed it all at once. In spite of this, they had to work twelve hours a day. The prisoners looked like skeletons and could move only with difficulty."

Read, approved, and signed.

18 December 1953.

Evamaria Werner had personally experience of the type of treatment reported by Leonid Ronshin concerning other citizens of the Soviet Union.

DOCUMENT No. 151
(SOVIET ZONE OF GERMANY)

Deposition: Appeared Evamaria Werner, born on 28 June 1932, cautioned to tell the truth, who says as follows:

"I have been registered with the police in East Berlin since 1951, but have been living in West Berlin since August 1952. While I was visiting friends in East Berlin, I was arrested by the Soviets in October 1952. I was first taken to the MVD prison at Magdalenenstrasse, Lichtenberg. After three days of interrogation, a warrant for my arrest on grounds of espionage, written in Russian, was read out to me. I was then taken to a Russian investigation prison in Karlshorst. There, during the following months, I was interrogated almost every day for several hours, regarding alleged espionage activities for the American secret service. The interrogations usually began about 10:30 p.m. and lasted until 3 or 5 a.m. I was then allowed to lie down to sleep, but was awakened at 6 a.m. along with the other prisoners. In the day-time there followed interrogations from approximately 10 a.m. to 5 p.m. In all I was interrogated about 200 times. The interrogation was conducted by a Soviet examining magistrate having the rank of lieutenant-colonel. As I had never been in contact with any Western secret service, the interrogations produced no incriminating material. Obviously the proceedings were only commenced because of something I had said to an acquaintance. In the middle of January 1953, a final report was drawn up and the entire evidence collated. Immediately thereafter I was taken back to Lichtenberg, where I was to await the judgment of a Soviet tribunal. There were no more interrogations. I was then suddenly released from jail on 22 September 1953, but I was first made to promise, under threats of continued detention, to work for the Soviet press service. I received no document regarding the proceedings or my arrest."

Read, approved, and signed.
28 September 1953.

DOCUMENT No. 152
(USSR)

Deposition: Appeared Lionginas Kublickas, born in 1929 in Lithuania, District Zarasai, captain of a ship, escaped from Lithuania in July 1951, at present living in Cicero, Illinois, USA, who says as follows:

"I was arrested three times — in 1944, 1946 and 1951. Each time I was imprisoned for several days. I was never given any documents in connection with my arrests. I was arrested because it was desired to find out something about my uncle who was in hiding; it was supposed that I knew where he was. I was also suspected of knowing something about the "Fighters for Freedom", the partisans. Neither I nor any other political prisoner was questioned by a judge. The hearings were conducted by "MGB" officials, (MGB: Ministry of National Security). No communication with a lawyer was allowed. The first time I was arrested at 12 noon, the second time at 6 a.m., the third time at 3 p.m. The first time I was interrogated for nine hours. The second time only for four hours, but for two days and nights before that hearing I was not given anything to eat. I was offered a delicious meal if I told everything. On my third arrest I was interrogated twice: for four hours on one day and for three hours on the following day. The proceedings were recorded in Russian. I signed the records of the second and third interrogations.

"During the hearings I was beaten with a cable, a rifle butt and fists, and was kept on starvation diet. Whenever I was arrested I was never given any food: the privilege to be given food was only granted after four days and I was never under arrest for more than three days.

"In order to force the prisoners into making the required confessions or statements the officials of the "MGB" used the following methods of torture: the "Karceris". (This is a kind of iron box in which the

prisoner is kept if he does not give the information the official requires). He is starved. The hungry prisoner is then given a cured herring or some other very salty food and is not given anything to drink. He is beaten without mercy and tormented by the threat of yet greater tortures. He is threatened with the arrest and torture of his near relatives. The catchpoles show the prisoners forged statements of witnesses and pretend to know all: by these means they want to make sure whether the prisoner is speaking the truth.

"I know that one Alexandravicius was interrogated and tortured in the Alytus prison: his teeth were knocked out and he became deaf as a result of the beating.

"All political prisoners are taken from Lithuania to forced labour camps in Siberia."

Read, approved, and signed.

29 March 1954.

DOCUMENT No. 153

(POLAND)

Deposition: Appeared Zygmund Giertzewski, motor mechanic, stateless, formerly of Polish nationality, born on 12 June 1927, previously of 17 Zielona Szczecin, presently of the Aliens House Berlin—Neukölln, Teupitzerstrasse 39/42, who says as follows:

"In 1939 I lived with my parents in Konitz, West Prussia. I acquired German nationality from my parents. In 1944 I was drafted into the German "Wehrmacht". I was an American prisoner of war until 1946. In March 1946, three days after my return from captivity, I was arrested by the "UB". For six months I was kept in detention pending investigation in the prison of Konitz. It was held against me that I had served in the German army as a Polish citizen. I replied that at the outbreak of the war, when I acquired German nationality, I was only twelve years old. It was further alleged that I had been a member of the "Waffen SS". This was not true. I served in the army air-defence with the Air Force. ("Heeresflak bei der Luftwaffe".) I was also accused of having smuggled arms. This accusation was also completely unfounded.

"I was never heard by a judge. I never received a warrant or a bill of indictment. No proceedings were ever brought against me; but after six months, when nothing had been proved against me, I was discharged. On my discharge I was given 800 zloty by way of compensation. At that period, when, after my discharge, I worked in my own trade, I earned up to 35.000 zloty per month.

"When in 1948 the call-up to the Polish Army threatened, I fled from Poland through the Soviet Zone to West-Berlin."

Read, approved, and signed.

27 September 1954.

DOCUMENT No. 154

(POLAND)

Deposition: Appeared Victor Zigmund Andrzejewski, born on 6 January 1907, motor driver and welfare officer who says as follows:

"Until 15 March 1948 I was a motor driver and employee of the Berlin-Niederschönhausen Branch of the Polish Military Mission at Pfeilstrasse 26.

"On 15 March 1948 I was arrested by the Polish "UB". During the period of hardship after the war I had occasionally helped the German population by giving them food, etc.: for this my superiors had repeatedly blamed me. I presume that I was to return to Poland because of these incidents. I had mentioned to foreman Mazhnicki, who worked at my service post, that I did not want to return to Poland.

Only he could have betrayed me, for at my first interrogation I was told that I had mentioned my intention not to return to Poland to somebody.

"I was taken to Szczecin via Küstrin and was detained there by the UB for approximately seven and a half months. There I was interrogated nearly every other day. In particular I was accused with espionage for Great Britain; this is utter nonsense. During the interrogation I was ill treated in the following way: I had to place my thumbs on the edge of a desk. Then sharpened beach sticks, about the size of matches, were pushed under my nails; this naturally caused frightful pain. Meanwhile I was asked whether I was now prepared to admit my relationship with the British.

"After approximately seven and a half months the UB took me to the Szczecin prison. From there, after approximately three weeks on payment of 55,000 zloty, by way of security, I was discharged. The security was provided by my mother who had never been officially informed of my arrest, but found out my whereabouts through private investigations.

"I was never shown a warrant, no charge was brought against me.

"Without waiting for the outcome of the proceedings after my discharge temporary, I fled to West Berlin on 2 January 1949."

Read, approved, and signed.

26 May 1952.

DOCUMENT No. 155

(POLAND)

Deposition: Appeared the miner, Heinz Rudek, German citizen, born on 25 August 1932, at present of "Am Sandwerder" 17-19, Camp "Am Sandwerder", Berlin-Wannsee, who says as follows:

"In 1949 I crossed the Polish frontier and went to Western Germany, illegally. There I worked as a miner till 1951. There I was recognized as a refugee and was given permission to settle and work. I produce the relevant certificate of the Westhausen Mining Company, dated 10 June 1954. In order to help a German friend to escape from Poland, I returned to Poland in 1951. When this friend and I tried to cross the frontier between Poland and the Soviet zone of Germany, we were arrested by the Polish frontier police.

"I was first taken to the prison in Görlitz. There I was repeatedly beaten up, even at the first interrogations. To begin with it was only a question of documents. For we had started without any documents of identity and had not given our proper names.

"From there I was taken to the prison of the military police in Lauban. That was on 11 September 1951.

"The detention pending investigation lasted eight months; for two months I was in Lauban and for six months I was in Breslau. I was repeatedly beaten during my detention in Lauban. I was boxed on my ears and kicked. Once I was chained to an iron door for twenty-four hours. This brutality was meant to force me into giving my real name and into admitting that I was an agent. Eventually I heard that my friend who had been captured with me had given away my name because he had also been tortured and had not been able to stand the pain any longer. As he was in a cell next to mine we got in touch with one another by knocking.

"As punishment for not having given my real name I had to sit on a stool for an uninterrupted period of 48 hours. During this time I was not interrogated but a guard watched over me that I did sit upright under any circumstances.

"In order to extort the confession from me that I had come to Poland as an agent, I was beaten up almost daily. I was hit with fists, and beaten with truncheons and a horsewhip. But I did not make any such confession as I had nothing to admit.

"On 23 December 1951 I was sentenced to four years imprisonment for illegal crossing of the frontier, according to Art. 23 of the Criminal Code. I remained in the Breslau prison used for detentions pending investigation from after my sentence until May and was questioned several times.

"Then I was taken to a labour camp in a lime-stone quarry near Bromberg.

"In 1953 I was released on grounds of an amnesty, and on 7 March 1954 I fled to West Berlin via the Soviet Zone."

Read, approved, and signed.

5 July 1954.

DOCUMENT No. 156

(POLAND)

Deposition: Appeared the surveying technician, Helmut Pawel Plachetka, a German citizen according to his statement, born on 4 September 1928, formerly of Oppeln, 21 Mittelstrasse, Szopena, at present of "Am Sandwerder" 17-19, Berlin-Wannsee, who says as follows:

"Until 1944 I lived with my parents in Oppeln. I was then called up and in 1945 I was made an American prisoner of war. I was released in April 1947. As I knew nothing about the whereabouts of my family, I crossed into the Soviet zone illegally and from there I went to Oppeln, our last home. There I learnt from relatives that my parents and my brothers and sisters had been evacuated to Erfurt in 1945. In August 1947, therefore, I tried to return to my parents in the Soviet zone illegally. At the frontier near Tuplice (in the neighbourhood of Guben) I was arrested by the Polish Frontier Police. I was in "UB" (Secret Police) arrest in Sorau until the end of 1947 and immediately afterwards in the Breslau prison until January 1949. I was accused of attempted illegal crossing of the frontier and of espionage, but I was never officially charged nor did a hearing in court ever take place. I was kept in detention pending investigation for almost one and a half years without any regular proceedings.

"During my imprisonment with the "UB" in Sorau I was tortured several times. In order to extort the confession that I had been spying, I was, e.g., forced, to put my fingers into the gap between the door and the door post, the door was then slowly closed, causing me frightful pain. During the interrogations which took place four to five times a day, I was made to sit on the leg of a stool turned upside down, and to sit in this position until I collapsed from pain. The hearings always took place under the most glaring light of strong bulbs. Simultaneously I was beaten with truncheons all over my body.

"I should like to add that, although I was subsequently duly discharged, the following valuables which I had carried when arrested, were never returned to me: one watch, one fountain-pen, one leather wallet, one purse.

"After my discharge I worked for some months at the Waterworks office in Oppeln; in October 1949 I was drafted into a Polish labour battalion. These units, which form part of the Polish army and wear Polish army uniform, are made up from Germans coming from occupied territories and from Polish citizens having relatives abroad or who, for other reasons, are not considered reliable.

"Usually one had leave over Sunday once every fortnight or once a month, but in August 1951, after having had to go without leave for almost five months, I went to see my relatives in Oppeln without a pass. I hoped it would pass unnoticed and meant to return two days later. But in Oppeln I was arrested by "UB" and Military Police and in March 1952 I was sentenced to four years imprisonment on the grounds of desertion. At first I was taken to the prison in Mysowice, and after being sentenced, to the local labour camp, where we had to work in

the coal mines. I was granted amnesty in March 1953. Thereafter and until June 1954 I worked as surveyor and then fled to West Berlin via Czechoslovakia and the Soviet Zone."

Read, approved, and signed.

12 July 1954.

DOCUMENT No. 157

(CZECHOSLOVAKIA)

Deposition: Appeared . . . , born 26 June 1925, last domiciled at . . . , who fled on 29 October 1953, at present in the Valka Camp near Nuremberg, who says as follows:

"Three months after my demobilization in 1949, I was assigned work at a place to the west of Domazlice. This place is near the Bavarian frontier. On my way there, police arrested me in the train. They accused me of wanting to cross the frontier. I was handed over to the STB (State Security Service), who made the same accusation. I denied this at first, because I really did not want to cross the frontier but only to go to my place of work. Altogether I spent 15 days with the STB and was interrogated four times during that period. During these interrogations, when I denied the accusation of wanting to cross the border, I was repeatedly struck with the fist until at last admitted that I had wanted to cross the border, although that was not in accordance with the facts. I was released after 15 days without being sentenced.

"The labour exchange sent me to do forced labour in the uranium mines for six months. I assume this was the penalty for my alleged attempt to escape across the border."

Read, approved, and signed.

15 February 1954.

DOCUMENT No. 158

(CZECHOSLOVAKIA)

Deposition: Appeared . . . , born 2 April 1931, last resident in Prague, fled in September 1953, who says as follows:

"My sister, . . . , works as a nurse in When she visited us in the spring of 1953, she told us that she had nursed a man at the hospital, who had been an inmate of a prison and had been sent to her hospital for treatment. His lower jaw was fractured. No mention was made as to how the injury occurred. First, he himself did not speak about it either. The hospital staff did not enquire because they feared difficulties with the STB (State Security Service). A member of the STB constantly guarded this man. By chance the patient was once alone with my sister and told her he had been beaten by the STB during interrogation and that his jaw had then been fractured."

Read, approved, and signed.

15 February 1954.

DOCUMENT No. 159

(CZECHOSLOVAKIA)

Deposition: Appeared Frantisek Cervinka, born 6 October 1904, of "Am Sandwerder" 17-19, Berlin-Wannsee, who says as follows:

"I owned a small piece of property in the neighbourhood of Luhačovice (CSR), situated in the middle of fields, at a certain distance from the nearest village, Kladna Zilina. In 1951, I gave refuge to two people who were being persecuted by the Communist authorities for political reasons.

"On 14 November 1951, some time after these people had finally left my house, I was arrested by the political police (STB). I had gone to Luhačovice. When I came home, I was received by six policemen, three

of whom were in mufti and three in uniform, ordered to take my identity papers with me and join them. When I asked why I should go with them, I received the answer: 'Don't argue! Come along with us!'

"About 500 meters from the house where I lived, stood a white car, which all of us entered. When the car moved off, one of the policemen put a pair of dark glasses on my eyes. These were only removed when I was led into a cell.

"On the same day three policemen visited me in the cell. One of them looked at me and said: 'What we want to get out of him will pour out of him as out of a sack!' Two of the fellows left again. The one who stayed interrogated me without interruption from 2 to 9 p.m. He asked me whether I had given shelter to two men (and he named those who had stayed with me). I said that I did not know these people, and that I had no given them shelter.

"At the end of this first interrogation the policeman said: 'Perhaps you will get some blankets for the night.' But I did not receive any blankets and slept on the floor.

"The police official who had interrogated me the previous day, returned and said by way of introduction: 'The people whom you hid in your house killed three people. Do you know that?' Interrogation recommenced and lasted many hours.

"This went on for a whole week, on a diet which consisted only of a small piece of bread and bitter black coffee for breakfast, thin soup and potatoes with watery gravy for lunch, and coffee with a small piece of cheese (without bread) for supper.

"During the second week the rations described above were halved. My interrogator announced this reduction to me concluding with the words: 'Just wait until you have been here for three of four months; then you'll start talking!'

"During an interrogation which took place in the second or third week after my arrival, my lunch was brought to me to the interrogation room. The interrogation official interrupted his questioning soon after that and ordered me to stand with my face towards the wall and to stay like that until he returned. Then he went away and left me standing while the food was on the table and got cold. When he returned, he asked me why I had not eaten. When I told him that he had ordered me to remain standing with my face to the wall, he made a derogatory gesture.

"The interrogator interrupted his questioning from time to time and ordered me to do knee-bending exercises. On his orders I once had to bend my knees forty times in succession. At his command I sometimes also had to throw myself flat on my stomach or to the floor and immediately jump up again several times in succession.

"I was interrogated for several hours every day, and sometimes at night as well. The same questions were asked again and again — namely, whether I had given refuge to somebody in my house.

"During the third week I was beaten for the first time. Four STB officials (members of the political police) beat me and trampled on me as I lay on the ground. I fainted. When they poured cold water over, I revived.

"In January 1952 I had to spend four days and four night in the dark room. I was neither allowed to sit nor to lie down. Every few minutes a guard in the corridor switched on a strong light which hung from the ceiling. That was a terrible torture because I slept standing and was awakened by the light being turned on. It was cold in this dark room, and I was without an overcoat or a hat; and it smelled of decay and refuse. When I left the dark room after four days, my hands, feet, and lips were badly swollen.

"During one of the subsequent interrogations I was tied face downwards to a bench and a member of the political police hit the soles of my feet with a hard object, first the right foot, then the left, six blows at each turn.

"What I desired during this imprisonment was once more to eat properly and then to die.

"On 11 February 1952, I was transferred to the court prison at Uhersky Brodd, from which I escaped on 21 April 1952."

Read, approved, and signed.

6 January 1954.

DOCUMENT No. 160
(CZECHOSLOVAKIA)

Deposition: Appeared Joseph Hallwirth, crane driver, lately a tram conductor, Czechoslovak national, born on 15 June 1932, who says as follows:

"From 1951 onwards I worked with the 'V.T.K. Chomutov' (formerly Mannesmann Tube works) as a crane driver, and then as tube adjuster. In February 1953, I had to count permanently on the possibility of being called up or of being mustered by the Militia. As from that day I would have been subject to military law. Several comrades of my age group had already received their mustering order or had been called up. I tried to escape because I did not like the political conditions in the CSR and because I did not wish to serve this system as a soldier under any circumstances. I got as far as the Soviet Zone of Germany, but there I was arrested by the People's police in Lauterbach near Marienberg. A few weeks later I was handed over to the Czech STB.

"In the course of interrogations I was accused of espionage. When I denied this accusation, my interrogator got hold of my lapel, knocked my head against the wall several times and pressed his finger against my larynx, so that my head fell back.

"During the night the guards marched through the prison and knocked at the doors approximately every 15 minutes. In consequence nobody could sleep properly, and that was probably their purpose. I got no fresh air during the two months I spent in this prison. Jaroslav Honig, with whom I shared my cell, had at that time already been imprisoned for 25 months and had had no fresh air throughout. He was a young man, hardly over thirty, and his hair had turned gray during this period. He was about 6'2" tall and weighed about 140 lbs. In the bath I saw that his ribs were sticking out and that his skin looked as thin as parchment. His belly was a proper cavity, quite hollow. There would have been room in it for a football. Personally, I lost approximately 40 lbs during this period. The quality of the food was not bad, but the quantity was very small. Also, we were allowed too little time to eat up our food. The prisoner who brought us our food had to look after five cells situated opposite one another. He put the bowls into cupboards which were mounted on the doors. Then a sergeant handed us the bowls, and a minute and a half later he already came to collect the empties. It was generally impossible to eat up everything during this short period, especially when the soup was very hot. We always had to gulp the scorching food anyway, and were never able to eat our soup with a spoon. Frequently, when the soup was too hot we had to return it.

"All this happened in the prison of the STB in Litomerice.

"Soon after I had been taken to the STB my attention was drawn to the fact that I could protest against my arrest. When I asked for a lawyer for this purpose I was told that I could not choose him but that one chosen by the STB would be assigned to me.

"In July 1953 I was sentenced to 15 months imprisonment for illegal frontier crossing; but simultaneously I was discharged as I had been detained pending investigation for five months and the rest of my sentence fell under an amnesty.

"After another unsuccessful attempt to escape I succeeded to reach West-Berlin in September 1954."

Read, approved, and signed.

21 October 1954.

DOCUMENT No. 161

(CZECHOSLOVAKIA)

Deposition: Appeared, Bohumil Pobel, aeroplane mechanic, Czechoslovak citizen, born on 8 May 1926, previously of Za Vackovem, 2208/51, Prague 11, who says as follows:

"I was called up in 1948 (1 October). During my military service I was once caught with a prohibited book which I was reading. The authorities had prohibited this book because its contents were anti-Communist. Many of the political books written before 1948, e.g., by Masaryk, Benes, etc., had been prohibited. I was then sentenced to six months imprisonment for 'incitement' among the troops. After my release from prison I continued my military service for another six weeks and was then duly discharged from military service.

"I tried to regain employment as aeroplane mechanic. I was told by my former employers, the Aeroplane Works, Letecke Zavody Praha Liben, Motorlet Jinonice, that I could no longer work as an aeroplane mechanic, but only as an unskilled labourer. This I refused. I was forced by the Labour Office to accept work in the Uranium mines in Jachymov. After three months, I was released from this work, on a medical certificate.

"Thereafter I was employed in road building works.

"In 1950, the STB succeeded in arresting another member of an anti-Communist resistance group which had been disbanded in Liberec much earlier. (This organization was called 'Sonja'). I was interrogated several times by the STB because I had known some members of this organization. For this I was kept at the STB for 48 hours.

"The interrogation took place in the premises of the STB in the Konviktská Ulice in Prague. There were three STB officials from Prague and one from Liberec present.

"I was suspected of knowing further members of this group and was called upon to name and denounce them. I was confronted with an acquaintance from my military service who declared that I had once explicitly told him that I knew members. I do not remember his name precisely — it was something like Milan Kabelác.

"I replied that, when looking in newspapers at pictures of arrested persons, I had said that I seemed to recognize some of them as I had formerly worked in Liberec, and had also met people there; but I had nothing further to add on this.

"The STB officials were not satisfied with the information supplied by me. I was illtreated in order to extort more precise information from me. First I was boxed on my ears. Then he left for a moment and returned with a tin cup containing a thick black liquid. It smelled like tar. With a stick he dropped some of this hot liquid — probably tar — onto my naked left arm. I felt frightful pain. My skin burnt like fire, it swelled up. Ten days later it was still painful. The STB official advised me that I was to tell the doctor that this injury had been caused at work. This is also what I told the doctors who treated me at the hospital. I was unfit for work for three weeks.

"The undersigned had occasion to satisfy himself of the wounds inflicted through torture as there remained a scar. I am prepared to be seen by a medical officer to have it certified that the wound was inflicted as described above.

"Then he knocked me down with his fist, two other STB officials also flung themselves at me and illtreated me; they also kicked me. I was then locked into a cell where I was kept for 48 hours, until the swelling of my face had subsided.

"I decided to escape and left Czechoslovakia illegally on 25 March 1953 because of all these experiences; and also because the STB and the criminal police continued to enquire at my work whether I was not

again inciting some one, etc.; and finally also because I was a political suspect as my mother's brother, Zadina, had been Minister of Economic Affairs in the Czechoslovak Republic from 1932 to 1937."

Read, approved, and signed.

16 December 1954.

DOCUMENT No. 162

(HUNGARY)

Deposition: Appeared Leo van Aerde, of 35 Wolfhezestraat, The Hague, Dutch national, describing his experiences while imprisoned in Hungary, who says as follows:

"In September 1951, at 2.30 a.m. I tried to set foot onto the railway bridge that crosses the canal near Gyor. My hopes of success were slender, for in Hungary all bridges, large or small, as well as all viaducts and footbridges, are strongly guarded by the police. But I felt sick to death and wanted to find shelter somewhere. Coming from the frontier, I had already crossed the marshland on foot. I was bitten all over by mosquitoes, had a high temperature, and was at the end of my strength after swimming across canals and rivers. As I stood on the Gyor bridge in the morning mist, two Hungarian policemen approached me. First they forced me to lie down on the damp ground and to hold my hands up. After searching my pockets without finding any letters or other papers, they took me to the State prison at Gyor. By then it was noon. I had had nothing to eat since the previous day and could hardly stand on my legs. However, I was given nothing to eat or drink but first of all had to undress completely. I was only allowed to keep on a pair of short underpants and my shoes. Then two policemen led me down long corridors to the prison cellar.

"On the way there, red lamps lit up every few steps. I learned later that these lamps were a signal for the prison guards warning them that a new prisoner was on the way and that they should keep the other prisoners away. In the cellar we halted in front of a cell door. When it was unlocked, I was met by warm, evil-smelling fumes. Involuntarily I jumped back but received a hard and painful blow in the back so that I stumbled into the cell. The cell measured four meters by four and was about three meters high. In this narrow space 26 prisoners were herded together. They sat or crouched on the bare stone floor. The "senior cell inmate", whose hair had grown so long that I first thought I faced an old woman, explained to me immediately that it was forbidden to speak or to sleep in the cell during the day under pain of severe penalty. It was also forbidden to walk up and down in the cell! The cell contained eight bunks, each of which was 90 centimeters wide. On each bunk slept two men. All the others had to settle as best they could on the bare floor for the night. Incidentally sleeping time started at 7 p.m. It was almost evening when I was taken to the cell. I received nothing to eat. I was shaking violently with fever, but nobody cared. With an unbearable headache I spent the whole night crouching and awake in a corner of the cell. The next morning at six o'clock we were allowed to wash — that is, we had to go into the corridor one by one, where we could dampen our faces as quickly as possible. Then at a trot to a foul-smelling lavatory and back again at a trot to the cell. In the meantime the cell had been "aired" — that is, one of the prisoners had quickly removed his tattered shirt and waved it around. The airing system installed in the walls had long since become unserviceable and had never been repaired. The estimated temperature in the stuffy cell was 45 degrees Centigrade (113 degrees Fahrenheit). And that was, as mentioned, in September. The effluvia of unkempt and sweating bodies filled the already foul air with an unbearable stench, which caused constant nausea.

"The daily routine was most monotonous; at 10 a.m. we were given "breakfast"; i.e. a tin containing hot water, which was supposed to be soup, was pushed through the hole in the locked door, and for each man there were 34 grams of bread, which the "senior cell inmate" doled

out. I learned secretly that he was a spy of the State police. Apparently he did not like me, and so I received the last and smallest piece of bread, hardly a mouthful. This continued until I left that prison a few weeks later. As a healthy man I weighed about 80 kilograms. In Gyor my weight fell to 52 kilograms. According to the prison regulation I was entitled to 80 grams of bread per day. Not much as it, but none of us got even this small amount. If we forgot ourselves and spoke one word, the lightest punishment was that we had to stand with our heads against the wall for 12 hours without being allowed to move. Some men lost consciousness during this procedure. They were then kicked and punched by the guards until they regained consciousness. Then they had to stand still again, with their heads to the wall.

"At twelve o'clock we again received bread, and once more at 3 p.m. This last portion represented also our supper. There was nothing more after that. Theoretically we had to lie down to sleep at 7 p.m., but as the interrogations began in the evening, there could be no question of going to sleep. Even if a man was not questioned himself, he was kept awake by the anxiety he felt for his fellow sufferers who were being interrogated. In my cell there were "Political prisoners" and Jews who had committed "economic offenses." Among them were some Jews who had passed through the hands of the Gestapo. They declared that they had much better treatment under the Gestapo than they were getting now. During interrogations in the Hungarian prison, people were often beaten inhumanly. On several occasions prisoners were brought back to our cell covered with blood.

"Every fortnight we were shaved by the "senior cell inmate." For this, he used old blunt razor blades which scraped off more skin than hair. It was a most painful procedure, but nobody was allowed to escape it.

"I was interrogated for three consecutive weeks, from late at night until early morning. Thus, I hardly slept and was threatened with a complete breakdown. After three weeks traffic in the corridor made us aware that something was happening. Many of the sentenced men were taken away — nobody knew where. One day my name was called with seventeen others. We had to assemble outside the cell and wait same hours under guard. Then we were herded into a lorry and transported to another prison. There the treatment was somewhat more bearable, at least in comparison with the bitter experience we had had at the State police prison in Gyor. We had straw mattresses instead of plank bunks, and the food consisted of beets and onions. We also received 250 grams of bread daily. The cell was very tight too, but this time I only had to share it with fifteen men. So things were relatively better, though still far below all decent human standards. In this prison, too, people were quite arbitrarily and mercilessly beaten at interrogations and on other occasions.

"I spent only a short time there. One day I was handcuffed and taken with two male and two female prisoners to a room where the court was due to sit."

Read, approved and signed.

DOCUMENT No. 163

(HUNGARY)

Deposition: Appeared Mr, who says as follows:

"My name is George . . . , born on 14 . . . in . . . , my last address was at . . . , I fled on 2 May 1954 and I now reside at . . . I am a mechanic by trade and last worked as a weaver.

"I had an acquaintance in . . . with whom I served as a soldier during the war. In 1949 I conceived the idea of fleeing from Hungary. On the morning of 2 May, 1949 I told this acquaintance that I would cross the border in the afternoon of that day. I then went into town and when I returned home at about 2 p.m., I was arrested in the street by a member of the AVH, who was in mufti. The block in which I lived had already been surrounded.

"I was then under arrest at the AVH for 65 days. At first I was in a community cell with about 50 people. After three days I was taken for interrogation. Interrogation began at about midnight and lasted until about 3 a.m. During the interrogation I was at once told that I had wanted to escape from Hungary. It was further stated I knew other people who wanted to escape or who had done so. As I had worked some time at the levelling of a border belt, it was asserted that during this time I had assisted a number of Hungarians to escape across the border. I was not illtreated during this first interrogation. At the conclusion of this interrogation, I was told time would be given to think matters over. I was then put into a single cell, measuring 2 meters by 1.5 meters, which contained no furniture, i.e. no chair, table or bed. There was a small ventilation hole high up. My shoes were taken away, so that I had to stand on the cold concrete floor without shoes. The cell was only lit by a lamp in the corridor. It threw its light through a small opening in the cell. I remained 30 days in this cell. During these 30 days I was taken out about 10 to 13 times, sometimes for about 10 to 15 minutes only to be beaten, sometimes for up to four hours to be interrogated and occasionally to be illtreated as well. As far as I remember I was altogether beaten nine times.

"The purpose of the interrogations was to ascertain whether other people among my friends also intended to make escape attempts; also whether I was aware of any underground movement among my acquaintances. After only two weeks a protocol was put before me. I refused to sign this because I was not given an opportunity to read it. I was therefore beaten again and returned to my cell.

"Owing to the detention in the icy cold cell, the constant illtreatment and the very poor food — I only received 30 grams of bread and two tenths of a litre of soup daily — I eventually reached a point where I did not care about anything and after 30 days I signed the protocol put before me. The text of the protocol was covered, only leaving the place free where I was to sign. Therefore I did not know what I signed.

"I was then put into a community cell with others whose interrogations had been completed. Here I again had an opportunity to lie down. I remained in this cell until the traces of the illtreatment I had suffered had more or less disappeared. Owing to the beating of my hands and the soles of my feet, my hands and feet were swollen and I also had face injuries. All this had to be more or less healed by the time I was put on trial before a court. With a number of fellow-prisoners I was transferred to the court prison about 30 days later.

"Several days later I was once again interrogated, this time by the public prosecutor. He referred to the protocol of the AVH. I was to admit specifically that this protocol was correct, that I had given evidence voluntarily and that my signature had not been extorted. Further I was to declare that I had not been illtreated. In accordance with the truth I replied that my signature to the protocol had been extorted. As I did not know the contents of the protocol, I asked of what I was accused. The public prosecutor then explained the following: I had admitted at the AVH that I had intended to flee Hungary and to go to a capitalist country. The public prosecutor made a record of my statement to the effect that my declarations at the AVH had been extorted. I was then returned to my cell. About four hours later I was taken out again and an official in mufti said to me something like this: I had caused to be put on record that my evidence at the AVH had been extorted. They were therefore obliged to return me to the AVH for renewed interrogation. After all, I knew what that meant and should reconsider what I wanted to be put on record. As I was afraid of returning to the AVH, I declared myself ready to go on record now that my evidence had not been extorted by the AVH. A new protocol was taken immediately to the effect that the statements I had made at the AVH were correct, that my signature had not been extorted and that I had not been illtreated. Several days later I was manacled and led to the court trial. I had neither received the indictment, nor was I given a defence counsel. I approached the public prosecutor in the court room and demanded a defence counsel. He explained that none

was available at present. The trial was actually carried out without a counsel for the defence. The court consisted of one judge, four assessors, one clerk of the court and the public prosecutor.

"After establishing identity, the public prosecutors read the indictment, which accused me of attempted escape and breach of loyalty. On account of what had happened previously, I realized that it was useless to maintain that the protocol had been extorted. I therefore merely declared that my intention had been irresponsible and that I had already repented it. Referring to some paragraphs unknown to me, the public prosecutor demanded the most severe penalty permissible by the law, but did not apply for a definite term. The court retired for consultation, which lasted about 5 minutes, and then sentence was pronounced: two years' imprisonment, three years' loss of civil rights to begin after completion of the term of imprisonment.

"The judge asked me whether I accepted the sentence. I declared that I appealed. The public prosecutor also appealed against the sentence as he considered it too light.

"I spent about another month in this court prison and was then removed to the prison at... for completion of my sentence. About two months later, i.e. about three months after I had been sentenced, a prison guard read the decision of the higher court to me in the prison office. The decision was signed by Judge Kovacs. It stated that the sentence of the lower court was just and that my appeal was rejected. I emphasize specifically that no renewed hearing took place in my presence. I completed the two-year-sentence in full and was released on 2 June, 1951.

"While detained by the AVH, I received food once a day, i.e. at 5 p.m. It consisted of two tenths of a litre of soup and 30 grams of bread; that was all.

"Before my arrest by the AVH I weighed about 85 kilograms. When I was transferred to the court prison I had an opportunity of weighing myself in the printing office where I worked. I then weighed 55 kilograms.

"As long as I was at the AVH I was not allowed to write to my relations, so that they did not know where I was. My father had tried to ascertain my whereabouts from the AVH. However, he was not even admitted into the building.

"I should like to mention that during my stay at the AVH, three nuns were imprisoned there. They were stripped naked by two people who occupied a certain position of trust in the prison, and the nuns were given a bath and scrubbed down before the eyes of the prisoners. The nuns cried because of this degrading treatment, but they were powerless.

"At the court prison I met a woman who was also awaiting sentence. She said that her thighs had been constantly beaten with a ruler, as a result of which they were still bruised and swollen several weeks later."

Read, approved, and signed.

21 September 1954.

DOCUMENT No. 164

(HUNGARY)

Deposition: Appeared Zoltan Lazar, born in Ostojicevo (Yugoslavia) on 22 August 1923, last resident in Szeged, Hungary fled in October 1953, who says as follows:

"There was a clergyman in Szeged called Lakos who used to live with his parents at Sazvari Endro (Gyertyamos Street 4 or 6). My wife used to live in the house of his parents, thus both she and I were well acquainted with the circumstances there prevailing.

"In the autumn of 1952 the clergyman was taken away by the AVH and has not since reappeared. Nobody knows what became of him; not even his parents had any news about his whereabouts. I cannot imagine why this man should have been taken away, for he was very careful not to say anything against the regime. I suppose that espionage

was held against him, but am unable to say anything more definite about this. I have not heard about any legal proceedings against him; he disappeared nobody knows where to. I know that the parents went to the AVH to enquire into his whereabouts. There they were reassured that he would return if (or when?) his innocence came to light. But they were not told where he was. In any event, up to my departure in October 1953, that is more than a year later, nobody knew where he was and what had happened to him".

Read, approved, and signed.

21 September 1954.

DOCUMENT No. 165

(HUNGARY)

Deposition: Appeared Dezsö Szucs, born 26 March 1930 studied textile manufacture and machine construction, living lately in Budapest, fled on 25 June 1953, and now residing at Wels (Austria), who says:

"I studied until 1949 and did my practical training in a textile factory. One evening on my way home as I was waiting for the taxi, I was spoken to by a gentleman who was unknown to me; after a short conversation he introduced himself as a former Hungarian officer. He told me that he had gone westward during the war and had not returned to Hungary. He had, however, returned now to fetch his family. As he knew that former Hungarian officers returning from the west had difficulties, he did not want to spend the night at a hotel in order to avoid arrest in case of a police raid. His family did not live in Budapest and he could only proceed on the following day. Meanwhile, he was looking for a place to spend the night and asked for my assistance. That evening I was wearing my boy scouts' uniform. Boy scouts here were not as yet proscribed; it was generally known that they were not pro-communists. Thus I saw nothing suspicious in the gentleman having addressed me and having asked for my help. Accordingly, I agreed that he could stay with me and gave him my address. The whole conversation lasted about 10 minutes. I never saw that gentleman again.

"About a week later one late evening two plain clothed men came to see me and invited me to come to the military police. There I got into conversation with a civilian who treated me exceedingly kindly. We had coffee together, he offered me cigarettes and we talked mainly about people whom I knew and about whom he was also well informed. In the course of this conversation, which lasted about three hours, we also talked about my birth place and home Buda, a district of Budapest, of which I was naturally well informed. We also talked about the ship yard in Buda and the official said conversationally that there were about 2000 workmen employed. From my knowledge I declared that I thought there were about 3000 workmen. We also talked about the things that were manufactured in that yard. I said, for instance, that ships for the Soviet Union were being built there, of what types they were and how they got to the Soviet Union. The security measures in this factory were also discussed and I said I knew where the police guards of the factory were and where the river police were stationed. We chatted about the gas works and the railway station in a similar fashion; I knew them both as they were also situated in Buda. The official proudly declared that we had produced a number of ships for the Soviet Union to which I agreed and gave such further relevant information as I could. He also mentioned the name of one of the gas works' engineers whom I also knew and we chatted about him.

"When the conversation reached this point, the official told me that so far we had such a friendly and sensible chat about all these things and I had shown that I was very much informed. Would I now be ready to have a similar chat with the former officer who had spoken to me the week before.

"I was so surprised at this sudden turn of the conversation that at first I was unable to reply. I then said that I had hardly spoken to the officer for 10 minutes and that we had not discussed any such things. The questioning official now discontinued his cordial manner and said he would give me time to think it over.

"I was then fetched by an N.C.O. and, while being ill-treated, taken to a solitary cell. At 10 a.m. next morning I was taken back to the official who had questioned me the night before. On this occasion there was present a captain in uniform, called Berkessi. I know the name because this captain, after having been promoted to the rank of major, was subsequently found guilty of embezzlement and was imprisoned with me at Vac. I do not know the name of the other official.

"At this second interrogation it was again suggested to me that I ought to say that I had given precise data also to the former officer concerning the ship yard, the gas works, the railway station and the police stations. I again denied this, as I had in fact never talked to him about such matters. There-upon I was taken to another room where several officials beat my naked face and palms with rubber-hose truncheons. The captain who was present at the interrogation also told me that the military police could either release me or keep me, but that they were not interested in me, they only wanted to charge the former officer with espionage on the basis of my statement. At these ill-treatments there was present a colonel in uniform who kept telling me that there was no need for me to allow myself to be beaten; all I had to do was to say what they wanted to hear. This whole interrogation, including ill-treatment, lasted from 10 a.m. until about 2 p.m. I was then taken back to my cell and again reminded to think over what I would testify. That was the first time I had anything to eat. Around 5 p.m. I was taken to another cell where there already sat another prisoner: he was a former staff officer. The guard ordered me to stand with my face turned to the wall and to remain so standing. My cell-mate was made responsible that I should remain so standing. In addition the guard checked through the window of the door that I was really standing. I had to remain standing throughout the night, the next day and the following night, and was not allowed to sit down, let alone to lie down. I was, however, given good food which I had to eat standing up. I broke down several times and was always brought to with cold water. Even though my cell-mate afforded me several opportunities to sit down and meanwhile stood against the door in order to prevent my being watched, I was finally prepared to sign anything if only I did not have to stand any longer. On the day following the first night a new cell-mate joined us. He started a conversation with my old cell-mate, the former officer, and said that it was better not to shoulder such ill-treatments as I was made to undergo. All one had to do was to sign the record put before one, and all this would then stop. Anyway, one was always entitled to challenge the record at the court hearing.

"When, on the following morning, I was again taken to be interrogated before the same official as on all previous occasions, I did sign the record as put before me. I did not read its text because it was covered up. All I was concerned with was to put an end to these tortures. I was then allowed to lie down in the cell.

"A few days later, I was taken to another military prison at the Margit Korut where, about a week later, I received an indictment. I remained there for nearly a year.

"During my imprisonment at Vac, where I was taken after I had been sentenced, I repeatedly — for the last time in about May 1953 — heard that the same or similar treatment was meted out to persons in custody. The Margit Korut prison was wound up in November 1950 and transferred to Foutca. In April 1953, a fairly large group of prisoners arrived in Vac who, having been at the Foutca prison, confirmed this.

Read, approved, and signed.

20 July 1954.

DOCUMENT No. 166

(HUNGARY)

Deposition: Appeared Laszlo Marothy at present of Camp No. 1002, Wels (Austria) who says as follows:

"I was born on 25 December 1928 in Zsedeay, District of Sarvar (Hungary), lately lived in Budapest in the 13th District and escaped from Hungary on 1 July 1953.

"I was first arrested in Budapest by the AVH (State Security Authority) on 13 October 1949. At that time I studied economics at the University of Budapest. The arrest took place as I returned home around 8 p.m. The AVH were already waiting for me there. After my flat had been searched, I was taken to the AVH Headquarters. No arrest warrant was produced to me and I was given no reasons for my arrest. I was put into a single cell which was situated, like all other cells, two floors below ground.

"My first interrogation only took place a week after my arrest. No arrest warrant was produced to me in the meantime, nor was I taken before a judge. The first interrogation lasted about four hours. Only at this interrogation was I accused of having affixed articles hostile to the Communist leadership of the University to the wall newspaper of the University. I denied this. I was also accused of having become a member of the CP only in order to work underground and to shield myself. I was further accused of having wormed my way into admission to the University by hiding the fact that my father was a former landowner. Only sons of workers and so-called working peasants were admitted to the University.

"I was then in the AVH prison for more than a month. I was not allowed to notify any relative, and I was not allowed to write or to get in touch with a lawyer. No written arrest warrant was produced to me at all and I was never taken before a judge. I was released because I denied all accusations and because the AVH were unable to prove anything against me. I was told on my release that I would be under police surveillance for an indefinite period.

"I could not continue my studies because I had been dismissed from the University immediately after my arrest; and my expulsion applied to all Universities in Hungary. I was also excluded from the CP. The reasons given for this were that I had kept silent about my social background. I then went to work in a wagon factory in Budapest as an unskilled labourer.

"Police surveillance means that I had to report to the police every fortnight. First, I was only allowed to use the route between my home and my place of work; also, I was not allowed to join any gathering of a number of people, e.g., to visit a cinema. No person other than my fellow-tenants were permitted to visit my flat. Later I obtained permission to remain out of doors until 10 p.m. When on one occasion I returned home after 10 p.m. I was warned that I be taken to an internment camp if this were repeated. Also, I was not allowed to use the telephone, not even a public telephone booth.

"In the autumn of 1951 it became known that a new Peace Loan was to be subscribed to by the workers. This was already the third Peace Loan. In these Peace Loans a certain percentage of their wages was demanded from workers. In my case this had been a full month's wage in the previous Loan. A few days prior to underwriting the third Peace Loan I spoke to several workers who, like nearly all other workers, declined (to subscribe) the Loan. Thereupon I prepared a number of leaflets suggesting that nothing should be contributed to the Peace Loan, as our factory's output — a wagon factory — was being taken to Russia and the Peace Loan would only benefit Russians. I hid these leaflets in the work places and workers' cloak-room and these leaflets were found when, on the following morning, the subscription and the Loan was to have begun. The Secret Police came and searched for the culprit until evening. When leaving the factory, all suspects were detained and taken to the works management. I was the sixth to be detained. My person was thoroughly searched and, unhappily, about

60 undistributed leaflets were found in my locker. I had had no opportunity to get rid of these leaflets.

"I was then immediately taken to the AVH; that was on 27 September 1951. I was interrogated until 8 a.m. at the AVH; the officials wanted to know who had been my assistants and backers. When I kept protesting that I had done everything alone I was disbelieved, and beaten with truncheons in order to make me disclose my alleged assistants. I was then taken to the cell but fetched for renewed questioning by the same people half an hour later. This interrogation lasted from about 8.30 a.m. until 4 a.m. the following night. I was not given any food or drink and had to stand throughout. I was ill — as described above — also at this second interrogation. During the first six days I was questioned almost continuously with only short interruptions. I was not allowed to lie down whenever I was in the cell; I had to stand. Only when I broke down from exhaustion did I sleep for very short periods, but was awakened immediately by a guard pouring a bucket of cold water over my head. During the first few days I stood for a total 138 hours. I was so exhausted after these first six days that I could no longer stand; my legs and feet were so swollen that I could no longer put on my shoes. I was at the AVH for 32 days and was questioned almost without interruption, always for the purpose of finding out from me who my suspected assistants and backers were. After 32 days I was taken to the Court prison, and kept there in solitary confinement.

"The trial took place before the criminal court on November 15. I was handed the indictment in the ante-room of the court room half an hour before the hearing. I had no opportunity of getting in touch with a lawyer. When I was taken into the court room there was an official defence counsel assigned to me who obviously knew nothing about my case. I could not talk to him before the hearing.

"The Bench consisted of the Public Prosecutor Farago; the chairman Jonas (known as bloody judge in Budapest) and two assessors. Both my hands were handcuffed and chained to my left foot when I was taken into the court room. The handcuffs were removed in the court room. From opening until judgment the hearing lasted 15 minutes. My defence counsel said about three sentences; he said I committed a crime against the People's Democracy by my activities but as I had a clear record, the Court should deal with me leniently. But the judge declared that the fact that a person had had no previous convictions could not be considered in political prosecutions. The consideration which followed lasted about three minutes; the sentence was five years' imprisonment plus loss of civil rights for 10 years plus forfeiture of property.

"I would add that I was not called upon to say anything in the course of the hearing. The Public Prosecutor referred to the police protocols and I was only asked once whether the information contained in the protocols was correct. The facts of the case were not argued at all. This is also quite plain from the fact the hearing only lasted 15 minutes.

"In reply to questions:

"I repeat that throughout the preliminary investigation no arrest warrant signed by a judge was produced to me. I was not questioned by any judge prior to the hearing. The whole preliminary investigation was in the hands of, respectively, the AVH and the Public Prosecutor; it was the latter who ordered the continuance of my remaining in custody. I would further add that I was taken into the corridor while the Bench considered their verdict, the (defence) lawyer also left the room, but the Public Prosecutor remained in the court room with the Bench. I say expressly that this room only had one single door, thus the Public Prosecutor should have left by the same door as I if he had left the room. No definite sentence was demanded by the Public Prosecutor during the hearing, he only asked for a heavy sentence.

"Only 15 days of my detention pending investigation were taken into account when judgment was passed; the other 30 days which I had spent at the AVH were not taken into consideration. I did not speak to my lawyer during the hearing either. I should like to add the fol-

lowing: in the court building I awaited judgment was also tried another case which concerned a Yugoslav called Steiner. Mr. Steiner came out with his lawyer — obviously for the purpose of consulting with him. But the lawyer refused Mr. Steiner all discussion and remarked: "I am not allowed to talk to you."

Read, approved, and signed.

24 June 1954.

The practice of extorting confessions has also been taken over by the Soviet military tribunals in the Soviet Zone of Germany, by the investigating agencies of these courts, and by the East German State Security authorities, as proved by the following testimonies.

DOCUMENT No. 167

(SOVIET ZONE OF GERMANY)

Deposition: Appeared Hans Joachim Platz, born on 25 March 1927, at present of Berlin-Zehlendorf, who says the following:

"I studied medicine in Halle. I had already been imprisoned by the Russians in 1946 for some time for alleged espionage, but was set free as the charges turned out to be unfounded. In 1948 I heard of the efforts to found a Free University in West Berlin, as there was no longer any true academic freedom at the East Berlin University. I mentioned this forthcoming foundation of a West Berlin University in conversation to fellow students and advocated the idea of its foundation. As I noticed much that was wrong in my native country, I reported to West Berlin newspapers and to the West Berlin office of the NWDR (North-West German Radio) on actual happenings in Halle and its neighbourhood. I deliberately avoided commenting on these facts. I believed that the truthful reporting of facts was permitted. I stress that I did not collect or pass on any military intelligence or any economic information relating to armaments. Newspaper articles and radio commentaries based on my information were published and broadcast in West Berlin. I had already drawn attention to myself in various quarters because of my behaviour at student meetings, and I was obviously under close observation. On 4 September 1948 I was arrested in front of my home in Halle by German police accompanied by Soviet soldiers, and taken to the NKVD prison in Luisenstrasse. I was submitted there to a brief interrogation and then taken to the Halle prison, familiarly called "The Red Ox", then still under Soviet administration. I was interrogated 82 times in that prison. These interrogations always took place at night and usually lasted several hours. I was accused of espionage, anti-Soviet agitation, and Fascist propaganda. I denied my guilt on all these counts. The only thing I admitted was that the newspaper articles which had appeared in West Berlin were based on my factual reports.

"I was often hit during the interrogations and on the way to and from interrogation. This was done either with the fist or with anything that the Soviet guards or interrogating officers happened to have in their hands or within their reach. The Soviet interrogators often lost their tempers when I refused to make the desired confession and flew at me with heavy blows. I was locked in a "water cell" for three days and four nights. The threshold of this cell had been raised and the water was ankle deep. I was locked up in that cell in December 1948. The cell had no windows, it was barred in the usual way and fitted with special wire netting on the inside for additional security. It was dreadfully cold, but not cold enough for the water in the cell to freeze. As a result of my stay in the water cell, I contracted rheumatism of the joints, from which I still suffer today. There was no bunk or the like in the cell and I had to stand the whole time in the water. This stay, which lasted nearly 48 hours, was interrupted only by two or three interrogations, after which I had to return to the water cell.

"A warrant for my arrest was read to me on 2 January 1949 and the court trial took place on 7 January. The court consisted of a lieutenant-

colonel as chairman, a corporal and a private 1st class as assessors. A lieutenant acted as clerk of the court. A woman interpreter whom I knew was also present. At the beginning of the trial I was asked whether I had any objection to the composition of the court. I objected to the interpreter because I knew that she understood very little German. I believed that this trial was of decisive importance for me and therefore wanted to have a good interpreter. After my objections the court retired, and I was led out into a small cell after I had again been handcuffed. A few minutes later a Soviet soldier appeared in the cell. With the words, "Interpreter not good, what?" he grabbed my manacled hands and struck me several most painful lashes across the face with his belt. After this, I was led back into the court room. The court did not refer to my objection to the interpreter, but started the same procedure as before, just as if I had entered the court for the first time. The members of the court introduced me once more, and I was again asked whether I had any objections to raise.

"After the experience I had just been through, I decided not to raise any objections to the interpreter, and the trial proceeded. It lasted about 2 ½ of 3 hours. Once more I did not make an admission. I had no defence counsel at my disposal. Although I had not confessed anything, the punishable acts I was accused of were considered as proven — I do not know how they obtained this proof — and I was sentenced to 25 years' forced labour for these offenses. Because I had denied my guilt before the court, I was given an additional penalty of three years' forced labour. There was no possibility of appeal against this sentence, and I was thus legally sentenced to a total term of 28 years' forced labour."

Read, approved, and signed.
8 February 1954.

DOCUMENT No. 168
(SOVIET ZONE OF GERMANY)

Deposition: Appeared the returnee Heinz Junkherr, of West Berlin, born on 17 March 1930, who says as follows:

"In 1950 I lived with my parents in West Berlin and on 8 May 1950 I wanted to visit a school friend in Potsdam. At Potsdam station I was stopped by a railway policeman. I happened to have a copy of the newspaper "Der Telegraf" on me. The policeman handed me over to the Soviet Kommandantur on the same day.

"I was interrogated every night for a whole week by the Soviet Major Zivakov, who accused me of having attempted to spy. Naturally I denied this, for it was not true. I had only planned a harmless visit to a school friend. After I had defended myself against accusation for a week, the Soviet officer tried other methods. He called four soldiers into the interrogation room, and these men ill-treated me on his orders. They repeatedly kicked me in the body and near the head. On some days these kicks were so terrible that I twice lost consciousness and had to be carried back to my cell where I regained consciousness after some time. As far as I can remember this kind of treatment lasted four nights. In order to escape further ill-treatment and following repeated remonstrances on the part of the Soviet officer, I admitted — without any basis of fact — that a Frenchman had instructed me to go to the border at Marienborn and to find out how many men of the people's police were stationed there. This extorted admission was placed on record and read out to me.

"On the basis of this forced confession, a trial was then held before a Soviet court-martial consisting of three judges, a prosecutor, and an interpreter. In view of what had happened before, I had no alternative but to admit everything, as I feared further ill-treatment. I had become so weary that I made no effort whatsoever to withdraw the confession that had been forced out of me. I was condemned to 20 years' detention in a labour- and re-education camp."

Read, approved, and signed.
20 January 1954.

DOCUMENT No. 169
(SOVIET ZONE OF GERMANY)

Deposition: Appeared the librarian Else-Marie Schroder, a widow, born on 12 August 1902, at present of West Berlin, who says as follows:

"I was arrested in Rostock on 21 November 1950, and after spending three days in the local prison, I was taken to the prison in Schwerin. There I was interrogated by a Russian officer every night for several weeks. I was accused of carrying out the duties of a courier for an espionage center in West Berlin. I denied that ceaselessly and did not admit anything. These interrogations lasted about five weeks. Because of my obstinate denials I was punished four or five times with the water cell. This punishment is carried out in the following way: I was stripped naked by Russian soldiers and had to endure three or four hours in a cell with a concrete floor that was flooded so that I stood up to my ankles in water — the window was left open, and this was in December 1950, and January 1951. After about two hours one becomes insensitive to the cold. If one collapsed, one was pulled up again by the watching soldiers.

"At the subsequent interrogation a Russian sergeant in the interrogation room threatened me with a beating with a rubber thruncheon if I did not confess. As I did not want to expose myself to this ill-treatment. I admitted that the letter they showed me had been addressed to me. I made no other admissions. My statement was then recorded and the investigation thus brought to an end.

"On 9 March 1951, a trial took place in Schwerin before a Russian court-martial, which consisted of three Russian officers, a clerk of the court, and an interpreter. I was not given a defending counsel. My recorded statement was read out to me. After a short pause judgment was pronounced: I was sentenced to death, the sentence being commuted to 25 years' internment in a forced-labour camp. It was announced at the same time that the decision of the court was irrevocable and that there was no possibility of appeal."

Read, approved, and signed.

The farmer Jurgen Breuer spent nine months in prison in the Soviet occupied Zone of Germany without a warrant for his arrest, only because he was suspected of having arranged or facilitated his employer's flight to the West. During his imprisonment, Breuer had the opportunity to see how those who had taken part in the uprising of 17 June 1953 were brutally ill-treated. Mrs. Edith Klütz had also been arrested on grounds of alleged participation in this uprising.

DOCUMENT No. 170
(SOVIET ZONE OF GERMANY)

Deposition: Appeared the farmer Jurgen Breuer, born on 24 September 1918 who says as follows:

"After my release as a Soviet prisoner of war in August 1952, I settled in Burckhardtwalde. There I obtained a job as manager with the farmer Werner Tamm. On 28 December 1952, my employer fled to West Berlin. A few days later, at 6 a.m. on 3 January 1953, a uniformed member of the People's Police and two members of the criminal police in mufti took me from my place of work to Meissen for police interrogation. In the police building in Meissen, a civilian interrogated me thoroughly regarding alleged help given to my employer's flight and regarding remarks supposedly made at public meetings of the municipal council on the devastation of agricultural enterprises. I had to admit that I had taken goods to Dresden for Herr Tamm. Neither could I deny the remarks I was alleged to have made. After

a fortnight's custody in the investigation prison in Meissen, I was taken to Berlin. There I was first taken to the State Security Service in Albrechtstrasse, where I was interrogated daily for four days. They tried to talk me into volunteering for the military branch of the people's police, but I refused. At the end of January I was taken back to Meissen.

"For the next few months I remained in solitary confinement. I was not given a bill of indictment, arrest warrant, or any other reason for my being under arrest. I was taken to Berlin several times for interrogation at the police headquarters at Keibelstrasse, at the State Security Service in Lichtenberg, and at the "Stadtvogtei" in Dircksenstrasse. I was in the Dircksenstrasse prison in mid-June, when a large number of people who had taken part in the demonstrations of 17 June were brought there. On my reckoning, by 22 June, when I was taken back to Meissen, about 800 to 900 participants in the demonstrations were delivered to the police headquarters. I witnessed numerous acts of ill-treatment of these prisoners inflicted by the guards. The prisoners were kicked, and beaten with wooden truncheons. Even on their arrival many prisoners showed traces of serious ill-treatment on their faces and other visible parts of their bodies.

"After I was taken back to Meissen on 22 June, I again spent three months there in solitary confinement without anyone concerning himself with me. On 21 September I was suddenly released from custody without any explanations. I was told to report to the "Kreis" police authorities in Meissen the next day in order to recover my papers. First I went to my family at Burkhardtswalde. There my wife told me that, in spite of every effort on her part she had not been able to find out anything about my fate. At the police station in Meissen she had always been told that they knew anything of my whereabouts.

"As my past experience and a warning gave me reason to fear that I might be re-arrested, I fled to West-Berlin on 22 September 1953.

"Police warrant officer, Otto Schulz, and police staff sergeant Kern, both of the "Stadtvogtei" took a prominent part in the ill-treatment of the arrested participants in the uprising at the Berlin police prison.

"The data supplied by me are true. I am prepared to repeat them on oath at the proper time.

Read, approved, and signed.

26 September 1953.

DOCUMENT No. 171 .

(SOVIET ZONE OF GERMANY)

Deposition: Appeared Edith Klütz, nee Felisch, born on 9 May 1913, who states as follows:

"I am an office clerk by profession and was last employed as a saleswoman at the cooperative store in Berlin-Oberschoneweide. My husband was a buyer at the Kopenick Cableworks. We lived at 17b, Solchowstrasse, Berlin-Adlershof. We have a five-year old child.

"On 17 June of this year my husband came home from work in the evening and told me he was one of the strike leaders among the workers. He went to work as usual on the 18th. He came home as usual, work having been resumed at the plant. About 11.30 p.m., after we had gone to bed, my husband was taken from the house by three civilians who had identified themselves as members of the criminal police. No reason was given. The following day I went to the police prosecutor's office in Littenstrasse to enquire about my husband. There I met the public prosecutor, Viertel, who told me that my husband had already been condemned to death for participation in the provocations of 17 June and for activities as an agent of the West. He added that I would never hear from my husband again.

"On 20 June at 10.30 the criminal police took me by car from my home to Littenstrasse for interrogation. There were about seven men present in civilian clothes. The interrogation was conducted by public prosecutor Viertel, whom I already knew. I was accused of lending

support to my husband's activities as an agent. I was searched for any incriminating documents and had to strip naked. As I offered resistance to this, force was used. When I denied any knowledge of any kind of agent activity on my husband's part, I was punched in the face and kicked in the back and in the abdomen. Since this did not serve their purpose, they stood me on my head by holding my feet up. After several minutes of this, as I was about to lose consciousness, I gave in and declared myself ready to sign the statement they wanted from me. I then signed a prepared statement according to which I admitted assisting my husband in his activities as an agent by preparing documents for him. I undertook not to visit the Western sectors of Berlin any more and to institute divorce proceedings against my husband. I was then, at about 1.30 p.m. taken home by car.

"On 4 July at about 6 p.m. my husband came home from custody. He showed many traces of physical ill-treatment. For instance, his nose was completely broken, his neck and face showed deep scratches, two teeth had been knocked out, his abdomen and his back were bruised all over.

"My husband resumed work after resting for a few days. On 11 September he did not return from work. The next day I learned at the works that my husband had been arrested at about 1 p.m. on 11 September together with four other men and two women from the plant, and had been removed by lorry to an unknown destination.

"They said that my husband had tried to resist arrest and had therefore been beaten so badly that he collapsed in the lorry and remained lying on the floor. Since then I have not heard from my husband. As I feared renewed arrest myself I moved with my child to West Berlin on 13 September 1953."

Read, approved and signed.

In any criminal trial, particularly of course in purely political prosecutions, the State aims at a general preventive effect, which necessitates an admission of guilt and also wherever possible an expression of repentance by the accused. Attempts are made to achieve such confessions by the methods described in the above testimonies of witnesses. Experience shows that such attempts are usually successful. The desired confessions are thus obtained; but also statements by the accused which are frequently beyond comprehension to the free world. Seldom have defendants accused or condemned themselves as those in the Slansky trial. Nobody will really believe that the statements and confessions of the accused during this trial were made voluntarily and without any compulsion.

DOCUMENT No. 172
(CZECHOSLOVAKIA)

"The accused Slansky:

"I have heard the speech of the Public Prosecutor and the sentence he demands. I know that the sentence demanded by the Public Prosecutor will be most just in view of all the crimes I have committed. Of all the defendants I bear the greatest and heaviest guilt. I bear this guilt because I was at the head of the center of conspirators and spies hostile to the State; I formed this center, guided its activities, and laid down the policy for my accomplices: this was not only my policy, but above all the policy of the American imperialists whom I served — a policy of treason, conspiracy, sabotage, confusion and espionage...

"I have been guilty of the gravest, most dreadful, and most contemptible crime...

"I know that my name, the name of Slansky, is cursed today by every honest man. ... I employed dirty Trotzkyite methods: methods of duplicity, deceit, deception, and intrigue.

"I have rendered myself guilty of the vilest crimes that man can commit. I know that in my cases there cannot be any mitigating circumstances, excuses, or indulgence. I rightly deserve to be despised. I deserve no other end to my criminal life than that demanded by the Public Prosecutor.

(Sentence: Death Penalty)

"The accused Geminder:

"The only use I can make of this opportunity to utter a final word — granted to me though I was an active member of the center hostile to the State — is to declare once more: I am guilty, I am guilty... I have committed grave offenses against the interests of the working class.

"... I know that I myself cannot make good or rectify the damage I have caused even by paying the penalty, which will always be just.

(Sentence: Death Penalty)

"The accused Frejka:

"Is it right that I stand before the court of the Czechoslovak working people, for I have committed incalculable offenses against them. ... I have committed such crimes that I accept in advance any sentence passed by the Czechoslovak people as a just punishment.

(Sentence: Death Penalty)

"The accused Frank:

"In my last words I wish to stress that I am fully conscious of the weight and gravity of the crimes I have committed and that I bear full responsibility for them as well as for many other crimes committed by my accomplices. ... But the worst and most shameful thing for me personally is that, through my crimes, I have assisted in the criminal plans of the Anglo-American imperialists; that I have helped by my actions those who are, in the whole world, the greatest enemies of human liberty and civilization, of progress, and of Socialist thought; that by my actions I have helped their efforts and endeavours and their vile plots to thwart the peaceful work and the life of our working people and their families; that I enabled them to upset the coexistence of nations and contributed to this myself; and that I have helped them to bring about a new dreadful war for the satisfaction of their awful and despicable plans of world domination. I shall not excuse my crimes, nor shall I minimize them. I only wish the working people may learn from my case what is and must be the end of anyone who, in spite of his working class origin, sinks into the morass of opportunism.

"... I ask the State court to judge severely the depth and extent of my guilt and to pass a hard and strict sentence.

(Sentence: Death Penalty)

"The accused Clementis:

"... May my case be a frightening deterrent and warning to what end, to what dreadful end, may lead a merely formal membership of the Communist party — a paper membership full of vacillation and breach of faith towards the Party and the Soviet Union... The blow rebounds on its instigators and on the tools they used for their ends. Therefore, the demand for punishment which the People's Court will pass on account of my crimes... however hard it may be, can only be a just punishment.

(Sentence: Death Penalty)

"The accused Reicin:

"I know that there is no excuse for the serious and horrible crimes that I have committed. The damage that we have caused by our disrupting actions is grave. I know that I deserve the most severe punishment for these crimes of mine.

(Sentence: Death Penalty)

"The accused Svab:

"... There is nothing I could put forward as an excuse. I therefore ask the State court to judge and condemn my treason most strictly and severely.

(Sentence: Death Penalty)

"The accused London:

"... My guilt and the crimes I have committed... are great. I know that the sentence passed will be a just one.

(Sentence: Life Imprisonment)

"The accused Hajdu:

"I have no defense and no excuse, and I cannot have any. Any motive and any reason would be null and void in the face of the weight and magnitude of the crimes I have admitted. I only want to express my regret for the crimes I have committed.

(Sentence: Life Imprisonment)

"The accused Löbl:

"Speaking my last words, I again admit the crimes of which I have been justly accused ... I... know that I deserve a severe and just penalty.

(Sentence: Life Imprisonment)

"The accused Margolius:

"I am aware of all the dreadful crimes of which I am guilty... I know that I have no excuse for my crimes... I ask the court for the severest punishment.

(Sentence: Death Penalty)

"The accused Fischl:

"I can offer no excuse for my serious crimes. I am fully aware of the extent of the center's criminal activities. I therefore ask for the most severe penalty.

(Sentence: Death Penalty)

"The accused Sling:

"... I was a treacherous enemy within the Communist Party. Even after my arrest I denied the truth for some time before I decided to reveal the extent of my crime. I realized that it would constitute a further crime to conceal the truth regarding the destructive methods of the attack led by the American imperialists against Czechoslovakia and the forces of peace. I am rightly despised and deserve the supreme and most severe penalty.

(Sentence: Death Penalty)

"The accused Simone:

"I stand before the State court as a traitor and a spy... I bear the responsibility for all the crimes, whether committed individually or collectively. There can, therefore, be no question of extenuating circumstances.

There is, however, a dreadful aggravating circumstance. Whoever holds out his hand to the British-American imperialists, holds it out for the preparation of a war of aggression, of mass murder, and of mass destruction. I have committed this barbarous deed. I have helped to prepare this war against the country where my parents were born, against the people that offered every chance of a happy and honorable life. For this I ask the State court to pass the most severe penalty.

(Sentence: Death penalty)."

Source: *"Trial of the Leaders of the Center of Conspiracy Directed Against the State, with Rudolf Slansky at Their Head"* (in Czech; Prague: Orbis, 1953, published by the Czechoslovak Ministry of Justice), p. 657.

VI. INHUMAN SENTENCES AND INHUMAN EXECUTION

No-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Art. 5, United Nations Universal Declaration of Human Rights.

Documents and sentences, which have now become available, dealing with penalties under the Political and Economic Penal Law reveal the inhuman severity of the sentences pronounced by the courts under Communist regimes against accused persons who are completely at the mercy of their judges. The documents published below serve to underline this impression. Laws, under which even the minimum penalties are inordinately severe, and sentences, which far surpass even these minimum penalties, prove that under Communist rule the individual and his right to human dignity are utterly disregarded.

Art. 13, of the Universal Declaration of Human Rights of December 10th, 1948, stipulates that "everyone has the right to leave any country, including his own, and to return to his country". In countries under Communist rule it is regarded as a particularly serious crime when any individual makes use of this fundamental right to freedom of movement.

DOCUMENT No. 173

(USSR)

On the Outlawing of Officials Who, Being Soviet Citizens Resident Abroad, Defect to the Camp of the Enemies of the Peasants and the Working Class and Refuse to Return to the USSR.

Decree of the Central Executive Committee of 21 November 1929.

1. The refusal of a Soviet citizen, employed as an official in a government agency or an enterprise of the USSR abroad, to return to the USSR when called upon to do so by an organ of the Soviet Government, shall be regarded as defection to the camp of the enemies of the peasants and the working class and shall be considered as treason.
2. Persons who refuse to return the USSR shall be declared outlaws.
3. The consequences of being declared an outlaw shall be:
 - (a) Confiscation of all property of the convicted person;
 - (b) Shooting of the condemned within 24 hours of establishing his identity.
4. All such cases shall be dealt with by the Supreme Court of the USSR.
5. All Executives Committees and all agencies of the State Political Administration (GPU) shall be informed of the names of the person declared an outlaw.
6. This law shall have retroactive effect.

Source: *Collection of Laws, USSR, 1929, No. 76, text 732.*

DOCUMENT No. 174

(BULGARIA)

Criminal Code of the People's Republic of Bulgaria.

Article 275:

Individuals going abroad or entering Bulgarian territory without permission of the appropriate authorities, or with their permission but via points other than those stipulated, shall be liable to imprisonment of from three to ten years and a fine not exceeding 500,000 Leva.

The same penalty shall be imposed on a person who attempts to commit the offence as also on a person aiding, abetting, or harbouring the offender.

Article 276:

A Bulgarian national who, having gone abroad with permission of the appropriate authorities, refuses to return within a month of having been requested to do so, shall be liable to a maximum of five years' imprisonment and a fine not exceeding 100,000 Leva.

The same penalty shall be imposed on a Bulgarian citizen, who, having left the country on a collective passport, without legitimate reasons, fails to return there with the group.

The manner in which political opponents of the Communist system are persecuted and condemned has been amply illustrated by numerous judicial sentences. The following cases show that the severest sentences are passed for even the most minor offences, or even the mere voicing of opinion.

DOCUMENT No. 175

(USSR)

Deposition: Appeared on 8 March 1954, Wolfgang Bellenbaum, electrical engineer of Berlin-Tempelhof, 177 Tempelhofer Damm, who says as follows:

"In 1948 I was sentenced to death for espionage by a Soviet military tribunal in accordance with Art. 58, sub-sec. 6, 8, and 14 of the Russian Penal Code. I refused to sign the verdict and several months later was informed that I had been sentenced by means of a 'Moscow long distance' verdict to 25 years in a forced labour camp.

"In the camp at Taychet, Siberia, a Russian — I speak and understand Russian — who, as a former member of the Vlasov Army, had been sentenced to 10 years in a forced labour camp, told me that he had made an attempt to escape. For this attempt he had, at a special trial, been sentenced to an additional eight years of forced labour.

"In the same camp a former Russian soldier of the Berlin garrison told me in 1952 that he had been sentenced to 25 years forced labour for suspected espionage. The Russian soldier said that while drunk he had gone to West Berlin by mistake and had been arrested immediately after his voluntary return to his unit. After some months he had been informed that he had been sentenced to 25 years forced labour by a 'Moscow long distance verdict' without any trial having taken place.

"In conversations with fellow prisoners I learnt that most of them had been convicted by such 'Long distance verdicts'.

"In the Ivdel camp I was told in 1950 by a man named Alexander Werner of Odessa, but of German origin, who had been sentenced in 1938 to five years forced labour, that after having served the sentence he had to report to a 'Free Deportation Centre' and had not been permitted to return to his former place of residence. Examples of such procedure also came to my knowledge in 1953. Lithuanian fellow prisoners showed me letters written from such a 'Free Deportation Centre' by former prisoners."

Read, approved, and signed.

DOCUMENT No. 176
(SOVIET ZONE OF GERMANY)

St. Ks. 300/52

In the Name of the People.

In the criminal case against

Max Kurt Pehlke, locksmith,
born 8 August 1930 in Brandenburg/Havel

Judgment was passed as follows:

The accused is sentenced to 12 — twelve — years penal servitude for an offence under Article 6 of the DDR Constitution in conjunction with Control Council Directive 38, Part II, Article III A 3 and the sanctions postulated on Control Council Directive 38, Article IX 2/9.

Extract from the Findings:

... In May 1951 the accused contacted the SPD office in Langobardenallee. He introduced himself there as an adversary of the DDR and received continuously provocative leaflets of postcard size which he brought to Brandenburg and distributed there. Each parcel contained about 2,500 leaflets. He chose the late evening or hours of darkness as the most suitable for distributing these smear leaflets, as he usually returned from work, meetings or social outings at about that time. For this purpose he put a number of leaflets in his pocket before he went to work or to a meeting and distributed them in the streets in the vicinity of the nationalized factories, on building sites, in letter boxes, or scattered about new buildings. Altogether, the accused visited the central SPD office in the Langobardenallee between 14 and 17 times and took about 35,000 to 40,000 provocative leaflets to Brandenburg.

When calling for the leaflets the accused had also reported on the potential output of the Brandenburg steel works and rolling mills, the tractor works and the Ernst Thälmann shipbuilding yard. He also named persons employed by the State Security Service.

As the accused had been born in Brandenburg he was well informed on the principal establishments in the city, particularly airfield and barrack installations. He reported his findings on the condition of the airfield in Brandenburg-Briest and of the former Arado-aircraft works to the Langobardenallee office. The accused also made a report on his training as a former member of the people's police and on its weapons and equipment to the fullest extent that he was able...

The accused openly admitted these crimes, and declared that his unconditional opposition to the DDR was the sole motive for his actions. He asserted that he received no financial benefits from the SPD for the distribution of the leaflets and for reports on conditions prevailing in the DDR...

The accused is 22 years of age. He is of working class origin, attended co-operative schools and did social work. Because he disagreed with certain measures of the DDR government, as for instance the Oder/Neisse Peace Frontier, he claims to have become an opponent of the DDR. The accused is an intelligent man. His intelligence and co-operative training should have informed him that the path he had taken was disgraceful, not only from a personal point of view, but that one day his masters would be swept aside by reasons of the fact that the policy pursued by the DDR is the only right one. There was therefore no ground for extenuating circumstances to be taken into account...

The Court acted on the proposal of the public prosecutor and sentenced the accused to twelve years penal servitude and to the sanctions of Control Council Directive 38, 2/9. Through the democratic execution of the sentence the accused will have the opportunity to atone for his crimes and, after serving his sentence, to become once more a decent member of our social order.

signed: Friedrichssohn

signed: Sommer

signed: Koch.

DOCUMENT No. 177
(SOVIET ZONE OF GERMANY)

St. Ks. 209/52.

In the Name of the People.

In the Proceedings against

the student Hans-Jürgen Naumann, born 20 February 1930 in Halle...
judgment was passed as follows:

In accordance with Article 6 of the DDR Constitution in conjunction with Control Council Directive 38, Part II, Article III 3 the accused is sentenced to 12 years penal servitude for instigating a boycott against democratic organizations and institutions and for fabricating and disseminating tendentious rumours...

Extracts from the Findings:

...In February of this year the accused met an acquaintance named Meinhardt at the 'Beroina' Cellar at Alexanderplatz in Berlin. The accused knew Meinhardt in Dessau as he had been friendly with the latter's son. He knew that Meinhardt too had studied economic law. In the course of conversation the accused learned that M., having lost his family in an air raid, was now living in West Berlin. The two men talked of conditions prevailing at the Humboldt University and the accused expressed his discontent with the educational methods there. They also discussed criminal proceedings which had taken place in the DDR and the accused remarked that he did not agree with the verdicts as he thought them too severe. M. asked the accused to visit him and promised to help the accused should he wish to transfer to the "Berlin Free University" where he could settle down to his law studies... In conversation with Meinhardt at which a certain Mathes was present, the accused was asked to furnish M. with reports on the DDR. M. would then assist the accused to secure admission to the "Berlin Free University". He was instructed to make reports on the people's police, on nationalized factories, collective agreements, and production plans, as well as on state administration in the DDR, and to send them to M. under the name of Werner Pappsilber (the pseudonym of the accused). The accused told M. that he would be unable to make such reports, but informed M. that he had witnessed an arrest by the people's police in the Linienstrasse. The accused was then asked by Mathes, who introduced himself as a member of the SPD Ostbüro, to visit him as well. Some time later the accused witnessed near Alexanderplatz at the corner of Wilhelmstrasse the arrest of two employees, probably of the HO, by people's police. This he reported to M. using his pseudonym... Mathes introduced the accused to one Rabaude, a school inspector, who conducted his qualifying examination for university entry. He was then sent to the Action Committee of the FDJ in West Berlin. There he met a certain Hilde Simon who after discussing the conditions at the Humboldt University, sent him to the Ostbüro. There he met Lau, a member of the Ostbüro, who asked the accused to obtain information about the Oberbarnim Kreis councils and details on the characters of its members and submit them to him. The accused had not, as was originally intended, been expelled from the Humboldt University because of his negative attitude, but had, after some discussions been admitted for an oral examination and assigned to the district office at Oberbarnim for practical training. The accused was not able to carry out these instructions as he was subsequently arrested. He had, however, reported the names, professorial chairs and party membership of the professors and lecturers at the Humboldt University to Lau, that is, to the Ostbüro of the German Social Democratic Party...

The actions of the accused constitute a crime according to Article 6 of the Constitution in conjunction with Part II Article III A 3 of Control Council Directive 38. The council for the prosecution demanded the accused be sentenced to 12 years penal servitude for this crime.

In view of the facts of the case, based on the statements of the

accused which must be considered as proven, the court agreed with Counsel for the Prosecution. The severity of the sentence is a result of the actions of the accused which must be regarded as particularly base and as contrary to the interests of the peaceloving German people and those of the whole world...

The accused had in this way shown himself a willing tool in the hands of war criminals and warmongers and was therefore to be punished with due severity...

signed: Geller signed: Lutz signed Friedrichssohn.

Not only are such savage sentences passed on adults, but even minors — one might even call them children — are punished in a like manner. The Russian Penal Code was the pattern for the new Juvenile Court Code of the Soviet Zone of Germany. This provides for certain political offences by minors between 12 and 18 years of age every type of penalty with the sole exception of the death penalty.

DOCUMENT No. 178

(USSR)

Criminal Code of the RSFSR (edition of 1 October 1953).

Article 12:

Minors, attaining 12 years of age, who are found guilty of committing thefts, assaults, injuries, mutilation, murder or attempt at murder are to be brought before the criminal courts and are to be liable to all the grades of criminal penalty.

Article 21:

In combating felonies which threaten the foundations of the Soviet regime or the Soviet constitution, as an extraordinary measure for the protection of the state, execution by shooting will be carried out in cases which are expressly provided for in this Penal Code, until such time as a new regulation is issued by the Central Executive Committee of the USSR.

Article 22:

Expectant mothers and persons, who, at the time of committing any of the aforementioned offences, have not reached their 18th year, may not be condemned to death by shooting.

Even the Supreme Court of the USSR was evidently reluctant to apply the ordinance of 7 April 1935, issued by the ZIK (Central Executive Committee) and the SNK (Council of People's of the Commissars) of the USSR in its full severity to minors, and wanted to approve its application only if a crime had been wilfully committed. The Praesidium of the Supreme Soviet of the USSR has, however, interpolated a clear directive to the highest courts and thus made sure that the severest penalties may be imposed, even for crimes committed by minors through negligence.

DOCUMENT No. 179

(USSR)

Criminal Code of the RSFSR (1 October 1953).

Notes on Article 12:

Section 4. From the report of the Procurator-General of the USSR and the resolution by the full bench of the Supreme Court of the

USSR of 20 March 1941, the Praesidium of the Supreme Soviet of the USSR concludes that the Supreme Court of the USSR, when dealing with crimes committed by minors to which the ordinance of the ZIK (Central Executive Committee) and SNK (Council of People's Commissars) of the USSR of 7 April 1935 'On Measures for Combating Crime Among Minors' applies, proceeds from the assumption that minors shall be tried in court only when the crime was committed wilfully.

The Praesidium of the Supreme Soviet of the USSR declares that such an application of the Decree of the ZIK and SNK of 7 April 1935 'On Measures for Combating Crime Among Minors' by the Supreme Court of the USSR is not in harmony with the wording of the law, introduces limitations not provided for by the law and is contrary to Article 6 of the principles of criminal jurisdiction in the USSR and the Union Republics according to which legal responsibility obtains both when a crime is committed wilfully or through negligence.

The Praesidium of the Supreme Soviet of the USSR requests the Supreme Court of the USSR to apply the Ordinance of the SIK and SNK of the USSR of 7 April 1935 'On Measures for Combating Crime Among Minors' in strict accordance with the wording of the law and of the current criminal legislation of the USSR.

The above decree does not repeal the serving of sentences by minors in corrective labour colonies for children. (Decree of the Praesidium of the Supreme Soviet of the USSR of 7 July 1941).

Source: *Vedomosti*, 18 July 1941, text 32.

The following statements of witnesses give concrete examples of legal procedure in the punishment of minors.

DOCUMENT No. 180
(SOVIET ZONE OF GERMANY)

Deposition: Appeared Karl-Heinz Weber, born 10 February 1933 in Berlin-Lichtenberg, now a refugee in West Berlin, says as follows:

"In the summer of 1947, being then 14 years of age and having just completed my 7th year at school, I helped in a Soviet warehouse in the prohibited area of Karlshorst. I was employed on odd jobs for which I mainly received food as well as a little money.

"At the beginning of August 1947 I had gone with a party of seven or eight other youths, working at the same warehouse, to one of the new restaurants for Russian soldiers in the vicinity. Stimulated by the unaccustomed drinking of alcohol, we began to sing. Among other songs we sang 'Auf einem Seemannsgrab, da blühen keine Rosen'. This song was forbidden at the time. An officer who was present ordered us to stop. We replied that he had no business to interfere with us and continued to sing. An argument with the officer followed which ultimately led to a brawl with Soviet soldiers. When the brawl began I left. On the same evening we went with other friends to the FDJ hostel in Altfriedrichsfelde intending to start a quarrel with the FDJ members. We waited in front of the hostel until the club session had ended and when the FDJ were leaving the hostel we began to provoke them by insults and jostling. This led to another out-and-out fight. No one was seriously injured. It was the usual boys' brawl. I then went home. A day or two later I was called out of bed at 5 a.m. by Soviet soldiers and taken by car with four other boys to Karlshorst and locked in the cellar of a villa in Waldow-Allee. I was interrogated by German detectives about the singing of fascist songs. I described exactly what had happened. Eight days later I was taken to the police prison at Alexanderplatz. On 29 August I was handed over to the Russians. After having spent several days in the bunker in Schumannstrasse I was taken to the Soviet prison in Magdalenenstrasse, Berlin-Lichtenberg. There I was interrogated in great detail by Soviet officers, the brawl with the FDJ being quoted against me. In contrast to the treatment of my fellow prisoners, apart from having my ears boxed, I was not ill-treated.

"In mid-September I was brought before a Soviet Tribunal in Lichtenberg prison, with my friend Kurt Koñarski who had also taken part in these incidents. At first the case was heard in Russian without an interpreter being present.

"After a time an interpreter appeared and read the indictment against us. We were accused of Fascist intrigues and of undermining the morale of the Red Army. We were not interrogated again, but simply asked whether we had any requests to make. Following Konarski's example I begged for a mild sentence. We were then taken out of the room. Five minutes later we were called in again. The interpreter read the sentence to us, I received six years in a labour camp and Konarski, who was at the time 18, eight years.

"We were taken with many others to the concentration camp in Sachsenhausen. There I remained until the end of January 1950. I was then taken to the prison in Torgau and 67 days before the end of my sentence, was released there on 24 June 1953. According to the certificate dated 16 June 1953, issued by the prison authorities, I was relieved from serving the remainder of my sentence by the Amnesty of the Praesidium of the Supreme Soviet of the USSR of 27 March 1953."

Read, approved, and signed.

13 November 1953.

DOCUMENT No. 181
(SOVIET ZONE OF GERMANY)

Deposition: Appeared Johannes Jaech of Beckendorf/Mecklenburg, born 26 December 1933 in Jasenitz/Pomerania, who says as follows:

"On 19 October 1951 I was sentenced with my father Reinhold Jaech, who received the same sentence, by a Soviet Court martial in Schwerin to 25 years in a labour Camp for espionage.

"We were arrested together on 1 August 1951 and I was released from the Bautzen concentration camp on 17 January 1954, but my father is still detained.

"... At the end of July my father visited a family, named Lewandowski, with whom he was acquainted at Parchim. All, including the daughter Erika, went for a walk. My father asked what kind of troops were stationed at Parchim airfield and Erika told him that they were Russian. According to what my father said later, this was all that was discussed and all that happened while he was with the Lewandowski family. Erika Lewandowski, who was an SSD spy, a fact unknown to my father, made a report of this conversation. She asserted that at the end of July 1951 my father had tried when talking to her to induce her to become an agent for military espionage. This statement was pure invention as my father had never made any such suggestion. On the report of this spy we were both convicted. I was arrested on suspicion of having cognizance of my father's activity... I was accused of being privy to my father's activity and the investigating judge suggested to me that my father had told me everything. At first I denied this. Eventually he threatened to torture me to obtain my confession, and I was forced to admit to everything of which I was accused. My fellow-prisoners had advised me to admit the accusations as I would otherwise have to undergo the severest torture. They told me that several prisoners had died as a result of such torture.

"At the hearing, sentence was pronounced on the written testimony of the witness Erika I, which was read in her absence. After about four months spent in Parchim and Schwerin my father and I were taken to the concentration camp in Bautzen on 12 December 1951. My father had in the meantime contracted tuberculosis and was admitted to the prison hospital. According to the doctors his was a very severe case and he was unable to stand upright."

Read, approved, and signed.

14 January 1954.

In the judicial practice of the countries under Communist rule not only the principal punishments but also the collateral punishments deserve special mention. It has been found that frequently a sentence of imprisonment may appear mild but the collateral punishment imposed virtually amounts to the financial and business ruin of the accused. To achieve this, the criminal statutes provide for the partial or complete confiscation of the property of the accused.

DOCUMENT No. 182

(POLAND)

Penal Code of the People's Republic of Poland.

Section IV

Special Provisions

Article 49:

(2) If a court pronounces a sentence of imprisonment it can also decree the loss of public and civic right and the confiscation of the entire property of the accused or a certain part thereof.

Especially severe are the penalties imposed for crimes against state or public property. The most trivial misappropriation even of practically valueless items of state or public property is punished by long terms of imprisonment.

The following publication shows that sentences of several years imprisonment are passed for minor thefts.

DOCUMENT No. 183

(USSR)

"Report of the Public Prosecutor of the USSR".

"In the carrying out of the Decrees of the Praesidium of the Supreme Soviet of the USSR of 4 June 1947 'On Criminal Liability for Embezzlement of State and Public Property' and on 'Strengthening the Protection of Citizens' Private Property' a number of people have recently been charged and brought before the courts:

- 1) In Saratov, V. F. Yudin, who had been previously convicted for theft, was arrested and brought before the court in accordance with the Decree of 4 June 1947, charged with stealing fish from a fish canning factory.
On 26 June 1947, the People's Court of the Volga district Saratov sentenced V. F. Yudin to 15 years' detention in a corrective labour camp and the confiscation of his personal property.
- 2) On 11 June 1947, D. A. Kusselov, an electrician employed in the power supply department of the Railway District Moscow-Ryazan, stole furs from a truck on the journey from Kossina to Veschnyaki. He was caught with the stolen property in his possession and was brought before the court.
On 24 June 1947, the Military Tribunal of the Railway District Moscow-Ryazan sentenced Kusselov to 10 years detention in a corrective labour camp.
- 3) In Pavlova-Posad, Moscow area, L. N. Markelov was arrested and brought before the court for stealing materials in the Pavlova-Posad textile factory.
On 20 June 1947 the People's Court in Pavlova-Posad sentenced L. N. Markelov to eight years detention in a corrective labour camp.
- 4) In the district of Rodnikov in the Ivanov province the Kolkhoz farmers, I. V. Smirnov and V. V. Smirnov were arrested and brought before the court for stealing 170 kg of oats.

On 26 June 1947, the People's Court of the District of Rodnikov sentenced each of the two men to eight years detention in a corrective labour camp.

5) In the Moscow district of Kirov, *E. K. Smirnov*, a motor driver, was arrested for stealing 10 kg of bread from a bakery. The People's Court of the Moscow district of Kirov sentenced *E. K. Smirnov* to seven years detention in a corrective labour camp.

9) On June 6, 1947, *A. D. Tschubarkin* and *V. G. Morosov* stole 40 kg of potatoes belonging to citizeness *Pressnyakovy* from a potato store in the village of Zubovka, district of Kutusov in the Kuibyshev area.

On June 17, 1947, the People's Court of the district of Kutusov sentenced each of the two men to five years detention in a corrective labour camp.

10) On 5 June 1947 *K. V. Grünwald*, who had been previously convicted for theft, residing in Moscow, Skryabinski Street No. 9/4, dwelling No. 7, broke into the room of his next-door neighbour citizen *Kovalav* in his absence and stole several household articles. The People's Court of the Moscow District of Schcherbakov, sentenced Grünwald to 10 years detention in a corrective labour camp."

Source: *Pravda*, No. 175 (10566), 9 July 1947.

The penalties of offences concerning State or public property are particularly severe. In the Communist satellite States the protection given to private property by the criminal law is of far less significance than that given to State property. Theft of the most insignificant article of negligible value forming part of State or public property is punishable by long terms of imprisonment.

DOCUMENT No. 184

(SOVIET ZONE OF GERMANY)

City District Court Pankow
Criminal Chamber 621

In the Name of the People.

Criminal Proceedings against:

Alfred, Hermann, Karl Baum, toolmaker, born 8 April 1928 in Wurchow/Pomerania, residing in Berlin N 4, Strelitzer Str. 58

for theft and crime against the "Decree for the Protection of the People's Assets".

The District Court of Berlin-Pankow at its sitting of 13 January 1953, has passed judgment as follows:

The accused is sentenced for crimes under the "Decree for the Protection of the People's Assets" of 3 November 1952 to one year's penal servitude.

Costs will be borne by the accused.

Extract from the findings:

The accused has been employed as a machinist in the nationalized enterprise Garbaty in Berlin-Pankow since 1948 and in this capacity has to instruct women auxiliary workers. As all other employees of the firm, he received 400 cigarettes a month for next to nothing for his own consumption.

As his father, who smokes a great deal, was sometimes unemployed the accused gave him his cigarettes and stole for his own requirements about 80 "Saba" brand cigarettes of which 68 were found when he was searched. On 11 December 1952 the accused took 22 cigarettes in his coat pocket out of the works and these were found on him when he was checked at the gate. He admitted that he intended to use these

cigarettes for himself and that they were not part of his allocation. The accused has thus, by committing theft, contravened paragraph 1, section 1 of the "Decree on the Protection of the People's Assets" of 3 November 1952.

The Court concluded that in this case the sentence need not exceed the minimum penalty, taking into account the quantity stolen as well as the fact that civic consciousness of the accused, which had been insufficiently developed in the past, had now been deepened, and that in future he would think twice before misappropriating the property of the people.

The decision regarding costs is based on paragraph 353 of the StPO.

Signed Schwalbe, signed Jurk signed Grimmer

DOCUMENT No. 185
(SOVIET ZONE OF GERMANY)

1 Ds. 18/53

In the Name of the People.

Criminal Proceedings against:

1. Erich Rehfeld, motor driver, born 17 June 1923 in Oswald Kreis Niederungen, residing in Anklam, Rudolf-Breitscheid Platz 10, c/o Becker, married, with 1 child, allegedly not previously convicted, detained on remand since 10 December 1952,
2. Hüge Drews, fitter, born 8 December 1912, in Slonke Kreis Kolma, residing in Greifswald, Stalinstrasse 59, c/o Frau Malies, married, with 2 children, allegedly not previously convicted for theft of property belonging to the people.

The Criminal Court of the Kreis in Wolgast at its sitting on 13 January 1953,...

passed judgment as follows:

The accused Rehfeld is sentenced to 12 months penal servitude for theft of public property, the period of detention on remand being deducted from the sentence.

The accused Drews is sentenced to 12 months penal servitude for receiving public property.

Costs to be borne by the accused.

Extract from the findings:

On 3 December 1952 the accused Rehfeld helped a colleague to transport some timber which the latter had obtained for himself from Peenemünde to Koserow with a tractor and trailer put at their disposal by the Bau-union. Ice made the road very slippery and the tractor was unable to proceed beyond Koserow.

A tractor of the Boltenhagen machine and tractor station came towards the and men asked the driver tractor to give them a tow so that they could get up the slope. This the MAS tractor driver did. The accused remained on the road with the trailer. When the tractor driver came back he found that his tyre lever was missing. The accused Rehfeld climbed on to the trailer ostensibly to help in the search taking this opportunity to steal a bale of empty sacks which were packed in another sack. The trailer bore no name plate. Rehfeld concealed the stolen sacks behind a stack of pressed plates at the place where he worked in Peenemünde. On Saturday, 6 December 1952, he took them to his caravan so as to take them home to Anklam. The accused Drews was there and was amazed at the bulkiness of Rehfeld's kit bag. Rehfeld told Drews that he had stolen nine sacks and offered two of them to Drews, who accepted them. When unpacking the sacks the two accused found that they were the property of a farmers' trading co-operative society stamped with the inscription "Wolgast", nar "District Farmers' Trading Society"...

As the offence was of no particular gravity the public prosecutor regarded the minimum punishment provided in the Criminal Code as

adequate and proposed sentence accordingly. The Court agreed to his suggestion.

signed Mahnke signed Wendt signed Pooch

Not only are the sentences inhumanly severe. The directives for the carrying out of the sentences are correspondingly severe. It is of prime importance to the State to exploit convict labour to the greatest possible extent. Details of how this is done have been revealed by documents which supply evidence of forced labour camps as instruments for the execution of sentences.

Extremely hard labour, no recreation, the lowest of wages which cannot be appealed against, absolutely insufficient food, suppression of individual initiative and of all mental activity, withholding of permission to write letters or to receive visitors, the most primitive quarters, the most rudimentary medical and sanitary care and hygienic amenities, chicanery and sadism among the guards, and the savage suppression of any kind of criticism of such conditions, and ultimately of the will to resist them, are characteristic features of the execution of judgments in the Communist orbit.

DOCUMENT No. 186

(USSR)

Deposition: Appeared Else-Marie Schröder, librarian, widowed, born 12 August 1902, who says as follows:

"...I remained three more months in prison and was then sent with a transport of 19 women and 70 men to a camp in Taischet, in Upper Mongolia. We travelled about three months in a cattle truck. In Taischet I had to work in a factory during the first two months being employed on cutting mica slate. Then for a year I had to do very hard work carrying buckets of water for ten hours a day. From May 1952 I was employed as a nurse in the sick ward. On 10 December I was sent to Fürstenwalde from where I was released on 21 January 1954.

"The food was bad in all the camps. From the day of my arrest to my release I had no communication whatsoever with home. In the Taischet camp there were 11 Orthodox nuns who had been sentenced to 25 years forced labour solely because of adherence to their religion. Out of religious fanaticism the nuns refused to do any work whatsoever as they put Bolshevism on a level with the devil for whom they would not work. Because of their refusal to work the nuns were confined in what was called Bur, a tiny room in almost complete darkness, intolerably hot in summer and icy cold in winter. In this Bur they had to stay for two months, the food being of very inferior quality during this time, so that they suffered terrible hunger. One could observe that these women were slowly failing as a result of this maltreatment. One of the nuns died during my nursing period."

Read, approved, and signed.

DOCUMENT No. 187

(SOVIET ZONE OF GERMANY)

Deposition: Appeared Konrad Schloms, doctor of law, born 13 May 1913, in Pulsnitz, of German nationality, by profession a lawyer, present address Munich-Pullach, Flurstr. 16, who says as follows:

"1) I was arrested on 25 June, 1945 by the NKVD in Schmöllten (in the Oberlausitz) where I was living at the time. I then spent about three years under arrest in the hands of the NKVD, pending enquiries in the following towns: Bautzen, Dresden, Potsdam and Moscow. I was charged with espionage on the ground that

during the war I had belonged to the German counter-espionage. "My first conviction was pronounced in March 1946 in Potsdam by a War tribunal of the NKVD. A copy of the indictment was not given to me beforehand and no defending counsel was allotted to me; there was, however, an interpreter present. The proceedings involving myself and a fellow-accused lasted about 10 minutes in all. My sentence was 15 years hard labour. The sentence was based on Art. 58^b of the Criminal Code of the USSR, and the Ukase of April 1943. No reasons for the sentence were vouchsafed to me, the (female) interpreter merely told me the length of my sentence. Nothing was said about my right of appeal.

"After conviction I was sent to various prisons where I was confronted with other accused.

"Proceedings were taken against me again in March 1948, this time in Moscow before a court of three civilians, who told me that I was sentenced to 15 years 'corrective training'. It was not a proper trial, no prosecuting counsel took part nor was there a defending counsel present.

"I received no written record of my sentence either after my first trial or after my last trial. And at the second trial, again, nothing was said to me about my rights of appeal.

"From Moscow I was sent to Vorkuta where I arrived at the end of April 1948. I was first put into Camp No. '2 Brickworks' about 8 km. from Vorkuta.

- "2) In this camp there were about 1200 prisoners, mainly men from the Soviet Union serving sentences for criminal offences, but also Poles and quite a large contingent of nationals of the Baltic States.

"In 1949, those serving sentences for criminal offences were removed and there arrived instead prisoners of war from Germany, Rumania and Hungary. I remained in this camp until the end of 1950 and was then removed to Camp No '6 Pithead', about 15 km from Vorkuta, where I stayed until I was sent home in December 1953.

"In this camp there were usually about 3500 prisoners, principally from the Ukraine, secondly from the Baltic States and some Poles, quite a number of Hungarians and about 120 Germans, some coming from the Eastern Zone and some from the Western Zones, who had only been sentenced and transported there after the war; and some Rumanians. At first there were also some Koreans, Chinese, and Japanese, but these were sent back in 1951. I would estimate that about 50 to 60 of the prisoners were Jews.

"The prisoners had been sentenced almost exclusively for political offences. The sentences of about 30 % of the prisoners had been pronounced on the 'Moscow long distance verdict' method, but the rest had been inflicted after proper trials. The overwhelming majority of the sentences rested on Art. 58 of the Criminal Code of the RSFSR.

"I can recall the following cases among others: A man named M. A. Alperin, who had been a public prosecutor in Moscow was there. His age would be about 50. Alperin was a Jew and was until his arrest in 1951 a member of a committee of experts which had been engaged since 1946 in drafting comprehensive reforms to the criminal code. In 1951, he was sentenced for 'untrustworthiness' under Art. 58 (14) of the Criminal Code of the RSFSR, to 25 years 'corrective training'. He had been denounced by a colleague and was sentenced for remarks criticising the present system.

"I remember, too, a Hungarian called Ferenc Nat, aged about 25,

who was sentenced to 25 years hard labour for having fought against the Soviet Union during the war.

"I also remember a Ukrainian Jew named Jakob Eidelmann of Kiev, who would be in the middle fifties.

"Eidelmann was a journalist and a contributor to the Literaturn aya Gazeta of Moscow. In 1948/49 he submitted an article about Western literature especially that of America. In it, Eidelmann wrote a few words in praise of Western literature. This article was not published, but they put spies on his track and a few months later Eidelmann was arrested by the NKVD and sentenced under the provision of Art. 58 of the Criminal Code of the RSFSR for anti-soviet agitation.

"I was in personal contact with the above mentioned persons and I know from their own stories what had happened to them. I should like to add that, after the strike in the summer of 1953 in Vorkuta, Alperin submitted a request for remissions of his sentence to the procurator general. Some time later, he received from this department a notification that his sentence had been reduced to 10 years hard labour. It struck me as a lawyer that the notification came from the procurator and not from a court. It was not suggested that the procurator was acting on the basis of any judicial decision; it was clear in fact that he had the sole power to shorten the sentences.

"I belonged to a group which was called 'Intrud' (Individualny Trud — Individual Work). The group consisted of prisoners who, because they had been wounded or injured, could not be employed above ground or underground in the pit. Its members were employed at cleaning away the snow, sweeping out the barracks etc., as assistants to builders and on administrative jobs in the camp. Work lasted 9 hours a day and the time taken to march to and from the actual place of work was additional. On an average we were outside the camp for 10 hours.

- "3) A number of 'free persons' worked in the pit as well. Such 'free persons' were either persons who had been compulsorily settled in the area from other parts of the Soviet Union, above all persons of German extraction (Volksdeutsche), or they were persons who, having served their sentences out, could not return to their homes after being set at liberty, but were compelled to settle in the neighbourhood of the camp.

"I can recall among others the case of a German named Vogel. He had been a lawyer in Berlin and had been sentenced in 1945 by the occupation authorities to 8 years imprisonment. After his sentence was finished in 1953, he was not allowed to return to Germany but was settled in the neighbourhood of the camp. I met him repeatedly after he was set at liberty. Vogel was not with the party when a number of the Germans who were in the camp were transported back to Germany, but I have heard that he returned in the autumn of 1954.

"I have heard of other inmates of the camp, citizens of the Soviet Union who, after being set at liberty as regards the camp, after serving out their sentences, were not allowed to return to their homes. I have met these persons repeatedly after completion of their sentences and they were living near the camp as 'free persons'.

"The legal basis for compulsorily settling in the neighbourhood of the camp was generally the 'limitation as to residence', which had formed part of the sentence. The text of the law merely provides that the persons in question should remain within a certain distance from their dwelling place and not leave his area. It would therefore have been quite possible to return these people to their homes and make them subject to this residential restriction. But in practice these regulations were interpreted in

such a way, that free persons were refused to return to their homes and were retained as settlers in the neighbourhood of the camp, obviously because otherwise in the Polar zone the authorities would not have been able to retain the services of the persons in question.

"Free persons received — at any rate until the Government of the Soviet Union changed it — quite a considerable 'Polar allowance', which was computed according to the time spent in the zone. I know that after Stalin's death the Polar allowance was cancelled overnight. The free persons could not move because, in some cases, they had been compulsorily settled there and had to stay, and in other cases, for instance, the railwaymen, they had signed on for a specified number of years and had to serve out their time, although what induced them to sign on, i.e., the considerably higher wages, had been cancelled by the Government's action.

"4) As I could not work productively, I earned nothing the whole time I was a prisoner. I know that the workers at the pit received wages, at least they did so from about 1952 onwards. Part of it was deducted to pay for their lodging and food and for the cost of their guards. A part of the balance still due to them was paid out in cash, the remainder was credited to a blocked account and could only be withdrawn after their discharge from prison.

"5) As regards the feeding arrangements there were various cook-houses — one for invalids, i.e., people over 60 who were not made to work any more, another for unproductive workers, a further one for pit workers above ground, and another for underground workers. From about 1952 there was more improvement in the food supplied. People who could not buy something extra for themselves out of their earnings had to subsist on a diet consisting mainly of bread, meat (reindeer meat) only twice a week — about 50 grams — and fish on the other days.

"Until the strike in 1953 the free persons would obtain foodstuffs in their canteens in sufficient quantity. After the strike the canteens in the camps received better supplies, but the canteen of the free persons suffered correspondingly. Consequently it often happened that 'free' workers often approached prisoners with the request to bring them foodstuffs from the prisoner's canteen.

"6) There were two forms of punishments in the camp, the cold detention room and the cell. The cold detention room was a very small cell which could not be heated, having a stone floor and no furniture. The prisoner in question was put into it, dressed only in his underclothing and without shoes. Often in order to make the punishment more unpleasant, the warders opened the windows even in a severe winter so that the inmate froze dreadfully. He got water and bread for food and every third day the usual food, i.e., including warm soup.

"The cell was a normal prison cell, furnished and heatable, and could take 8—10 persons.

"The disciplinary official of the 'regime' (nachalnik regima) awarded the sentences. He was the official, responsible for the maintenance of discipline in the camp. The smallest offences, for instance, possession of forbidden articles, were punished with detention room sentences.

"If a soldier discovered any forbidden object in the course of the regular searches made in the barracks, the prisoner in question was arrested immediately, the appropriate sentence being pronounced sometimes several days later. In theory there was a possibility of appeal against the sentence to the central administration of the regime in Vorkuta.

"Lodging an appeal did not defer the operation of the sentence.

The prisoner was therefore first put in the detention room of the cell. I have never heard that such an appeal was successful. I know that scarcely anyone availed himself of this theoretical right to appeal. Anyone who did decide to appeal would have to put it up in writing; he would have to ask his guard for paper and a pencil and would have to get him to deliver the appeal. Usually what he got from the guard was blows and not compliance with his request. The inmates of the cell or of the detention room were frequently struck by the guards and were unable to protect themselves.

"7) The result of the amnesty of April 1953 was, in the case of our camp with its 3500 inmates, to bring about the release of 5 prisoners. The reason for this was that the great majority of prisoners in our camp had been sentenced for political offences and the amnesty did not apply to such offences. Further, the amnesty covered only persons convicted of ordinary crimes whose sentences did not exceed 5 years; for this reason alone, the number of prisoners who benefited by the amnesty in our camp was extraordinarily small.

"8) The prisoners from the Soviet Union were permitted until the strike in the summer of 1953 to write a letter twice a year. If they were punished for a disciplinary offence, this right could also be cut down. After the strike, nationals of the Soviet Union were granted the right of sending and receiving letters more often; they could write once a month. After the strike prisoners from the Soviet Union were permitted to receive visits from their relatives, but permission was not granted unless certain conditions were fulfilled, for instance, their 'norms' had to have been 100 % fulfilled, their conduct must have been exemplary. Thus, comparatively few were able to avail themselves of the permission.

"After the 1953 strike even prisoners who were not nationals of the Soviet Union received permission to write, but I noticed that those who had been convicted in the 'Moscow long distance verdict' method did not get permission.

"9) The health of the camp was looked after by doctors who were also prisoners in the camp and were under the supervision of a medical officer. As regards sickness there was a 'norm' that only so many of the productive workers could be allowed to be absent from work owing to sickness. If the doctors did too much for their sick, they could expect to be removed from their job and put to work as labourers. It happened twice in the time I spent at the camp that doctors were deprived of their jobs and put to other work:

"One of these doctors was a Lett named Dr. Ledus. He was taken away in 1952 and no one knew his destination. The other doctor was a Canadian, whose name I cannot recall at the moment. He was dismissed and put to other work.

"10) I know that the whole production of the area depends almost entirely on the existence of compulsory labour. If the camps were abolished or if they did not get the current supply of prisoners, production would stop there. In the area round Vorkuta alone there are 50 to 60 camps with 100,000—120,000 inmates. The camps around Vorkuta cover an area with a radius of about 60 km. That means that even at a distance of 30 km from Vorkuta other camp areas similarly manned are situated.

"I am convinced that in view of the living conditions and the conditions of labour there it would not be possible, whatever allowances were paid, to find enough volunteers for work in the area. Furthermore, as I have already stated, the Polar allowance was cancelled recently, so that there is no inducement of any sort to work in the area. The Government is thus compelled to make use of prisoners, if it wants production to go on at all. And further, arrangements must be made for a steady stream of prisoners to flow to the areas of compulsory labour. That leads

one to the conclusion that the courts have been instructed to 'manufacture' sufficient quantities of prisoners. The strike in the summer of 1953 had very serious consequences in the Vorkuta area. I heard from several quarters, but particularly from railway-workers, that no coal (which is monthly sent to Leningrad), was dispatched for 7 days and that in consequence the factories in Leningrad were beginning to run into difficulty.

"The fact that a special commission from Moscow arrived at Vorkuta, clearly with instructions to settle the strike at any cost, shows how seriously the Government regarded the strike. On the one hand, the prisoners were promised a number of improvements; on the other hand, they were threatened that further striking would be ruthlessly put an end to by armed force. One consequence of the strike is that the prisoners now know that the Government cannot do without them and the work they produce. Of course I cannot judge whether this knowledge will have any further consequence in future.

"The Government commission declared that the prisoners, if they had grievances, could refer the grievances to them. Thereupon there was a flood of complaints, directed mainly against the procedure leading to conviction and its amendment. I know that about 90 % of the complaints were dismissed. They had to be, as the government would have had to cease operations in the area if there had been no prisoners to do the work. It is believed that the complaints had even a partial success in only a few cases, for instances, as I mentioned, the former public prosecutor, Alperin, had his sentence reduced from 25 to 10 years. Most of the complaints, particularly those from prisoners who were nationals of the Soviet Union, were concerned with the fact that in nearly all camps particularly good workers could not earn remissions of part of the sentence.

"There was a theoretical possibility that if a man exceeded his norm by about 25 %, one day would be remitted out of every three days of his sentence, so that if his work was specially good, the prisoner in question would only have to serve about 2/3rds of his sentence. For nationals of the Soviet Union this possibility of shortening the sentence offered attractions and they asked that it should be introduced in all camps. This was not agreed to, I assume, because it would have resulted in the immediate release of a considerable proportion of the prisoners and that the authorities could not face.

"I can only repeat again that in my view the question of production is the decisive issue controlling the whole policy underlying the threatment meted out tot criminals in the Soviet Union, particularly in regard to the length of the sentences inflicted and to where they have to be served."

Read, approved and signed.

DOCUMENT No. 188

(SOVIET ZONE OF GERMANY)

Deposition: Appeared Frau G. H., née K., born on 22 June 1932 in Berlin, no profession, now resident in Munich, who says as follows:

"Early in 1947 a female friend of mine — I lived then in East Berlin — was arrested for alleged spying for the Americans. I knew what she was doing, but had done nothing myself. Clearly she had told the MGB in her interrogation that I knew about her activities. I was arrested on 26 February 1947 by the MGB. I wish to emphasise that I did not spy and had no connections with any agencies in West-Berlin or Western Germany.

"I was incarcerated first in Karlshorst and then was sent to Potsdam. Late in April 1947 the 'Moscow long-distance verdict' was put before me in which I was sentenced to 15 yards hard labour for being suspected

of spying under par. 58 (6) of the Criminal Code of Soviet Russia. There was no proper trial, no evidence was taken, and, of course, I had no defending counsel to aid me. The judgment itself was written on half a sheet of paper. It mentioned no facts on which the decision was based and it gave no reasons for the decision. An interpreter translated its contents and I had to sign it, to show that I had taken cognizance of the contents.

"At the beginning of May 1947 I was transported to Vorkuta. In December 1953 I was taken away to an unknown destination and arrived at Fürstenwalde (Soviet Zone) on 21 January 1954.

"The whole time I was in Vorkuta I was in Camp 2 and the inmates of this camp worked in the brickworks. It was a women-only camp; and it had 700—800 inmates. We were lodged in wooden barracks, about 200 women in a barrack. The beds were in two tiers, and everything was very squashed. There were no cupboards or any other places to keep one's personal things.

"The inmates of the camp comprised the following nationalities: women from the Ukraine and Russia, and women from the Baltic States about 150, from Germany about 250, from Poland about 60 and three from Hungary. There were also about 20 Jewesses from the Soviet Union. The Russian women comprised women from all national groups from Hongolia to White Russia. Most of the prisoners from Soviet Russia had been sentenced for criminal offences. Most of the prisoners from other countries had been sentenced for espionage and other political offences. So far as I know most of the latter had been sentenced by military courts, but many had had a 'Moscow long-distance verdict'. Most of the inmates had been sentenced for 25 years, just a few only 5 years.

"All the women worked in a brickworks that was operated entirely by women, only the supervisors were men, they were MGB men in uniform. All the work was done by women, including the brickmaking itself, making moulds, drying, firing, filling and emptying the furnaces. Loading and unloading the railway-trucks, on which the wood, coal and cement was brought and the despatch of the bricks were undertaken exclusively by women. I worked first of all at the so called red furnace, where the company to which I belonged carried out the removal of the fired bricks from the furnace. As I had heart trouble I could not stand the great heat. I fainted a number of times and suffered loss of blood. After a month of working at the red furnace I was put on to loading and unloading, which job I retained till I was released.

"Until some time in 1953 my loading company worked in two shifts, and a shift lasted 12 hours. One shift worked from 7 a.m. to 7 p.m., the other from 7 p.m. to 7 a.m. We had about ½ hour's rest period during the whole shift. The trucks arriving had to be unloaded immediately, so our rest periods occurred very irregularly. Shifts were changed round every week, so that women on the day shift came to the night shift. About the middle of 1953 three shifts were introduced. Shifts were worked from 7 a.m. to midday and from midday to 7 p.m. and again from 7 p.m. till midnight. Then the first shift (7 a.m. to midday) took over and worked from midnight to 7 a.m. We still got no regular rest period, we got no Sundays or free days off; we had to work every day.

"My company consisted of about 50 women. The time for loading and unloading the trucks was laid-down in advance.

"Until about April 1952 we received no pay for our work. We then got something. Our wages depended on the number of trucks loaded and unloaded. With coal the basis was the number of tons moved, with bricks the number of bricks. I received about 250 roubles which I could dispose of monthly. I drew about 60 roubles in cash and had the rest credited to my account. The money I drew in cash would be spent chiefly on buying myself additional food.

"There were two cookhouses in the camp, one for sick women, one for women who could work. We received 200 grams of bread together with coffee and a little jam in the morning. But there was no fat, no meat and no sausages. At midday, about one litre. In addition there was usually fish, 200 grams of bread and 20—30 grams of fat. We did not even get meat on Sundays. I want particularly to point out that this diet was all that women working in and around the furnaces got. We could buy ourselves with our own money extras, like fats and sausages in the canteen. In the canteen sweets, soap, materials (for clothing) sewing things, stockings, and shoes could be obtained. A kilogram of fat in the canteen cost about 52 roubles, 200 grams of sweets 3 roubles and tooth paste 1,50 roubles.

"We were supplied with clothing, that is, each of us got a black dress, one pair of stockings, felt boots and foot warmers, underclothing in winter, also padded trousers, a wind jacket, padded gloves were worn out we could change them. We received also one sheet, one pillow, two blankets, and a straw sack. We had to do all the washing of our dresses and underclothing ourselves. For that we were allowed one free day every five weeks.

"There were shower-baths which we could use daily. We were issued with the necessary soap. There was also a sick-room and a doctor who was a prisoner, and three female doctors worked in it. On the whole I must say that the medical attention we received was quite good. If anyone was sick, of course she could not earn any wages.

"In consequence of the speed with which we were compelled to work and of the lack of tools, there were many accidents.

"For instance, the work of unloading heavy tree stumps from the trucks, had to be done for the most part by hand. We had got ourselves a few grippers but they mostly broke. We unloaded coal with shovels. Bricks were carried to the truck in lots of 5 to 7 bricks and piled in the truck by other women. Many women suffered injury to their health and their organs did not function properly in consequence of the excessive strain they were put to. In such cases the doctors gave injections which did help.

"In the administrative parts of the camp, for instance, in the kitchens, in the hospital, in the office, free women from outside the camp worked.

"If any one was discharged from the camp after completing her sentence, she could not return home, but had to settle in the Vorkuta area for a period determined in advance, which in the most favourable case would be two or three years and in the most unfavourable case would be life. I know that from fellow prisoners who were discharged and had to settle in the neighbourhood of the camp.

"Prisoners from the Soviet Union had permission to write and to receive letters. After August 1953 they could receive visits from their relatives. Women who were not nationals of the Soviet Union, i.e. Polish, Hungarian, and German women, were not allowed to write.

"Punishment for infringement of discipline took the form of the cold detention room. This was a small room with a stone floor, unfurnished except for a pot. People were put into the detention room clothed only in stockings and underclothing and without shoes or coat. As the cold detention room was not heated, anyone in it froze horribly. They got coffee and bread, and as far as I know there were no privileged days on which they were allowed clothing and hot food. I was only in it once, but someone I knew was in it once for two weeks because she refused to work.

"There was also the cell. Here there was a bench to sit on. Food was also normal and the cell could be heated. The cell was for minor offences, the detention room for more serious ones.

"So far as I know the amnesty of March 1953 made no differences to nationals of the Soviet Union. I know of no case in which any national of the Soviet Union was released. They had mostly sentences exceeding 5 years. I do not know whether my release and that of the other German women was a result of the amnesty."

Read, approved and signed.

DOCUMENT No. 189

Deposition: Appeared the aircraft mechanic, János Kreis, now stateless, previously of Hungarian nationality, born on 15 February 1920, previous residence Tatabánya, 50 km from Budapest in Hungary, at present in the "Home for Foreigners" in the Teupitzerstrasse, Berlin-Neukölln, who says as follows:

"As I declared in my statement of 4 December 1954, I was arrested in 1951 in the Soviet Zone and sentenced by a Soviet Military Court in Weimar to 25 years hard labour for conspiring against the Soviets. I had several times displayed my opposition to the policies of the Soviet occupation authorities and stuck up posters.

"In a transport of 90 prisoners in all, both men and women, I was sent to Vorkuta in the Soviet Union. We were employed in the mines, in the pits 12, 14, and 16. I was there from 14 November 1951 to 1 July 1953.

"We were housed in barracks. Each barrack was about 18 metres long and 6 metres wide. In it lived about 110 prisoners. Soldiers guarded the barracks on the outside; inside the officials of the MVD had charge.

"We had to do really hard physical labour in the mine. It was in addition very cold, perhaps 15 to 18° F under freezing point. We had no special clothing, in fact we had to work in the clothing in which we came from Germany. I later succeeded in getting padded trousers from a fellow prisoner.

"At times in our work in the mines we struck streams of water. Once I was up to my knees in water. I then went to the mine management (pit 14) and asked for rubber boots. I said that I could not work without boots in water up to my knees; and I was given the boots I asked for. When I arrived at the pithead where I worked, pit 12, the MVD officials were waiting for me; they had clearly been forewarned by the mine management. I was given three days detention room because I had refused to work without rubber boots, that was sabotage, they said. I had to take off my padded trousers and remained for three days wearing only a light pair of summer pants and a shirt and jacket in the so-called detention room, which was an unheated cell in the north east corner of the punishment barracks. The water of this cell was iced up and the cold inside was dreadful. Outside the temperature was 40° to 58° under zero Fahrenheit. Daily there was 200 grams of bread and boiled water, so-called 'tschai' (but it was not tea at all). Every three days we got a plate of hot soup, which was given to me on the last of my three days. I had to sit on the ground, there was no possibility of lying down. Every hour a sentry came and looked through the inspection window into the cell. When he knocked one had to stand up straight against the wall, otherwise one was shouted at terribly. Thus one got no sleep day or night.

"Another time I got six days detention room, because I could not work as I had several open sores on my knees, and I said I could not work. A female doctor who by chance was present, confirmed this. However, I was put in the detention room. I got the sores through working on my knees in water in the pit.

"One of my Russian fellow prisoners was Mischka Melnik, about 25 years old, who had been sentenced to 25 years hard labour for applying to be sent to Germany as a labourer. This was regarded as a sort of treason.

"Another fellow prisoner, Andrej Nadjeika had received 25 years imprisonment because he had sympathised with the Germans. His sympathising took the form of occasionally supplying the German occupation troops with geese, etc. He had not been employed by the German troops. His mother and sister were banished to Siberia for life.

"Fellow prisoners, who had charge of others — corporals, supervisors etc. — used to strike other prisoners repeatedly for various reasons. A fellow prisoner, Edmund Hoffmann from Zeitz, was frightfully injured with a shovel because he refused to work at the coal face.

"Until the middle of 1952 it was completely useless to complain to the management of the camp about such maltreatment. Such complaints only resulted in fresh tortures. In 1952 an order was issued that prisoners must not be maltreated. Thereafter there were hardly any cases of maltreatment."

Read, approved and signed.

DOCUMENT No. 190
(CZECHOSLOVAKIA)

Deposition: Appeared Jan Vidergot, of Berlin-Wannsee, am Sandwerder 17-19, who says as follows:

"My name is Jan Vidergot, I was born on 20 January 1930 in Policka, Czechoslovakia, and, prior to my flight on 5 September 1953, lived in Sokolov, Czechoslovakia, where I was employed as an unskilled worker in a mine. I am aware that it is my duty to speak the truth.

"In October 1951 I was with a gay party at the restaurant Hvezda in Rynovice near Joblonec nad Nisou. I had a number of drinks during the evening (advocaat, wine, beer and rum) one after the other. When I left the restaurant with a comrade at about 11 p.m. I saw a motor cycle standing just outside the premises. In the gay mood in which I then was, I suggested to my comrade that we should move the motor cycle a few yards farther down the road so as to hide it from the owner, on whom I merely wanted to play a practical joke. At that moment the owner came out of the restaurant and saw us handling his motor-cycle. He called for help and the police soon arrived and arrested us.

"When my comrade and I were arrested, we were sitting on the motor-cycle and had started driving it and were about 200 metres from the restaurant.

"We were both accused of theft although we had defended ourselves from the start by stating truthfully that we had only meant to have some fun. In court we did not dare to say that we had drunk a good deal as in Czechoslovakia drunkenness is no excuse but rather an aggravating circumstance.

"We were convicted of theft.

"I was sentenced to 12 months imprisonment and my friend, who was older than I and had been previously convicted, to 18 months. I spent three months in the prisons at Jablonec and Liberec, and then I was sent to serve the remainder of my sentence in the uranium mine of Horni Slavkov, in the district of Jachymov. I had to work underground for eight hours each day. Only four or five times during the whole nine months was there a free Sunday. Usually I had to work eight hours underground on Sunday as well. For my work I received monthly an average of Kcs 30 to 35. The balance of my 'wages' was forwarded to the prison administration for 'administrative' costs. When I was released Kcs 5,000 were handed to me. I received no wage slip from which I could have seen what had been my gross earnings and what had been deducted by the prison authorities.

"After my release I was so weak that I was unable to walk briskly for any distance or even to take a short walk without getting palpitation of the heart. The doctor who examined me when I was released and who had to decide on my further employment as a worker in the mine, certified that I was only fit to work in dry and warm places. I had to agree to work in a mine for another year after my release. I did not possess the strength to refuse this obligation in any case, as I would have been recruited for compulsory labour. After one year's detention in prison, I simply had not the strength to resist the prison official who asked me to sign the undertaking.

"I was sent to the lignite mine Jiri in Lommice near Sokolov and worked there up to the time of my escape."

Read, approved, and signed.

17 November 1953

DOCUMENT No. 190a

(HUNGARY)

"The court at the capital condemned a black-marketing kulak for inciting to revolution.

"The court of the capital (President Jónás presiding) heard the criminal matter against Henrik Tamási, a kulak from Philiscsaba, and his son-in-law Antal Kratochwill, a cost clerk. Tamási gave his son-in-law a few weeks ago an enemy pamphlet, which the latter showed round to people at his place of work. For this reason proceedings had been started against both; the proceedings brought to light other crimes.

"Tamási was an army supplier in the war. As owner of a sausage factory he had fattened up 200 pigs. He had such a large income that he was able to buy 45 Joch of ground and three houses. After the liberation he began to speculate. Four years ago he was buying and selling dollars. Later he speculated with pigs, feeding flour to them by the hundredweight. In August he bought six hundredweight of milled rye on the black market from a state-bakery in Dorog. In September he bought 14 hundredweight of corn, milled a large portion of it at his house and fed his pigs with it.

"On 14 October he came into possession of a pamphlet written in German, which incited to revolution. He gave it to his son-in-law and thus brought attention on himself. His premises were searched and 57 goldpieces and nearly 700 grams of broken gold was discovered. He had hidden it before the war and had not declared it. His son-in-law Antal Kratochwill had continually incited people against the democratic government and had also committed foreign currency offences.

"The court sentenced Henrik Tamási to 9 years imprisonment and confiscation of his whole fortune and Kratochwill to 3½ years imprisonment. Both the public prosecutor and the accused appealed."

Source: Magyar Nemzet, 20 November 1954.

DOCUMENT No. 191

(USSR)

Deposition: Appeared Edgar Disider Weisz, engineer, now stateless, previously of Hungarian nationality, born 8 June 1918 in Berlin, last resident in Ozd, Kreis Miskoles, Hungary at Kertvarus 128, now resident in the "Home of Foreigners" in Teupitzerstrasse, Berlin-Neuhöllen, who says as follows:

"I was arrested in Königgrätz (Czechoslovakia) where I was living on 27 April 1946 and put into the local prison for enquiries. I remained there until 27 July 1947. I was arrested because espionage was alleged against me. At the trial I was eventually acquitted because the evidence was not conclusive against me, but I was banished from the country. I was sent to Hungary with my family which had lived all this time interned in Stalbstadt near Trautenau, because my farther was Hungarian. I had to reside in Budapest and was under police surveillance. On 27 November 1947 I was again arrested for espionage and sent to the internment camp at Buda-Del. On 25 May 1949 I was handed over to the Russians, obviously because no one knew what to do with me. The whole of this time I kept on asking (and actually made several written applications) to be sent to Germany. I was born in Germany in 1918 and lived in Germany until 1945. My written applications were never answered.

"I was in Odessa until December 1950 when I was brought back to Hungary for NKVD imprisonment. In the meantime my wife and family had been sent to East Berlin (that happened in 1948). In Hungary I passed through the camps at Kistarsa, Tissalök and the prison at Nyiregyhaz. I was discharged from there on 23 April 1954 and had to work in Ozd until the formalities connected with my departure for East Berlin were completed. On 6 October 1945 I was able to travel to East Berlin via Prague and Bad Schandau.

"In the camp at Tissalök in which I was from 1951 till April 1954 there were about 2500 persons. There were prisoners of war of many nationalities, also former Hungarian officers and police officers. There were civilian prisoners as well. Not one of these people had been sentenced after a proper trial. As late as August 1952, the authorities began official interrogations of each person individually, obviously with the idea of getting a conviction against these men after a proper trial. That would then 'legalize' the imprisonment which had often lasted for years. The interrogators were officials of the AWO (Secret Police), who endeavoured to extract confessions. For instance, I was wanted to admit that I had been in communication with Western powers and had carried on espionage. When I refused to do this I was made to stand with my face to the wall and put my hands flat on the wall. I was then hit repeatedly with a rubber baton on the head or shoulders and kicked. In this way confessions were extracted from about 40 persons belonging to our camp. These persons were removed from the camp and were sentenced. I spoke later to three or four of them, who had received a sentence of about three years imprisonment, of course subject to the deduction for the previous incarceration.

"We worked on the construction of a turbine electric power station. On paper we were credited with the wages of a free worker, i.e., at the rate of 1000 forin a month. When I was discharged after three years work in this camp I had a credit of about 1800 forin. Most of my fellow prisoners had about 2500 forin. This amount was the difference between wages earned and deductions made by the camp for housing, feeding and clothing. These deductions bore no relation to what was rendered for them. The feeding until the middle of 1953 was very bad. At breakfast one got coffee and 350 grams of bread; in addition jam or white cheese and bacon (but mostly only Sundays), about 60 or 70 grams of it. At midday we got half a litre of thick soup, mostly cooked up with potatoes and/or other vegetables, twice a week (Thursdays and Sundays) there was meat in it, and the regulations provided that the meat should amount to 50 grams (with bone). In the evening we had ½ litre of soup without meat, Sundays there was horse sausage, bacon or jam in turn. There was only the bread that one had saved from breakfast.

"For clothing we had complete outfits of old Hungarian uniforms. I was housed with about 100 fellow prisoners in a large barrack.

"The above mentioned 1800 forin were not paid out in cash when one was set at liberty. All one was allowed to do was to spend the money on clothing, etc.

"Thus we were extremely cheap labour.

"Anyone who fulfilled his norm — and that was to shovel 10 cubic metres of clay soil into trucks, as compared with the old norm of 6 cubic metres for an 8 hour day, daily on the average for a month — did not earn more, but he was permitted to buy foodstuffs and smokes (which were much sought after) to the value of 150 forin.

"Treatment was bad. In the evenings one had to place one's shoes in front of the bed. If the guard thought that anyone's shoes were placed out of line he was pulled out of bed and mishandled. In the 16 barracks of the camp it happened really daily that someone was mishandled for such reasons or on similar frivolous grounds.

"It was strictly forbidden to talk to free workers at work. If the guard reported a case to the head of the camp or complained for other reasons about the work done by a prisoner, the head of the camp sentenced him to from 30 to 60 days arrest. Arrest meant being put into a special prison outside the camp and kept on water and bread. Several of my fellow prisoners who thus suffered punishment have told me that they were bound in irons for six hours daily for 10 days consecutively. The prisoner was laid on his stomach and his hands and feet were bound together crosswise with an instrument like a pair of handcuffs."

Read, approved and signed.

DOCUMENT No. 191a
(HUNGARY)

"Quite small infringements of the prison rules, in this case looking out of a window, were punished by "short circuiting" for 4 hours daily for 6 days (short circuiting is binding a man in a completely hunched up posture) (Marothy).

"During my stay in the prison, attached to the court in Budapest, in 1951, I once climbed up to the window and looked out. This was prohibited I was punished by being sentenced to arrest in the dark for 6 days and to 'short-circuiting' for 6 periods of 4 hours. Each storey of the prison has a cell which has no window and has a double door. In these cells there is no ventilation. The cell in which I was put measured about 2 metres by 3.50 metres.

"Short-circuiting" meant tying the left hand to the right ankle and the right hand to the left ankle, so that the lower part of each arm crossed each other behind the calves. This method of trussing a man up compels him to hunch himself up so that his chest presses against the upper part of his legs and his face rests on his knees. It causes the limbs, particularly the hands, to swell, and this is especially so if the fetters are pulled tight. How tight they were, depended in each case on the whim of the guard who supervised the fettering of the man. I had to sit on a cold stone floor in this hunched-up position.

"On the sixth day of my arrest in darkness I got no food as additional punishment because I had protested on the day before against this inhuman method of fettering a man."

Read, approved and signed.

DOCUMENT No. 192
(ALBANIA)

Deposition: Appeared Mr. Reshald Agaj, son of the late Bajram and Saluske Meci Rrapaj, born 3 March 1914 in the village of Ramis (Vlore), who says as follows:

"On 12 October 1946 I was arrested by the political police and taken to the prison in Tirana. The accusations brought against me were: dissemination of news heard over the BBC, propaganda against the government and contact with reactionaries. In prison I was kept in solitary confinement up to the time of my conviction. On 7 March 1947 I was sentenced to five years imprisonment and forced labour. The military court convicted me as an enemy of the people and an agent of Anglo-American Imperialists. I cannot remember the laws which were cited against me. I remember that in December 1944 the law for the punishment of war criminals and enemies of the people was promulgated. In February 1947 the law on acts against the government was enacted. These laws, which rendered the Penal Code of 1 January 1928 invalid, provide for imprisonment and for forced labour. I was acquainted with these laws as I acted as stenographer in 1945 and 1946 at certain proceedings which were instituted against persons accused as war criminals enemies of the people or agents of the western powers. I need not stress that most of them were as innocent as I was. The only reason for their conviction was that they were not Communists and that the new masters feared them. The Communists who wanted to carry out their various plans — Two-Year of Five-Year Plans — at the minimum cost, found it extraordinarily useful to condemn their opponents and let them work as slaves. This is proved by the fact that wherever new important projects were started — the drainings of the Malik Lake, building of new railways, erection of the power station at Selita and so on — concentration camps were established to which political prisoners were sent and compelled to do hard labour under the most difficult conditions.

"One 22 June 1947 I was sent with 100 other convicts to the concentration camp Valijas in the district of Tirana where I was detained

until 30 October 1947. With 250 fellow-prisoners of the Tirana prison I was transferred to the camp in Vlocishti (district Korca) where I remained until the camp was closed on 15 September 1948. We were taken back to the prison in Tirana where I stayed until 1 May 1949. On that date 240 prisoners including myself were released under an amnesty granted by the Hoxha government. On 14 July 1950 I fled to Greece.

"I will now describe the living and working conditions in the camp at Vlocishti. The camp was 1 km distance from the village of Vlocishti, and consisted of four barracks in each of which 300 male convicts were housed. The barracks were in an awful state. Both wind and rain came in as there were no windows. The barracks had two floors the first of which was 30 cm from the ground and the second 80 cm above the first. These two floors served as beds for the prisoners. A space of fifty cm was allotted to each prisoner. Each barrack 100 m. had two doors at each end which were open day and night throughout the whole year. Each morning the convicts received 600 gr. of maize bread and in the summer white bread. The bread was usually of inferior quality and Sergeant Vaske Dishnica the chief overseer of the camp, appropriated allocations to the detriment of the prisoners. Such things were deliberately tolerated by the superior authorities. The prisoners also received each morning a sort of home grown tea without sugar. At midday we were generally given a soup of hot water with a little poor quality macaroni or potatoes or beans which had gone bad. Because of insufficient calories in the food the prisoners were always as hungry as wolves. As parents and relatives knew of the deplorable state of the prisoners, they sent food parcels and money from time to time.

"By order of Lieutenant Tasi Marko, camp commandant, the agents of the Sigurimi opened the parcels and kept most of the contents for themselves. The camp administration did not supply the prisoners with clothes and shoes when this became necessary, but went so far as to collect clothes and money from the prisoners. Here I quote an example: 25 July 1948 was a Sunday. We were ordered to leave the barracks as an inspection was to take place there. The inspection was decreed by the commandant and carried out by camp police assisted by some prisoners who were submissive towards the administration and were employed as spies by it. The inspection began at 9 a.m. and ended at 2 p.m. After the inspection was over the prisoners discovered that their money, food and even their bread rations had disappeared. On this occasion my last 750 Leken were stolen. The money which had been confiscated at the inspection was kept by the policemen. The food was distributed in the presence of the prisoners to the convicts who sided with the administration and to the police. The prisoners christened 25 July 1948 the 'Day of Total Communism'. The filth in the camp was deplorable. There were only three toilets for some 1400 prisoners. There was only one well as sole water supply for prisoners and kitchen staff. We received 100 gr. of soap a month each and washing was done in the kitchen tubs on Sunday, which was our day off. Lice were so numerous that they were all over the floor and everywhere in the barrack rooms. During my entire stay at the camp the place was never disinfected.

"There was also a sick bay in the camp. The doctors on duty, Dr. Jusuf Hyssen-begaj from Pogradeci, Dr. Spiro Treska from Korca and Dr. Dhimiter Lito from Girokastra were prisoners like ourselves.

"Atebrin was the only drug available. The doctors did not have sufficient independence to carry out their duties properly and their reports were usually ignored by the camp authorities, particularly by policeagents Skender Salih (alias Khemali) from Ferrasi, and Lushnja, an agent of the Sigurimi, who, in fact unofficially had the final word in the camp. It will suffice to mention the case of Dhimitri Tirana whom the doctors had certified as sick for some time, but who had nevertheless been forced to work by Skender Khemali. One day while we are on our way to work, Dhimitri Tirana collapsed and died.

"Prisoners were allowed to send and receive one letter a month.

All those who for some reason or other had been put on the commandant black list were denied this privilege. The prisoners were not allowed to receive visits from their parents, relatives or friends.

"We were called at 3.30 in the morning and at 4.30 a.m. we had breakfast of bread and tea. At 5 a.m. we left for work. We were divided into six brigades, each brigade having four companies and each company three platoons. All brigades moved off at the same time. We had to carry our tools, that is spades, hoes, wheel-barrows and planks with us. Our place of work was 7½ km away from the camp. The road which we used was muddy and wet. The prisoners were forced to make their way through muddy ditches, water and thorn-bushes as they were not allowed to use the bridges which were reserved for the prisoners escorts. I saw Ali Gana, not Gano, of the village of Terbaci, push people from the bridge into the ditch, and Rako Quiriako, merchant from Korca, Baba Quazim Melcanin, and Sabri Celu, teacher from Leskovik, although they were not wet through, had to do a dull day's work. We were forced to walk all the way from the camp to our place of work and if anyone, especially among the older prisoners, dropped to the ground from fatigue, he was beaten by the police and forced to carry on and friends were forbidden to go to his assistance.

"We were employed in constructing the Dunavic canal. On arrival at the place where we worked, the days work was shared out to the prisoners. Each man's target was the digging and carting away of 3½ cubic metres of earth. We worked, standing in mud and water. Many of us were ordered to carry wet masses of earth and dump them along the canal bank.

"The work was carried out under the supervision of the camp commandant, police and the foreman of the Ministry of Public Works. Those who did not fulfil their target and the young men who did not exceed it were beaten, received no food or cigarettes, were compelled to work after working hours, and were, frequently, on returning to the camp, tied to a post for 24 hours. Those who were unlucky were exposed to even greater suffering. The following stories should provide sufficient illustration:

- "(1) Baba Quazim from the Bektaschi monastery in Kuci, the Reverend Josif Papa Mihail, head of the Unitarian Church in Korca, Sibri Celu, a teacher; Salih Hoxha of Shemberdhenji in th district of Elbasan, Taci Merija, owner of the Palace hotel in Korca, and Skender Stefanllari of Korca, were pushed into the ditch, covered with earth and left in this position for 15 minutes by order of the police agents, Skender Salihor (Skender Khemali), Bejce Bellushi and lance-corporal Ale Gana.
- "(2) By order of sergeant-major Hito Hito of Kolonja the prisoners Tefik Hoha, aged 60, from the district of Elbasan Hysen Kan from Shijaku, Sotir Lako, merchant from Korca, and Rrok Kolaj from Shkodra, a former member of the Supreme Court, were covered with earth and left in the ditch. Immediately after his return to Tirana prison, Rrok Kalaj died as a result of this torture in the camp at Vlocisht.
- "(3) In August 1948, Baba Gazim Melcani, under the pretext of not having fulfilled his target, was thrown into the canal by the Red torturers, dragged through to the other side and he was forbidden from washing himself for three days. Many similar things occurred which I cannot recall at the moment.

"In August 1948 numerous merchants from Korca, Elbasan, Durres and other towns arrived at the camp. They had not been convicted, but were interned so as to force them by ill-treatment to pay taxes on their war profits a second time although they had already paid them. Generally, they were buried alive in the canal bed. Terezi, a merchant from Korca, died as a result of this treatment.

"I should like to state that I, Rustem Sharra from Kavaja, Helit Selfa from Gjirokastra, Riza Shtylla from Korca and Xhelal Shaska from Vlora were all buried alive in the canal. During my detention

in the camp more than 40 prisoners died. They were replaced by prisoners from different prisons in the country. Prisoners were not only tormented during working hours, which ended at 6 p.m., but also at the camp. It will suffice if I mention the case of Niko Quirka who was tied to a telegraph pole for three days without bread. The reason for this treatment was alleged propaganda on behalf of the democracies.

"Not only political prisoners (although they constituted the majority) and merchants imprisoned for tax evasion, but also ordinary convicts sentenced for theft, cruelty and other crimes, were interned in Vlocishti camp. The latter enjoyed better treatment and were frequently employed by the administration as agents to spy on the political prisoners.

"Unfortunately, certain political prisoners entered the service of the camp police to gain certain privileges. After their release these prisoners were absorbed into the service of the present regime. As they were trusted, in view of the fact that they had suffered under the regime, they were of course the most dangerous of the agents."

Read, approved, and signed.

Fraschetti, Alatri — Italy.

12 September 1952.

DOCUMENT No. 193

(SOVIET ZONE OF GERMANY)

Deposition: Appeared Hans-Joachim Platz, at present residing in Berlin-Zehlendorf, born 25 March 1927, who says as follows:

"...On 4 September 1948 I was arrested in front of my house in Halle by German police accompanied by Soviet soldiers and taken to the NKWD prison in Luisenstrasse...

"On 2 January 1949 a warrant of arrest was read to me and on 7 January 1949 my case came up for hearing in court...

"Although I had made no confession about anything, the criminal activities of which I was accused were regarded as proven — I have no idea how this proof had been obtained. I was sentenced to 25 years forced labour, but as I had denied the crimes ascribed to me, I was sentenced to an additional three years. There was no question of appeal against this sentence and I was therefore legally sentenced to a total of 28 years forced labour.

"On 8 January 1949 I was transferred to the prison in Bautzen to serve my sentence. In May 1949 I was permitted for the first time to write to my parents and in December 1951 I was allowed a visitor for the first time. When I came to Bautzen about 7,000 prisoners were accommodated in this prison built for 1,000. In 1950 after the inmates, who had been in Bautzen since 1945 without any trial having been held or any sentence pronounced, had left, some being taken to Waldheim prison to be convicted by German courts, about 6,000 prisoners remained. The installation of workshops and the establishment of other production plants made it necessary to reduce the number of prisoners still further and on 14 January 1954 there were 4,200 prisoners.

"According to my estimate, about 10 to 15,000 prisoners died in Bautzen. The dead bodies were not handed over to the relatives, but were covered with calcium chloride and buried in a large hole near the prison wall..."

Read, approved, and signed.

8 February 1954.

DOCUMENT No. 194

(SOVIET ZONE OF GERMANY)

Deposition: Appeared Rolf Hofmann, repatriate, born 16 October 1921, who says as follows:

"In January 1950 the concentration camp in Sachsenhausen was closed. On 24 January 1950 a large transport of prisoners guarded by

people's police was sent by rail to the prison in Torgau. There, four men shared a cell until April without being given any work to do. The food was bad: we received 350 gr of bread a day, spoonful of jam in the morning, a thin soup of water and, mainly, turnip, and in the evening 10 gr. margarine or 15 gr. of sausage. One day in April the so-called 'Kristallnacht' took place. 100 of us were accommodated in a round bunker. We were to receive new quarters. During the night the order was suddenly given to 'get up and make ready.' Those who were not ready fast enough were beaten by the members of the people's police on their backs, heads, and arms with rubber truncheons. Standing along either side of the exit from the bunker was a line of about 30 people's police. We were made to run the gauntlet and were beaten with rubber truncheons while doing so. Some received such blows that they were unable to move. We were housed in the so-called cross buildings, four men in one cell as before.

"When entering the cell we again received truncheon blows from the police. During this incident I was struck on the head so severely that I lost my eyesight. I was blind for six months and was admitted to the sick quarters. When I reported sick, the policeman on duty would not believe me and struck me in the face with a key. I remained in the sick room until January 1951. Eventually I was attended to by a medical student and after six months regained my sight.

"During my stay in the sick room I lay in the next bed to a certain Major Priester, formerly headmaster of a grammarschool in Rostock. He told me that the officer had also beaten prisoners when they have changed quarters. He had been pushed down a staircase whereby his thigh was dislocated. When people's police tried to set it he cried out with pain, and was thereupon struck in the face with a truncheon, losing his teeth. Priester died later as a result of these blows.

"Later I was transferred to what they styled the Distrophy cell in which 16 men were incarcerated. I weighed 39 kg. There I remained about a fortnight and was then moved into a four-men cell again. We were given no work and had no mental activity. Not until the end of 1952 did we receive newspapers and some time later books to read as well. From Sachsenhausen I was permitted to write home once only. In Torgau we were allowed one letter of 15 lines a month and after July 1950 to receive one parcel.

"I would also like to recount briefly one tragic occurrence. A prisoner named Barthun received a food parcel from his two sisters, both nuns, who visited him in Torgau in 1950. He shared some of its contents with his comrades remarking that people in the west lived very well. A spy passed this remark. Barthun was fetched out of the cell, handcuffed and illtreated so cruelly that he died some time later..."

Read, approved and signed.

21 January 1954.

PART C

CIVIL AND ECONOMIC LAW

I. PROPERTY RIGHTS

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Art. 17, United Nations Universal
Declaration of Human Rights.

a) INTRODUCTION

Of essential importance to the understanding of Civil and Economic Law in the Soviet Orbit is the all embracing economic doctrine underlying all aspects of life in these countries. The fact that the State's interests are paramount and that all the resources and means of production are concentrated in the hands of the State obviously affects profoundly our field of interest, and no less important and essential to the understanding of the concepts of Civil Law is the significance and true meaning of the dictatorship of the proletariat, which according to the communists' own statements is necessary for the realization of this doctrine on socialist economy.

DOCUMENT No. 1 (USSR)

"The Soviet people realized the policy of the Communist Party and put into action the policy of industrialization and collectivization expounded by Lenin and Stalin... Under the leadership of the Communist Party the toiling people of the USSR realized Lenin's doctrine, evolved by Stalin, on the introduction of Socialism in one country.

The basis for building up Socialism, the condition precedent for its victory and its development in the USSR, is the dictatorship of the working class... The basis of production relations in the USSR is the socialist property in production means... There are two forms of socialist property: state property (common property of the whole people) and co-operative-collective property (the property of co-operative and kolkhozes). In the state economy of the USSR as well as in all its branches state property plays the pre-eminent and leading part. The preponderant part of the entire social wealth of the USSR is the property of the people... co-operative collective can exist and be developed only in connection with state property, that is, the people's property as the leading property. Thus, the collective farms are run on state soil, which is assigned to the kolkhozes for unlimited and gratuitous use, whereby the most important production means and instruments assigned to the kolkhozes belong to the machine and tractor stations (MTS), by means of which the state controls also to a far-reaching extent the kolkhozes and lends its aid and assistance to them..."

Source: Great Soviet Encyclopedia (German Edition; Berlin: Verlag Kultur und Fortschritt, 1952), Volume I, p. 793.

The following quotation, published in a textbook on Soviet Civil Law, applies to the legal system as it affects the entire economy, including those sectors still in private hands:

DOCUMENT No. 2

(USSR)

"Socialist Civil Law is based on the socialist economic system and on socialist property in production instruments and means . . . It contains norms which impede any attempt at a revival of private property."

Source: Prof. D. M. Genkin (chief ed.), *Sovetskoe Grazhdanskoe Pravo (Soviet Civil Law)*, (Moscow, 1950), Vol. I, p. 7.

Aside from the fact that the State owns and controls all of the economic means in the country, thus influencing over and over again the life of every individual, the implementation of State control through rigid economic planning has a direct bearing on the concept of contract in the Soviet bloc. In general, contracts are entered into between two subordinate agencies defining the details of the execution of an order by a superior. As used in the general sense, the whole scheme of bringing complex relations among governmental agencies under the term contract is artificial and is alien to the concept of contract in the free world.

DOCUMENT No. 3

(USSR)

"Civil Law is based on Socialist planning. The planned acts constitute the condition precedent for acts in the law . . . A contract is a means of reifying the plan. The supreme command is in the hands of the State. The state controls the plan which is established for the whole economy."

Source: *Ibid.*

This state control and planning also decides the activities of private enterprises as far as they are still in existence:

DOCUMENT No. 4

(USSR)

"The judicial importance of planning lies in the fact that thereby relations are established which make it possible to conclude a contract so as to implement the plan drawn up in advance by the state."

Source: *Ibid.*, p. 361.

The following documents show how the communist conceptions of economy and Civil Law work in practice. As can be seen from the abovementioned quotation, these conceptions are realized by means of dictatorship. Consequently, dictatorship in the field of economy and in civil law, like in all other fields, is a decisive characteristic of the Communist system. Stalin and Lenin say the following on the realization of this dictatorship:

DOCUMENT No. 5

(USSR)

"The dictatorship of the proletariat cannot be 'complete' democracy, democracy for *all*, for the rich as well as the poor; the dictatorship of the proletariat must be a state that is democratic *in a new way* (for the proletarians and the non-propertied in general) and dictatorial *in a new way* (against the bourgeoisie)."

Source: J. Stalin, "*The Foundations of Leninism*", in J. Stalin, *Problems of Leninism* (11th ed.; Moscow, 1954), p. 51.

DOCUMENT No. 6
(USSR)

"But the dictatorship of the proletariat, i.e., the organization of the vanguard of the oppressed as the ruling class for the purpose of crushing the oppressors, cannot result merely in an expansion of democracy... the dictatorship of the proletariat imposes a series of restrictions on the proletariat imposes a series of restrictions on the freedom of the oppressors, the exploiters, the capitalists. We must crush them in order to free humanity from wage-slavery; their resistance must be broken by force; it is clear that where there is suppression, there is no freedom and no democracy."

Source: V. I. Lenin, "The State and Revolution", in Selected Works (Two Volume Edition; Moscow, 1947), Vol. II, p. 201.

The above Communist conception of Economic and Civil Law applies to all the countries behind the Iron Curtain. This appears from the following documents on the tasks of Civil and Property Law, which are given as an example of the conditions prevailing in the Czechoslovak Republic:

DOCUMENT No. 7
(CZECHOSLOVAKIA)

"Our Civil Law, and especially our Property Law, plays a very active part in building up our Socialist Republic. They are the important and creative weapons of our working class in the struggle for the continuous strengthening of the dictatorship of the proletariat in our country. It is the task of our Property Law to contribute to the liquidation of the economic power of the bourgeoisie, as well as to the development of Socialist economy and to grant powerful protection to socialist property and means of production as well as to the working man's private property."

Source: Dr. Viktor Knapp, Vlastnictví v lidové demokracii (Property in a People's Democracy) (Prague: Orbis, 1952), p. 425.

DOCUMENT No. 8
(CZECHOSLOVAKIA)

Extracts from the New Czechoslovak Civil Code.

"The apex of the old Code was the protection of personal property, which meant in practice that one individual could rule over numerous other people. Contrary to this, the principles of the new Civil Code aim specifically at determining socialist property and protecting it... The whole economic life of a people's democratic state is directed in accordance with a unified economic plan. It is the object of this plan to raise steadily the living standard of the workers by increasing production and consumption. Therefore, the draft of the Civil Code explains that in all questions regarding agreements the aims established by the unified economic plan have to be considered in the first place. The new draft based on the existing economic conditions takes into account that a unified economic plan influences its relations, establishment, amendment and abrogation."

Source: Svobodné Slovo (Socialist Party), 22 September 1950.

The Constitutions of the Soviet Union and the so-called People's Democracies are the basis of legal formulation of the Communist concept of economy. By comparing the various Constitutions it can be seen that their Economic Law and Property law correspond exactly to the Soviet model. The State

is given the exclusive or almost exclusive right of possessing property and of acquiring such property, amongst others by appropriating private property. Consequently, the State is also given the right to determine the extent and size of private enterprise. (Compare the following documents.)

DOCUMENT No. 9
(USSR)

Constitution (Fundamental Law) of the USSR.

Article 4:

The economic foundation of the USSR is the socialist system of economy and the socialist ownership of the instruments and means of production, firmly established as a result of the liquidation of the capitalist system of economy by the abolition of private ownership of the instruments and means of production, and the elimination of the exploitation of man by man.

Article 5:

Socialist property in the USSR exists either in the form of state property (belonging to the whole people) or in the form of co-operative and collective-farm property (property of collective farms, property of co-operative societies).

Article 6:

The land, its mineral wealth, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large state-organized agricultural enterprises (state farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling houses in the cities and industrial localities, are state property, that is, belong to the whole people.

Article 8:

The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time, that is, in perpetuity.

Article 11:

The economic life of the USSR is determined and directed by the state national-economic plan, with the aim of increasing the public wealth, of steadily raising the material and cultural standards of the working people, of consolidating the independence of the USSR and strengthening its defensive capacity.

DOCUMENT No. 10
(CZECHOSLOVAKIA)

*From the Constitution of the Czechoslovak Republic of
5 May 1948.*

Article 148:

The following are exclusively national property :
mineral wealth and mining;
sources of natural energy and undertakings connected therewith;
coal mines and foundries;
natural therapeutic sources;
the production of goods required for the health of the people;
undertakings with 50 or more employees or persons engaged therein
(with the exception of the people's co-operatives);
public rail transport and regular road and air transport;
postal, public telegraph and telephone services;
broadcasting, television and cinematographic firms (Article 22).

Article 153:

(1) Laws shall determine which economic sectors and which economic or other assets are affected by nationalization and the extent of such nationalization.

- (2) The degree of nationalization prescribed by law cannot be restricted.
- (3) Under nationalization, the ownership of the undertaking and other economic resources, assets and proprietary rights pass to the State.

Article 158:

- (1) Private ownership of small and medium-scale undertaking with not more than 50 employees is guaranteed...

Article 159:

- (1) The maximum area of land which may be privately owned by any individual, joint owners or a family farming as a group, is 50 hectares.
- (2) The private ownership of land by persons who themselves work on it is guaranteed up to the limit of 50 hectares...

DOCUMENT No. 11

(ROUMANIA)

From the Constitution of the Roumanian People's Republic of 24 September 1952.

Article 6:

The basic unit of Socialist economy is socialist property, i.e., the means of production, either in the form of state property (common property of the people) or in a co-operative-collective form (property of collective farms or of co-operative organizations). By the Socialist conception of national economy exploitation of men by men is abolished.

The socialist conception which plays the leading role in the national economy of the Roumanian People's Republic forms the basis of the country's development towards Socialism. The people's democratic state, which declares building of Socialism to be its main task, continuously strengthens and enlarges Socialism and guarantees a steady increase of the prosperity and cultural level of the working people.

Article 7:

All kinds of natural resources in the subsoil, mineral deposits, forests, waters, sources of natural energy, railway, road, water and air communications, postal, telegraph, telephone and radio service belong to the State, as the property of the whole people.

Article 11:

...The people's democratic state realizes consequently the policy of restricting and eliminating capitalist elements.

DOCUMENT No. 12

(HUNGARY)

From the Constitution of the Hungarian People's Republic of 18 August 1949.

Article 4:

- (1) In the Hungarian People's Republic the greater part of the means of production is owned, as public property, by the State, by public bodies or by co-operative organizations. Means of production may also be privately owned.
- (2) In the Hungarian People's Republic the guiding principle of the national economy is the authority of the people. The working people gradually eliminate capitalist elements and systematically build up a socialist economic order.

Article 6:

Mineral deposits, forest, waters, natural sources of power, mines, large industrial undertakings, means of communication such as rail-

ways, road, water and air transport, banks, postal, telegraph and telephone services, wireless, state-sponsored agricultural undertakings such as State farms, agricultural machinery depots, irrigation works and the like, are the property of the State and of public undertakings as trustees for the whole people. All foreign and all wholesale trade is carried out by State undertakings; all trade is under State control.

DOCUMENT No. 13

(POLAND)

From the Constitution of the Polish People's Republic of 22 July 1952.

Article 7:

(1) The Polish People's Republic, on the basis of socialized means of production, trade, transport and communications, and credit, develops the economic and cultural life of the country in accordance with the National Economic Plan and, in particular, through the expansion of Socialist State industry, which is the decisive factor in the transformation of social and economic relations...

Article 8:

The national wealth: — mineral deposits, waters, State forests, mines, roads, rail, water and air transport, means of communication, banks, State industrial establishments, State farms and State machinery centres, State commercial enterprises and communal enterprises and utilities — is subject to the special care and protection of the State and of all citizens.

DOCUMENT No. 14

(ALBANIA)

From the Constitution of the Albanian People's Republic of 4 July 1950.

Article 7:

In the Albanian People's Republic the main factors of production consist of the people's common property which is in the hands of the state, the property of co-operative groups and the citizens' property.

The Common property of the people are mines and all sub-terranean resources, waters, natural springs, forests and pastures, air-lines, railroads and sea-traffic, the postal and the telephone systems, telegraph, radio stations and banks.

Foreign trade is under state control. The state also co-ordinates and controls the country's entire internal trade.

Article 8:

In order to protect the people's vital interests and to raise their standard of living as well as to utilise all economic resources, the state controls the entire national life and the whole economic activity of the country. This control is exercised according to a general economic plan. Through the state's economic organs and the organ of the co-operatives the state exercises also general control over all private economy...

Article 12:

The soil must to the people who cultivate it. The instances and limits within which institutes or individuals who do not cultivate their land themselves can be owners, are provided for by law.

On no condition can large farms belong to private persons.

Source: Bashkimi (Union), 28 July 1950.

The declared object of the communists' economic system is the total liquidation of private property. Where some private

economic sector is still in existence in the Soviet Orbit, discrimination in favour of the state-owned sector and against the private sector, including property rights, is bluntly spelled out. Complementing the above constitutional provisions, the following makes this discrimination even clearer.

DOCUMENT No. 15
(CZECHOSLOVAKIA)

From: Law of 27 October 1948, on the Czechoslovak Five-Year Economic Plan for the Development of the Czechoslovak Republic.

Article 1:

- 1) ...
- 2) The Five-Year Plan will be an important step forward in developing the Czechoslovak People's Democracy to Socialism, especially as it strengthens and consolidates the national industry and because it increases mechanization and electrification of agriculture and thus lays the basis for more progressive form of production. The remaining capitalist elements will thereby be restricted step by step and supplanted in all aspects of the national economy.

Source: Sbirka zákonu republiky Československé (Collection of Laws of the Republic of Czechoslovakia), 1948, No. 241.

Although the Constitution of the CSR (see Article 158, Document No. 10 above) guarantees the continuation of small and middle enterprises, these were almost completely removed.

DOCUMENT No. 16
(CZECHOSLOVAKIA)

"... During the Five-Year Plan the class transformation of our whole society was continued. With the exception of agriculture, the capitalist group was removed. At the end of the Five-Year Plan the socialist elements participated in industrial production at 99.6 %, in building industry at 99.8 %, in traffic at 100 %, in trade at 99 %, in agricultural production at 45.4 %. ... Our victory in the field of building the basis for Socialism was not easy. There were many difficulties and obstacles to be overcome..."

Source: Speech of Prime Minister of the State Office for Planning, Josef Pucik, in the National Assembly on 20 January 1954, "Rudé Právo" (Prague), 23 January 1954.

In Roumania the same aims are pursued and attained:

DOCUMENT No. 17
(ROUMANIA)

Extract from the Constitution of the Roumanian People's Republic of 24 September 1952.

Article 5:

The national economy of the Roumanian People's Republic embraces three socio-economic aspects:

- the Socialist aspect,
- small production of goods, and
- the private capitalist aspect.

Article 11:

The private capitalist sphere in the Roumanian People's Republic embraces farms belonging to large landowners, private enterprises and small, not nationalized enterprises which are based on the exploitation of paid labour.

The people's democratic state realizes consequently the policy of restriction and elimination of capitalist elements.

DOCUMENT No. 18
(ROUMANIA)

The Roumanian Five-Year Plan.

1) *The principal task of the Five-Year Plan.*

Article 1:

It is the principal task of the Five Year Plan for 1951—1955, to establish the economic basis for Socialism in the Roumanian People's Republic and to eliminate gradually the capitalist elements from the various branches of Roumanian economy, so that in the final year of the plan they will be completely removed from industry and considerably reduced in trade and economy.

The accomplishment of this task requires:

- a) Socialist industrialization of the country, so that at the end of the first Five-Year Plan the Roumanian People's Republic will be a country with a developed socialist industry and with an almost completely mechanized socialist agriculture.
- b) nationalization of the small farmers' property through the creation of collective farms, so that at the end of five years the socialist aspect of agriculture will be of preponderant importance.

Source: Resolution of the Central Committee of the Roumanian Workers' Party of 12 and 13 December 1950.

b) CONFISCATION OF PRIVATE PROPERTY

In the years following World War II, all property which was of any interest to the state was expropriated in the countries under Soviet domination in the same way as in the RSFSR after the Revolution of 1917. Although it was constantly emphasized, that the purpose of these expropriations was to improve economic conditions or to raise the standard of living of the population, the real purpose was the complete destruction of private economy and the ruling class. No regard was paid to the interests of former proprietors. It is true that the relevant laws partly provided for compensation to be paid for expropriated property. Such claims, however, for compensation which were only paid in rare cases, became almost illusory on account of the various currency reforms. Also worth mentioning is the fact that all the means of production essential to the functioning of a confiscated enterprise passed to the state without consideration to the actual owner. Furthermore the government enacts the confiscatory decrees, adjudicates on complaints and fixes the compensation to be paid — if payment of compensation is being considered at all.

DOCUMENT No. 19
(HUNGARY)

Hungarian Law on State Administration of Industrial Enterprises (16 May 1948).

Article 1:

The provisions of this Act apply to the following:

- a) to all industrial undertaking, mines and foundries which are privately owned as well as to power stations for public use where the number of workers employed between the first of August 1946 and the effective date of the present law was at least 100.

- b) All private enterprise which in conformity with par. (ã) forms an economic unit with the concerns which have passed to the state, including those which were taken on lease by such concerns mentioned in par. (a).
- c) All undertakings forming an economic unit and which employed at least 100 workers during the period mentioned in par. (a).
- d) all power supply stations...

Article 2:

- 1) The undertakings coming under the provisions of the present law, excepting those mentioned in Article (1), become state property. The state acquires the proprietary rights in them by virtue of the present law which is retroactive from 26 March 1948.

Article 6:

- a) The state acquires all proprietary rights in firms belonging to only one proprietor (immovables, machinery, installations, stocks of raw material and goods, cash, securities, etc.) in order to run such enterprises. All rights belonging to these enterprises (credits, patents, and other industrial property, right to rent, etc.) shall pass to the state.

Article 7:

- 1) All essential immovables forming part of such enterprises nationalized by the present law, pass to the state, notwithstanding proprietary rights of third parties.

Article 12:

- 1) In cases of dispute the government finally decides the following questions:
 - a) whether or not the undertaking or certain property belonging to it fall under the present law;
 - b) where private firms are concerned, which are the properties to be acquired by the state and which of the previous owner's property, is unconnected with these enterprises (Article 6);
 - c) whether or not movables belonging to third parties essential to the running of such an enterprise fall within the nationalization provisions;
 - d) whether patents, or registered trade marks not belonging to these enterprises are to be re-appropriated by the state (Article 8).

While the Hungarian Expropriation Law of 1948 left some scope to private economy, the situation has changed completely since 1949. Every actual and possible opposition was put to an end by means of arrests, show trials, deportations and other measures.

In December 1949 a further Hungarian law regarding expropriation appeared, on the basis of which the still then existing middle economic class was eliminated.

DOCUMENT No. 20

(HUNGARY)

From: Decree of the Council of Ministers Regarding the Nationalization of Various Industrial and Transport Enterprises.

In the interests of the successful realization of Law No. XXV/49 on the Five-Year Plan it is necessary that in the fields of industry, mining, factories and transport the Hungarian People's Republic centralizes those means of production and transport, which, either in their present form or after re-organization would be suited for an economic, large-scale, factory production.

The Council of Ministers therefore decrees:

Article 1:

- (1) By virtue of the present decree the following will become the property of the State:
- a) All industrial, transport, and mining enterprises in which the number ... of employees from 1 September 1949 until the coming into force of this decree amounts to 10.
 - b) All enterprises producing or distributing electric energy; all printing enterprises; all factories in which the total number of workers in the period sub a) amounts to 5; all mills which have a daily grinding capacity of at least 150 Qu (15 tons); all automobile repair-works and garages which occupy at least 100 gm; all ships and trawlers with an engine-power of at least 30 PS and a capacity of at least 100 tons; the industrial and transport enterprises named in the annex.
 - c) ...
 - d) All privately-owned enterprises which are economically a unit with an enterprise named in a) to c), including those enterprises which are rented or leased by an enterprise mentioned in a) to c), or which were used otherwise.
 - e) Those enterprises which are economically a unit when their joint number of employees during the period named sub a) comprises 10.

Article 2:

The enterprise which, according to Art. 11 of the Law XXV/48, were excluded from nationalization will also become State property by virtue of this decree ...

Article 6:

- (1) All assets (including privileges, dispensations and other rights), which serve the purposes of the nationalized enterprise, will become the possession of the State at the same time as the enterprise, whether they belong to the owner of the enterprise or to a third party.
- (2) The premises which solely or for the greater part serve the purposes of a nationalized enterprise will also become state property, regardless of whether they belong to the owner of the enterprise or to a third party. If the part of these premises which serves the purposes of the enterprise can be separated from the other part, the relevant Minister can order the parts to be separated.

Article 7:

All patents, trade marks and specimen which are used by the enterprise, and which were in existence before 1 September 1949, will become state property at the same time as the enterprise, also if they are the property of the former owner, part-owner, manager of a trading company, shareholder, the director of a joint-stock company or of the wives of the persons mentioned or their relatives in any degree, or the property of persons related by marriage in the first degree or the property of an enterprise in which the persons named are interested.

Article 8:

- (1) All claims which resulted from civil agreements before 1 September 1949 against nationalized enterprises will be annulled as of the effective date of this decree; those claims which arose after the mentioned effective date can only be made valid if their equivalent increases the assets of the enterprise.
- (2) The claims of the former owner and the persons mentioned in Art. 7 against the nationalized enterprise are annulled as of the effective date of this decree.

Article 9:

- (1) If a member of the board of directors of a joint-stock company or a member of the supervisory board, a director or manager, or

a share-holder of the nationalized enterprise has drawn an amount of money or has received any sort of material gift from the enterprise after 1 September 1949 besides his lawful salary, notwithstanding the fact that the enterprise has public or private debts, then he is obliged to repay to the enterprise the sum accepted by him or the counter-value of the material gift to the amount of the public or private debts.

Article 10:

The corresponding Minister is authorized to make the final decision in every controversial question on nationalization or in every question which is connected therewith.

Article 12:

- (1) The nationalization resulting from this decree will be compensated. A law will be issued regarding compensation.
- (2) The corresponding Minister can grant the former owner of an enterprise whose subsistence depended solely on the enterprise, an advance on the amount to be compensated within a month of the effective date of this decree, of up to 15,000 Forints, taking into consideration the financial situation of the enterprise.

Article 13:

At his request, the owner of the nationalized enterprise must be guaranteed a new job, taking into consideration his knowledge.

Article 14:

- (4) The employees of nationalized enterprises are to be considered public employees with regard to penal responsibility.

Source: Magyar Közlöny, No. 265/268, 28 December 1949.

DOCUMENT No. 21

(BULGARIA)

From: Bulgarian Law of 24 December 1947 on the Nationalization of Industrial Enterprises and Private Mines.

Objects and Extent of Nationalization.

Article 1:

According to Article 10, last section of the Constitution of the Bulgarian People's Republic all private enterprise belonging to the following industrial branches are to be nationalized and to become state property, i.e., the common property of the people:

- foundries, machine-works, sheet-copper-, wire-, nail- and horse-shoe factories, etc.;
- concrete-, tile-, window-glass- and glass-ware factories;
- distilleries of attar of roses;
- refineries of petrol, mineral oils, glycerine and fuel oils;
- strong glue-, carbon-, explosives- and fuse-factories;
- bakelite-, gas- and chemical works for the production of soap, vegetable oil and similar products;
- factories of preserves and starch-sugar;
- oil refineries and rice-blanching enterprises;
- paper- and cellulose factories;
- spinning mills for cotton, wool, linen and wool-remnants;
- sewing-cotton and cotton stockings;
- sawmills and ply-wood factories;
- power stations;
- breweries and vinegar factories.

Article 2:

Industrial enterprises and mines enumerated in the schedule annexed hereto are also nationalized ...

Article 3:

Co-operatives and handicrafts as well as printing offices belonging to public organizations are not subject to nationalization...

Annotation: undertakings existing as co-operatives or handicrafts are nationalized where their internal organization does not correspond anymore to their original form.

Article 4:

The present law does not apply to undertakings which are the property of foreign states and which fall under Article 24 of the Peace Treaty with Bulgaria concluded on 10 February 1947.

Article 5:

Where undertakings subject to nationalization according to law are partly state-owned and partly the property of private legal persons, or partly the property of co-operatives and private legal persons, or the common property of undertakings which come under Article 4 of the present Law and private legal persons, only that part which belongs to such private persons will be nationalized.

Article 6:

All buildings, stocks, machineries, installations, shops, offices, means of transport, agricultural property, products, cattle, dwelling-houses etc. which form part of the undertaking, are deemed to belong to it and are to be nationalized wherever they may be. All cash, legal documents and securities which are in the safe of the undertakings, as well as all its money or other credits are deemed to belong to the undertaking and pass to the state.

Article 7:

When the former proprietor and his family reside in the vicinity of such a nationalized undertaking, evacuation shall be deemed in the interest of such an enterprise, if the Council of Ministers order the nationalization of such former owners dwelling-house and its evacuation, acting on a reasoned report of the Ministry of Industry and Handicraft. In such a case the former owner and his family will be given adequate accommodation provided. They have no other accommodation outside the area where the undertakings is located.

Article 8:

All credits from current or other accounts as well as all legal documents and other securities which are deposited with banks and other institutions in the name of the owners, their spouses or children, are deemed to belong to the nationalized undertaking and are transferred to their account unless the person concerned proves that he acquired this property through his own work or that it was acquired from other sources.

Credits and all other assets due to the undertaking as well as security listed under Article 1 are to be held in a blocked account until such date as the former owners's assets as well as that of his spouse and issue are finally determined.

Article 9:

The nationalization of the enterprise includes all the movable and immovable property as well as all industrial rights to which the enterprise is entitled, such as certificates, privileges, patents, permits licences, etc.

Article 10:

All contracts concluded during the period from 1 January 1947, until the effective date of this law, between spouses or relatives (ascendent or descendent of the first and second degree by blood or by marriage) shall be void if one of the parties is an owner of or an interested person in the nationalized undertaking or if these contracts are likely to pre-

judice the interests of the state. All contracts concluded by the nationalized undertaking, within the period from 1 January 1947 until the effective date of the present law, which impede or disturb the nationalization will be void irrespective of the parties to the contract.

Article 11:

The state shall take over the liabilities of the nationalized undertaking only up to the amount of the latter's assets. The state and consequently the nationalized undertaking does not take over liabilities resulting from:

- (a) transactions which are outside the scope of the undertaking;
- (b) illegal trade or speculations;
- (c) unreported insolvency;
- (d) contracts of sale or other contracts concluded between the undertaking and members of its administration or with its proprietors, after the 1st of January 1947;
- (e) contracts concluded between spouses, relatives (ascendent and descendent, of the second or third degree by blood or by marriage) and relations where one of the parties is a proprietor or an interested person in the nationalized undertaking or if these contracts are prejudicial to the undertakings interests...

II

Compensation

Article 13:

The state shall compensate the owners of nationalized undertakings. The amount of the compensation shall be fixed on the estimated value of the undertaking in accordance with the Law on valuation of Property...

In cases where it is in the country's interests, the Government may decide that compensation be fixed by mutual agreement and paid in cash...

Article 14:

No compensation shall be granted to owners of nationalized undertakings who supported or served actively:

- (a) the German state, in the German Army in its widest sense during the last World War as well as the Fascist Italian state;
- (b) in the Fascist Bulgarian police, country-constabulary or army against anti-Fascists and their organizations during the period from 1 March 1941 until the end of 1944;
- (c) agents and foreign spies and persons involved in activities which aimed at restoring Fascist dictatorship after 9 September 1944 until the effective date of the present law.

Payment or non payment of compensation shall be decided by the Council of Ministers based on a reasoned report of the Minister of Industry and Handicrafts...

The State goes to work on a large scale to increase its property. The following document shows a case in which the State, and the State alone, can become owner.

DOCUMENT No. 22

(USSR)

"Badly Managed Property. Property which has not been properly managed can also become the State's possession. Badly managed is property, for the maintenance of which the owner has not taken the required care. In various cases the State is not indifferent to how the owner manages his property. If property is not managed regularly it can be taken away from the owner and it will come to the State..."

Source: Prof. D. M. Genkin, Sovetskoe Grazhdanskoe Pravo (Soviet Civil Law) (Moscow, 1950), Vol. I, p. 289.

The Hungarian Law which provides for the expropriation of real property is an example of the systematic elimination of private property despite constitutional guaranties. The wording of one of the constitutional provisions referred to in the preamble of this law is as follows (Art. 4. Sec. II. par. 2):

“The toiling people gradually supplant the capitalist elements...”

Characteristic of the following law are the reasons for the enactment of this law mentioned in the preamble, furthermore the fact that pleas against compensation are specifically refused and that a veto against expropriation as such is not mentioned at all, and, finally, that the Minister of the Interior, in fact the police organs, were charged with the enforcement of this law. The fact that this law is still in force is shown by a Hungarian escapee's statement which follows the Act in question. Especially noteworthy in connection with this is the fact that — in spite of the wording of the law — no compensation was granted for expropriation.

DOCUMENT No. 23

(HUNGARY)

Law of 19 February 1952, on the Expropriation of Housing Property:

The Council of Ministers of the Hungarian People's Republic enacted a law on the expropriation of housing property. Some private house owners neglected to carry out the even the most urgent needed repairs to their houses.

The consequence was, that such houses which represent socialist property, soon humbled down. In order to protect our national economy against neglect of property and in order to prevent that elements of the former ruling classes to secure themselves an income through housing properties without performing any work, the Council of Ministers enacted the following Decree in conformity with Article 3 as well as Par. 2 of Article 4 and Par. 2 of Article 8 of the Constitution:

Article 1:

- (1) By virtue of this decree, the State acquires the furniture and property in: (a) all privately-owned dwelling houses, apartments, business houses, villas, workshops, storehouses, etc., which are wholly or partly leased; (b) all property belonging to capitalists, other exploiters and elements of the overthrown regime which suppressed the people, even where such houses do not represent a source of income as under (a).
- (2) Where a person mentioned under 1 (b) is not permanently living in a nationalized house or in part thereof, his whole furniture therein or part thereof shall be nationalized.
- (3) If in anyone of the houses belonging to proprietors mentioned under 1 (b), more than two borders were lodged simultaneously during vacations in the years 1950, 1951 and 1952, the state shall take over the house and all the owner's movable property, needed to furnish the rooms for the above mentioned purpose against payment of compensation; even though the owner is living in the house.

Article 2:

- (1) The State shall not expropriate houses which do not contain more than six living-rooms and which belong to labourers or persons living on their wages or salaries, i.e., to intellectual workers, to

members of an artisans' collective or to pensionars, where they own but one house.

- (2) When a worker who is normally living in his own house possesses an additional one which he uses for vacations or recreation, his house will not be expropriated by the State, provided that it is not in excess of his family's requirements. A worker may keep this second house, even where for one reason or another he does not use it himself.
- (3) When an artist's or small businessman's only house contains no more than five living-rooms and is inhabited by its owner, it shall not be expropriated by the State.

Article 3:

- (1) A house not containing more than six rooms, belonging to a working farmer who lives in it shall not be expropriated by the State, nor shall an additional house he may own even if subject to a lease.

Article 10:

- (1) The expropriation of houses as explained in detail in Art. 2 (1) will be carried out against payment of compensation. The manner and amount of compensation are provided for in a special decree.
- (2) The proprietor is entitled to claim compensation for his expropriated movable property (See Art. 1, sections (2) and (3)). Compensation will be definitely settled by the Executive Committees of the competent Komitat-Council (in Budapest by the Council of the Capital).

Article 11:

- (1) Rights connected with real property expropriated by the State shall pass to the State by the Law on Expropriations.
- (2) Rights of and liabilities to third parties, registered in the register of property — except easements — expire on the effective date of the present decree.
- (3) No claims can be made against the State in respect and liabilities connected with expropriated property, unless these were registered in the register of properties.
- (4) State claims against former proprietors of the expropriated house already in existence before the effective date of the present decree — except loans granted by the National Building Repair Fund — shall remain valid, whether recorded in the register of properties or not.

Article 12:

- (1) The status of inhabitants, tenants or employees remains unchanged in the expropriated houses.
- (2) When the proprietor of the expropriated house is living therein or uses part thereof, his proprietary rights will be changed into a lease from the effective date of this Decree and he shall pay rent from 1 January 1953. Until this date he shall continue to pay his usual dues.
- (3) The State shall become the legal successor to the previous owner of the expropriated house as to existing contracts between the previous owner and tenants or employees.
- (4) From the date of expropriation all employees, house servants and their helpers, stokers, mechanics, etc. employed in expropriated house shall come within the provisions of the Penal Code and will be considered State-employed.

Article 13:

- (1) The owners of expropriated houses are under obligation to inform in writing within three days of the effective date of the present Decree the competent Executive Committee of the local or district authorities as to the location, the address and further relevant particulars of the registration in the register of property.
- (2) In case the owner is not living in his house, the manager or the senior tenant shall give the above information.

Article 14:

The owner of an expropriated house, the manager, janitor, tenants, etc. are under obligation to be good managers of the real estate and the movable property expropriated by the State until the competent State authorities shall take over the administration of such real estate and personal property.

Article 15:

Whosoever shall evade or violate the provisions of this decree is liable to punishment in accordance with Decree No. 24 of 1950 on the protection of Socialist property. Offences against the obligation of declaring one's property are punishable with imprisonment up to three years conform Art. 13.

Article 16:

The Minister of the Interior is charged with the enforcement of the present Decree. The Council of Ministers is entitled to decide all questions arising from the expropriation of houses. It may grant the same rights to the Ministry of the Interior and to other Ministries.

Signed: Sandor Ronai, President.
Prioska Szabo, Secretary.

Source: *Szabad Nep*, 19 February 1952.

DOCUMENT No. 24

(HUNGARY)

Deposition: Appeared Alice N.N., who says as follows:

"My name is Alice N. N. I was born on 1 November 1932 in Budapest. My place of residence was Budapest. I escaped from Hungary on 14 November 1954, and at present I am living in Vienna.

"I know the Hungarian Law of February 1952, on the expropriation of real property. As far as I know, it was published in due course in the paper "Magyar Közlöny".

"My uncle, Pal N. N., owned an apartment-house in Budapest, consisting of about nine or ten flats, which was expropriated in accordance with Article I, Section 1 of this law, because he was a capitalist and because the house had been leased. His private furniture and other movable property which he kept in the cellar were also expropriated. I know for certain that he did not receive any compensation.

"Also another uncle of mine, Moritz N. N. lost his apartment houses located in Budapest through expropriation. I know for certain that he did not receive any compensation either.

"I myself was deported from Budapest and lived at Tornomero. In that village a farmer's house, which contained more than five living-rooms, was completely expropriated (see Article 3 of the present law). The farm was left to him. I was informed of quite a series of expropriations by virtue of this law. In no case compensation was paid."

Read, approved, and signed.
1 February 1955.

(Names were not mentioned, so as not to endanger the escapee's relatives, still living in Hungary.)

DOCUMENT No. 25

(POLAND)

From: Law of 20 March 1950... on the Creation of a Church Fund.

Article 1:

(1) All agricultural property (real-estate) of the above-mentioned land associations (Catholic Church and other religious bodies — ed.) become State property.

Article 2:

- (1) All agricultural property (real-estate) complying with the taking over pass to the State on the effective date of this law (23 March 1950 — ed.), without compensation, and are free of any encumbrances, except as provided for in this law, together with all buildings, enterprises, factories, and live and dead inventory found on these properties, in so far as this law does not stipulate differently.

Source: Dziennik Ustaw Rzeczypospolitej Polskiej (Law Gazette of the Polish Republic), 23 March 1950, No. 9, item 87; as amended in No. 10, item 111.

One of the expropriation laws which apart from economic considerations is primarily political is the one below on letterpress printing. This law aims at transferring to the state the means of expressing opinions, i.e., into the hands of the Communist Party.

DOCUMENT No. 26
(BULGARIA)

Decree No. 268.

In accordance with Article 24 and Article 35, par. 3, of the Constitution of the Bulgarian People's Republic the Praesidium of the Great National Assembly orders the publication of the law relating to printing in the official Gazette. This law was passed in the Great National Assembly in its 11th session on 25 February 1949.

Law on Printing

Article 1:

Printing in its widest sense (fount, impression, lithography, autography, copper-plate printing, zincography) is the exclusive right of the state. The state exercises this right through

- (a) the State Polygraphic Union
- (b) the People's Councils.

Article 3:

By a resolution of the Council of Ministers, at the advise of the Central Board of Directors of the Publishing Houses, of the polygraphic industry and the printing trade, big capitalist, mechanized printing-offices may also be expropriated.

Article 5:

By a resolution of the Council of Ministers, on the advise of the Central Board of Directors of the Publishing Houses, the polygraphic industry and the printing trade, movables and immovables, belonging to printing undertakings mentioned in Article (1), shall be expropriated if they are indispensable to the State or socialist requirements.

Also such immovables and machines, apparatuses and instruments shall be expropriated, as are not the property of one individual undertaking, but connected with such undertakings on account of their characteristics and nature and are an essential part of it. Applications for expropriation of such properties may be submitted within six months, from the effective date of this law. During this period, the sale of properties the subject matter of a declaration in accordance with Art. 4, is prohibited.

Article 7:

Owners, whose undertakings or parts of whose movables or immovables were expropriated, shall receive as compensation from the state the corresponding value in state loans. In conformity with the Law on nationalization of private industry and mining enterprises the amount of compensations for expropriated property shall be fixed by a commission whose members will be appointed by the Central Board of Directors of the Publishing Houses, of the polygraphic industry and the printing trade. Representatives of the Central Administration of

Prices and of the Ministry of Finance will be delegated to the above mentioned Commission.

Protests made by the persons concerned will be submitted to the Central Board of Directors of the Publishing Houses, of the poly-graphic industry and the printing trade. The amount payable as compensation for expropriated property shall be fully paid in cash or by instalments to such owners and tradesmen, whose main activities consisted in printing and its relating branches, provided they worked in their own enterprises and that their printing activities constituted their main source of income. The amount in cash may not exceed 300.000 Lewa, half of which shall be paid out immediately and the remainder not later than one year after the date of expropriation. Payment of compensation is made according to Art. 14 of the Law on nationalization of private industry and mining concerns ...
Sofia, 4 March 1949.

Source: *Izvestia na presidiuma na Narodnoto Sobranie (News of the Praesidium of the National Assembly)*, 1951, No. 19.

The following documents clearly show that private owners of plots cannot freely dispose of their property, but that "the public interest" ranks first. Since there exists no legal definition of this term, judges may use their own discretion, and they follow unambiguously the Communist Party line.

DOCUMENT No. 27
(CZECHOSLOVAKIA)

"Permission to Transfer Immovables".

"It is also necessary to say some words about the regulations for permission to transfer immovables and on leases of land. This matter was separately dealt with in various ways and through different organs, by various decrees regulating the procedure of obtaining permission. Thus a chaotic situation was created. The provisions were in effect until now duly co-ordinated and simplified by the Law No. 65/1951 concerning the transfer of immovables and the lease of arable plots and forests. This law also introduced a new regulation valid throughout the whole state, stipulating that only a central organ can decide on permits for the whole country, viz. the District National Committee. In future all transfers of plots and of permanent buildings are subject to such permits even where transfers are made amongst relatives.

"The District National Committee either approves the transfer or rejects it applying principles of public interest. The decisive point is, whether the intended transfer is contrary to the agricultural policy or whether this policy will not be affected by such a transfer; to its approval the transfer has no legal validity."

Source: Alois Neumann, *"Novy právni Rád v Lidové Demokracii"* (New Judiciary Order in the People's Democracy), p. 43.

A practical case of the application of the concept of "general interest" is the decision made by the Supreme Court of the Czechoslovak Republic:

DOCUMENT No. 28
(CZECHOSLOVAKIA)

From: *Collection of Decisions of the Czechoslovak Courts*, Volume 1953, No. 7.

Decision No. 105.

Before the Court (the State Notariat) assents to an agreement on the division of an inheritance consisting of an agrarian enterprise, it must

carefully investigate whether the successor, who according to the agreement on the division of the inheritance will take over the agrarian enterprise, will most probably work on the farm himself and whether he has the ability to be an active farmer.

Decision of the Supreme Court of 30 April 1953, Cz 118/53.

The (lady) testator died in March 1952 and left a will. By this will she left her farm to her daughter, gave lifelong use of the farm to her second daughter, and left to her son 2000 Kcs. The inheritance consisted of an agrarian enterprise, composed of a dwelling house, the necessary farm building and land. This inheritance came before the State Notariat. In accordance with the stipulations of Law No. 139/1947 of the Collection on Division of Inheritances comprising agrarian enterprises and on the prevention of splitting up of agricultural land, and after the son claimed three-fourths of the inheritance in accordance with Art. 551 of Civil Law, the heirs arrived at an agreement according to which the inheritance would be accepted by the daughter of the testator and that she would pay out in money the legitimate part to her brother and guarantee her sister the lifelong use by separate agreement.

The State Notariat at Pilsen assented to this agreement after the receiver of the agricultural enterprise had declared that she was well informed on farming, that up to her marriage she had worked on the farm and that later she had often come home to assist her parents and that therefore she herself with her family would work on the farm.

The Supreme Court decided in the matter of the complaint of infringement of the law, brought on the basis of Art. 210 of the Regulation on Civil suits, that the decision of the State Notariat on the assent to the agreement between the heirs concerning the division of the inheritance was against the law.

From the findings:

The testator died in March 1952 and therefore it was necessary, according to Art. 660 of the Regulations on Civil Law suits, to apply in the case of the inheritance the stipulations of the new regulations on Civil Law suits. Art. 335 of the Regulation on Civil Law suits stipulates that the court (or the State Notariat) may assent to the division of the inheritance only when the conditions of Art. 76 (for the text see Doc. 29) of the Regulations on Civil Lawsuits are met. The court (the State Notariat) before giving its assent to the division of the inheritance, must therefore investigate whether the agreement is not against the law or against the general interest. In view of the principles of the constitution of 9 May 1948 that the land belongs to those who cultivate it, the courts (State Notariat) must investigate when considering the assent to the agreement of the heirs, whether it may be expected that the receiver himself will work on the farm and whether he has the ability to be an active farmer.

In the present case the State Notariat sanctions the agreement on the division of the inheritance and on the receiver in the person of the daughter of the testator. It accepted that the receiver would be able to manage the farm because it satisfied itself with the declaration — which was not proved to be true of the receiver that she was well informed about agriculture, that she had already worked on the farm and that she would work personally on the farm. However, the documents show that the receiver is the 48-year old daughter of an official who lives in a remote country and who came from time to time to assist her parents. Furthermore the documents show that the testator's son is an active farmer and that at the time of the death of the testator he already lived on the farm, which proves that he worked in agriculture since his youth and that he is not in possession of agricultural capital. These facts should have awakened well-founded doubts as to the suitability of the receiver. It was therefore the duty of the State Notariat, before assenting to the agreement, to investigate these facts in detail and to get to know the point of view of the Agrarian Section of the

National Council. However, the State Notariat did this only after having given its assent. The Agrarian Commission of the National Council then informed the State Notariat, that the receiver was ill, that she did not wish to take over the farm, and for this reason the National Council was obliged to let on the farm in obligatory lease according to Law No. 55/1947 "On the Aid to Farmers in the Fulfilment of the Agrarian Production Plan". This was necessary in order to secure the normal work of the farm and the delivery of the produce. The National Council appointed the son of the testator as forced tenant who today is still working in agriculture.

By not consulting the Agrarian Commission of the National Council before giving its assent to the agreement on the division of the inheritance, the State Notariat infringed upon the stipulations of Art. 1 (par. 2), Arts. 59, 88 (par. 2) of the Regulation on Civil Law suits.

Art. 76 of the Decree on Civil Law suits mentioned in the preceding document says:

DOCUMENT No. 29
(CZECHOSLOVAKIA)

Article 76:

The court does not sanction the acceptance of an offer, the acknowledgment or the refusal of an offer or of an arrangement if this means that the law or the public interests are infringed.

The corresponding article in the Civil Code (Law 141/1950) says:

DOCUMENT No. 30
(CZECHOSLOVAKIA)

Article 36:

- (1) Every legal document which infringes the law or the public interest is invalid.
- (2) If in this connection a legal document is invalid because it infringes the law or the public interest, the court can decide on the proposal of the procurator, that that which has been accomplished by the party who knew of the invalidity, becomes the property of the State.

(Compare also the stipulations of the USSR, Document 61 ff.)

This conception of the general interest was also apparent in cases of testaments, as the following document shows.

DOCUMENT No. 31
(CZECHOSLOVAKIA)

From: Collection of Decisions of the Czechoslovak Courts 1953, No. 2.

Decision No. 20.

If in a will a person has been made the heir, whose appointment to be the heir is against the law or against general interest, (Art. 548), not only the appointment of that person as an heir but also such stipulations of the will by which an alternate heir is appointed in case the first heir should not receive the inheritance, is void.

(Decision of the Supreme Court of 12 December 1952, Cz 648/52).

In her last will of 13 October 1949 the testator nominated her niece and her nephew as her heirs. At the same time she nominated her nephew as substitute heir for her niece in the event that at the time of the death of the testator the niece should not be on the territory of the Czechoslovak Republic, or in the event that for some reason she

would not be able or willing to inherit. At the same time the testator put upon the substitute heir the obligation to hand over to the heiress her part of the inheritance should she request this within ten years years of the testator's death. However, the residence of the heiress is unknown since 17 April 1948 and she is being prosecuted for the offence of leaving Czechoslovakia without permission.

The district court of Olmütz confirmed the nephew of the testator in the acquisition of the entire inheritance. The Supreme Court decided in the matter of the complaint of infringement of the law, made by the Procurator General in accordance with Art. 210 of the Regulation on Civil Law suits that the decision of the district court, so far as the acquisition of the second part of the inheritance is concerned, infringed the law.

From the Findings:

In accordance with the confirmation of the National Council that the residence of the testator's niece is unknown since 18 April and this heiress is being prosecuted for the offence of leaving the territory of the Czechoslovak Republic without permission. Therefore already at the time of making a written deposition of the last will, the testator's niece was threatened with criminal prosecution. In her last will the testator excludes her niece in the event she stays outside the Republic or if she cannot or may not inherit. For these cases she indicated a substitute heir upon whom, however, she put the obligation to hand over to the heiress her share should the latter request this within ten years of the testator's death; this limitation is in contradiction to the stipulations of Art. 550 and is ipso void. It appears from the circumstances under which the testator disposed of her property that the appointment of a substitute heir is only a pretext to secure for the testator's niece the inheritance at a later time, though the acquisition of the inheritance was already impossible at the time of death of the testator because the niece had committed an offence which might bring with it the danger of loss of the property. The stipulations of the last will as to the acquisition of the inheritance by the testator's niece, made under such circumstances, are against the general interest (Art. 548 of the Civil Code). Therefore the nomination of the substitute heir for the second part of the inheritance is also void. If therefore the district court declared valid the entire will and if it confirmed on the basis of the stipulations of the last will the acquisition of the inheritance by the nephew of the testator as substitute heir also for the second part of the inheritance, it violated the law as laid down in Arts. 548, 559 and 513 of the Civil Code.

The penal laws which stipulate that where a person is sentenced, his entire property or parts of it may be subject to confiscation is one of the means of acquiring private property. (See also Part B, dealing with Criminal Law.) Assisted by judges following the Communist Party line, these laws serve the purpose of confiscating private property in favour of the State even on the most trivial grounds.

DOCUMENT No. 32

(CZECHOSLOVAKIA)

Criminal Code of Czechoslovakia.

Article 47:

The Court will order confiscation of property where specifically provided for by law; however, the Court may order confiscation of property where a culprit is sentenced to death, to imprisonment for life, or to temporary imprisonment of at least three years for a pre-mediated crime, or if the criminal showed a hostile attitude towards the people's democratic order.

The Penal Code of the RSFSR in its 1953 edition, provides for confiscation of property among others in the following cases:

Cases concerning counter-revolutionary crimes (Art. 58):

58^{1a}, 58^{1b}, 58^{1c}, 58², 58³, 58⁴, 58⁵, 58⁶, 58⁷, 58⁸, 58⁹, 58¹⁰,
58¹¹, 58¹², 58¹³, 58¹⁴.

Crimes against the administrative order :

- Arts. 59² (riots)
59³ (formation of gangs)
59^{3a} (stealing of weapons)
59^{3b} (acts directed against communication lines)
59^{3c} (violation of labour discipline at traffic institutions)
59^{3d} (violation of labour discipline at civil airline enterprise)
59⁶ (non-payment of taxes etc.)
59⁷ (anti-national propaganda)
59⁸ (forgery of money)
59⁹ (smuggling)
59¹¹ (violation of the monopoly on foreign trade)
59¹² (violation of the provisions on business in foreign exchange)
61 (non-fulfilment of public duties and works of general interest)
63 (concealment of inheritance)
99 and
107 (private commerce)
117 (bribery)
129^a (speculation in state property)
129 (establishment of fictitious co-operatives)
130 (waste of state property)
181 (non-fulfilment of contracts concluded with state institutions).

Administrative bodies are also very active in the struggle against private property.

The following documents show how private property is actually exposed to the arbitrary acts of executive organs. In general, no legal protection is granted, the more so as there is no administrative jurisdiction.

DOCUMENT No. 33

(CZECHOSLOVAKIA)

Deposition: Appeared Antonin Jagos, domiciled in Berlin W 30, Motzstrasse 59, formerly domiciled in Prague, Karlin Karlovkastrasse 49, who says as follows:

"I was born on 22 November 1909 at Lipov, district Hodonin, Czechoslovakia. I became a tailor by trade and established my own workshop in 1936. I worked for the export of leather articles which were exported to the following countries: Belgium, Switzerland and North-Africa. Through my commercial connections I was in a position to visit several foreign firms in Switzerland, France, Italy, Austria and West-Germany. In Czechoslovakia I did not take part in political life, and I did not belong to any political party.

"Until 1 March 1949, I met with no difficulties whatsoever, in private or business life. Unexpectedly a trustee was appointed to my shop, for the following reason: My firm was registered with the competent Ministry as an export firm and as a particularly active commercial enterprise. On the official assignment, which the trustee had received from the competent authorities, it was mentioned that there was no guarantee that the present owner — this referred to me — would run the business according to the new Communist ideas. At that time I employed 31 persons, so that my firm could in no case fall under the

law of confiscation since this applied only to firms employing 50 persons or more (Annotation: Article 158 of the Constitution; see document No. 9). Subsequently my business was expropriated without any legal basis. Rudolf Silny, an emigrant in Vienna who returned to Czechoslovakia and worked as a foreman in my business, became the trustee. I was allowed to continue to work as a labourer in my own firm. In the beginning of 1950, I was however dismissed on the ground that, as a former owner of the firm, I would prejudice the morale." Read, approved, and signed.

6 July 1954.

Even "American Imperialism" provides the authorities with a reason to close down an undertaking and to deport its proprietor.

DOCUMENT No. 34
(SOVIET ZONE OF GERMANY)

"The Council of the Commune of Göhren
Göhren (Rügen), 3 January 1953.

Dähn

Göhren/Rügen

Subject: Clearance of your hotel in favour of a state institution.

The Council of the Commune Göhren informs you that your hotel "Haus Odinhöh" is hereby requisitioned for the People's Police's urgent requirement.

Therefore it will be necessary for you to clear the entire building by 5 January 1953, and to return to your former apartment (bakery Wittmiss).

We are of the opinion that you should respond favourably to this requisition and show understanding in the present explosive political situation to prevent a world war being stirred up by American imperialism and aim for the maintenance of peace.

We beg you not to take this measure lightly but to start at once with clearing the above mentioned building.

A protest from your part cannot be considered at the present time and would be of no avail.

You will be given further details regarding a lease to be concluded between yourself and the People's Police.

Seal of the Commune
Göhren, county of Rügen."

(signature)
(Mayor)

Other arbitrary expropriations are shown in the following document.

DOCUMENT No. 35
(SOVIET ZONE OF GERMANY)

Deposition: Appeared Alfred Baude, born on 12 January 1924, who says as follows:

"From November 1950 until the end of November 1953, I was employed by the Customs and Control Office of the Soviet Zone of Germany, first as a clerk and later as an inspector in the Investigation Department, subsection management control of the Eastern sector. One of my tasks was for instance, to control the management and book-keeping of such private firms in East-Berlin, which were already listed on the so-called liquidation list. I had to work under the direction of the People's Police. Members of the Criminal Police as well as of the People's Police wearing uniforms did also take part in such controls, as well as Magistrate's clerks of the district office, Economic depart-

ment, and in most cases also a civilian, appointed as a trustee of the undertaking concerned. In the cases which are known to me, such trustees were employees of the BVG (Berlin Travel Agency). Such a check was carried out as follows in the case of the firm Stiehler, coal merchants.

"One evening in the spring of 1953, four employees of the above mentioned Customs and Control Office — amongst them myself — were assigned to the control section of the Pankow police. The following day, at 5.00 hrs in the morning we had to report to the control section of the Pankow police. Only then were we given details. I was assigned to a detachment which had to check on the above mentioned firm Stiehler. This detachment consisted of a police-car with 8 members of the People's Police, 2 employees of the Criminal Police, the mentioned trustee and a magistrate's clerk. After our arrival at this firm we surrounded the building which was freely accessible from all sides. Under the direction of the criminal police the owner of the firm was taken from his bed as about 6.00 a.m. and the warrant was handed to him by the trustee. One person watched the telephone while all the rooms were searched for incriminating material by the criminal police. I was given the task to examine the firm's books on illegal transfers. This check was without result. Upon searching the house, the criminal police found four empty sacks of coffee which had evidently been used for other purposes, furthermore some wine-bottles with western etiquettes of the year 1950. These articles seemed to suffice for arresting the owner and taking him to the control section of the Pankow police. The trustee remained in the firm as the new manager.

"A check on a manure wholesale business was performed in a similar manner on the same day. I do not remember the name of that firm which was located near the French zone. Since the Trading Customs and Control Office was short of personnel, I was charged with checking the firm books after those of Stiehler. In this case no objections could be raised either. An official of the Pankow finance office, who was also present, told me when I asked him, that he intended to check the firm's tax returns back to the year of 1945, in order to find means of justifying the firm's liquidation. Upon my arrival at the manure wholesale business, the criminal police was searching the rooms. One piece of Palmin, several empty wine bottles of western origin, a quantity of woolen cloth sufficient for one dress and some irrelevant small things sufficed to arrest the owner, who was present. He was a gentleman of about 70 years, whose bad state of health acutally did not permit his arrest. His wife was also arrested. The "evidence" was put on a table and a policeman photographed these. In this case the firm was also immediately taken over by a trustee. It was accomplished in a similar manner as in the Stiehler case. At the police control department, I had an opportunity of being present at the interrogation of the owner's wife. In the beginning the interrogation was carried out in an orderly way, but towards the end the situation became more and more aggravating, and the official even asked the lady to take off her Teddycoat, so that it could serve as additional evidence. During the inspection I noticed also that a member of the criminal police, upon entering the room, immediately checked the radio set in order to find out what station it was tuned in to.

"Shortly before I left the Trading Customs and Control Office, an oral order of the Ministry of the Interior was given, saying that all further checks should be made in a more stringent way, in order to aim at eliminating the private wholesale and retail trade. Also in cases where only slight suspicion was aroused, the inspectors had to inform the relevant department of the police, in order to have the undertaking concerned inspected within the shortest possible time. The fact that private retailers sometimes did not comply with their duty, to ask their customers to produce their identity cards, sufficed to arouse suspicion.

"The Laws for the protection of the German internal trade and the

Circulation of Money served as the basis for confiscating goods and currency which, contrary to these laws, was taken from West to East-Berlin. Such goods and currency are not only taken from the persons concerned, but offenders are also punished. Thereby, the quantity of goods or money found is of no great importance, since even 250 grams of margarine and some pfennigs of west money were taken away. Persons protesting against such measure had to face fines ten times as high as the price which they would have paid for the same goods in a trade-union (Handelsorganisation — HO) shop. I know of cases where the same offence was judged differently, because the offender was a so-called state functionary, in this special case a state prosecutor. Various foodstuffs which he carried in a parcel were taken away from this gentleman at the control point Warschauer Brücke. Thereupon he immediately applied to the director of the Trading Customs and Control Office, Toni Ruh, who decided that the things taken away should be returned to him immediately. The leader of the control points as well as the controller concerned were immediately dismissed from their office. On the occasion of a staff meeting I broached on this case and asked, why it was decided differently. Thereupon, I was given the short reply, that nobody knew the assignment this prosecutor had to perform in West-Berlin."

Read, approved, and signed.
23 February 1954.

DOCUMENT No. 36
(HUNGARY)

Deposition: Appeared Ladislaus Marothy, at the present time living in Camp No. 1002 at Wels (Upper-Austria), who says as follows:

"I was born on 25 December 1928 at Zsédény, Sárvár district (Hungary). From there I escaped on 1 July 1953. My last domicile there was in Budapest, 13th district. Until 1945, my father owned a farm of 1200 holds. In 1945, his land was taken away from him and he was promised compensation. He was to take over 100 holds of land for his own use which was situated at a distance of about 150 kms. Since this, however, was not arable land, my father did not go there, but stayed in his small house, which was all of his former property he could keep. He lived by letting out some machinery which was left to him, viz., a thrashing machine, a tractor and a small mill. He actually did not get any compensation for his expropriated land. I know that also other farmers, whose land was expropriated and who allegedly were to receive compensation, were not given one forint. In 1948, my father received a letter from the local authorities in which he was ordered to transfer all machines he still possessed to a collective farm. He did not receive any compensation for this. Thus, all that was left to him was a small house. When I was sentenced in 1951 for an alleged political crime, this small house was also taken away from him, although he was not in the least concerned in this affair."

Read, approved, and signed.
Wels, 24 June 1954.

DOCUMENT No. 37
(CZECHOSLOVAKIA)

Deposition: Bela NN. who says as follows:

"My name is Bela N. N. (his name is not to be published so as not to endanger his relatives living in the CSR). I was born in Budapest on 11 September 1914. My last domicile in the CSR was in . . . I am a watchmaker and an optician. My shop was expropriated in 1952. At that time two employees and three apprentices were working in my shop.

"In June 1949, all the opticians in the CSR — altogether 220 — were summoned to a meeting by the Ministry of Health in Prague. At this meeting, where I was present, we were told that it would be advantageous for us to associate with a state concern, the society "Sanitas-Optics People's Own Enterprise". However, not one of the participants at this meeting complied with this invitation. Two months later we were summoned again to a meeting and requested to join a state undertaking. Since at that time nobody wanted to join either, the representative of the Ministry declared that other measures would be taken. Only one month later I learned, that the biggest optician's shop in Prague was forced to close down on account of extremely high taxation and criminal proceedings instituted against its owner for alleged currency manipulations. — Similar measures were taken against the other opticians in Prague, who were ruined by extremely high taxation. Already in 1950, the opticians in Prague were forced to transfer their business to the above mentioned society. At the end of 1950, there was not even one private optician's shop left in Prague. Later on, the same measures were taken in other big towns like Brünn and Pressburg. In these towns the opticians were also threatened, with criminal proceeding allegedly for defrauding the revenue and illicit trade. However, when the trades concerned were transferred to the State concern "Sanita", nobody mentioned instituting criminal proceedings anymore.

"Then, the opticians suggested establishing a co-operative undertaking — which they were willing to join. However, this proposition was rejected by the Ministry of Health on the ground that the management of such an undertaking could not be properly controlled and that the opticians would earn too much that way. On that occasion, the opticians were asked again to transfer their business to the abovementioned state enterprise.

"In smaller towns — like ... where I kept my shop — a state optician's shop was established which was solely supplied with the necessary commodities by state trade organs. Owners of private shops received nothing. Besides, they were constantly threatened with criminal proceedings. At Poprad, for instance, a town of about 100 km distance from Kaschau, an optician was sentenced to four years' imprisonment, allegedly because gold which was not registered was discovered on him. I carried on by effecting repairs and by buying spectacle glasses illegally as well as frames from the state wholesale organization in Prague. I managed to do this by bribing an employee. Then I sold the articles at state prices. This could be done as we were allowed to sell articles bought at official state prices with 100% profit. Although I had to pay higher prices for the material I bought illegally, there was still a small profit left. In March 1951, the board of directors of the "Sanitas" state concern offered me a position as controller of all private opticians in West-Slovakia. I rejected this offer.

"At the end of June 1951, I received an order from the municipal administration at ... saying that I had to close my shop within one week and to transfer all my inventory and commodities to the "Sanitas" branch establishment in ... I protested against this order:

"After having been the only optician at ... until the end of 1950, a branch shop of the "Sanitas" state enterprise was established at ... The customers of the "Sanitas" shop were not satisfied because its terms of delivery were rather long and the quality of its articles not satisfactory, whereas I supplied my customers promptly with well made articles.

"After having received the order to liquidate, I collected 300 signatures for a petition to annul this order on the ground, that my customers were satisfied with my well-made articles and my short terms of delivery. I sent this petition to the ... district administration. On 26 June 1951, I received a reply from the ... district administration saying that the order to liquidate was a legal one and that protests against it were not allowed. Two days later, a commission composed of two policemen, two representatives of the Communist Party, one representative of the

municipal administration and several members of the workers' militia, appeared in my office. They asked me to leave my shop at once and to hand over the keys. I was to return some days later to help to dispatch my inventory to... No acknowledgment was given for the transferred inventory. The doors were sealed in my presence. Some days later I had to pack everything in cases, in the presence of about six representatives of the municipal administration and the militia, and to transport the cases to the station. I put an inventory list in each case and one week later, I was informed by "Sanitas" that everything had arrived in good condition. In September or October 1951, I received a list from "Sanitas" of the goods transferred. These were valued at altogether 400.000 Czech crowns (old currency). According to my list, to which I had annexed bills and other documents as evidence of each item enumerated, my assets amounted to more than 700.000 Czech crowns (old currency). I do not know how "Sanitas" calculated these 400.000 crowns. I protested orally against this computation, but I was told that a court's appraiser had fixed the said sum. No regard was paid to my objection that a large part of the goods was still in their original packings and therefore had to be calculated at their full value.

"In the evaluation made by "Sanitas" it was mentioned that a compensation of 400.000 thousand crowns was to be paid to me within the next ten years. The rates of the instalments, however, were not indicated, neither the dates at which they were to be paid. My repeated letters, asking for payment of at least part of the compensation, were never answered. When I once called at "Sanitas" I was told that they did not dispose of any money. Until the beginning of 1954, when I left Czechoslovakia, I had actually not even received a single crown.

"There existed legal provisions stipulating that claims against state-owned enterprises had to be evaluated according to the currency reform of 1 June, 1953. The revalued ratio of my claim then was 50:1. Thus, the nominal value of my compensation was not higher than 8.000 crowns. Upon legally leaving Czechoclovakia in the beginning of 1954 — I possessed a foreign passport — I tried to get at least these 8.000 crowns, however, I was again given a negative answer. I do not know of one case in which a former merchant was given any compensation, for his expropriated firm, although the expropriation law had explicitly provided for such compensation which was to be paid within a certain period. Even those merchants whose business was not expropriated but who decided — though under pressure — to transfer to a state-owned concern, did not receive any compensation either. These people were promised that they could remain in their own business as managers. But after one or two years had lapsed, they too were removed from their business."

Read, approved, and signed.

Wels, 20 August 1954.

DOCUMENT No. 38

(HUNGARY)

Deposition: Appeared Josef N.N. (whose name is not to be published so as not to endanger his relatives in Hungary), says as follows:

"My name is Josef N.N. I was born on... at... (Hungary). I am a metal fitter and my last domicile before escaping from Hungary on 6 June 1954, was in Budapest. At the present time I am living in camp No. 1002 at Wels-Austria.

"In Budapest I was living in a house where a food merchant had his shop. In the course of deportations carried out in 1951 and 1952, he too was deported. As I know that he was neither rich nor an influential man and that he had not made any remarks which were

hostile to the regime, I suppose that he was deported so that his shop could be confiscated. Prior to his deportation he refused to transfer his business to a co-operative. Right after his deportation his shop was closed and the whole inventory and stocks were dispatched. Later on, his business premises were transferred into a boarding house.

I know, that the person concerned did not get any compensation for this "expropriation". Later on, after his deportation order was rescinded, he returned to Budapest, but he could not reopen his shop. As far as I know, he is being supported by his children and relatives."

Read, approved, and signed.

Wels, 26 November 1954.

Landed properties are expropriated indiscriminately in the interest of agricultural collective farms and inadequate compensation is paid.

DOCUMENT No. 39
(SOVIET ZONE OF GERMANY)

County Office of the People's Police,
Putbusa. Rügen,
Deptmt. K.E.G.

Binz 11 February 1953

Search and Confiscation

By order of the above mentioned Office and as a member of the Department K.E.G. I carried out a search of the living-rooms, the business-premises and other rooms belonging to Hedrich Willi, hotel owner, born 21 February 1898, domiciled at Binz auf Rügen, Promenadenstrasse 23.

In the search participated:

- (1) Schneider, Chief inspector of the People's Police
- (2) (illegible)
- (3) (illegible)

The occupant of the rooms searched was present.

As a witness was called:

- (1) Fr. Elisabeth Klöckner.

The search had the following result:

Serial No	Pieces	Item	Place where found:
1	1 package	3 phials Pernaemyl forte	bedroom wardrobe
2	1 package	20 tablets of Pyramidon	dressing chest of drawers
3	1 phial	6 tablets Aludrin	livingroom table
4	1 can	9 unroasted coffee beans	bed-room writing desk
5	1 can, empty	Van Houten cacao	writing desk
6	various	letters (in an envelope)	file
7	5	Purchase-permits for leather-shoes 1 for men 1 for women	bed-room writing-desk

Signed: Three signatures (illegible)

Signed: Elisabeth Klöckner

Signed: Willi Hedrich

Sellin 27 February 1953

The Prosecutor of the Putbus County."

DOCUMENT No. 40
(SOVIET ZONE OF GERMANY)

Order

"In criminal proceedings against the hotel owner Hedrich Willy, born on 21 February 1890 in Berlin-Weisseensee, domiciled at Binz, Strandpromenade 23.

Confiscation of his entire property is hereby ordered, since it is to be expected that his property will be confiscated following a court sentence in accordance with Art. 1, (1) S-3 of the Penal Code.

Prosecutor of the county

Signed: Ziegenhagen

County Court Putbus

Sellin 27 February 1953.

Confirmation

The order of the county prosecutor is herewith confirmed.

The Judge

Signed Plickat"

When arbitrary measures are rescinded as a result of protests made by the population and the Free World, no compensation is paid. The rescission of deportation orders in Hungary, proclaimed by the Prime Minister in July 1953, is not complete.

A farmer's family deported in 1951, was allowed to live in the vicinity of their former residence, but not to return to their village and farm.

Copyright is also the subject matter of the state's trend towards expropriation, the same as real property.

DOCUMENT No. 41
(USSR)

5. *The author's rights.*

- 3 a) ... The translation of an author's work into another language without his consent is permitted (Point (a), Article 9 of the Law on Copyright). In this respect Soviet Law is based on principles which are diametrically opposed to those of capitalist states, which grant the author an "exclusive right" to translate and to permit translation into another language.

"This principle of Soviet copyright is of essential political importance. It is one of the means of realizing the Soviet policy of internationalism, of facilitating the exchange of cultural values between the brotherly peoples of the Soviet-Union. However, this principle applies only to works which have already been published. Where the work is still in the author's hands (i.e., a manuscript) the question of translating his work into another language can only be decided by the author himself. As already mentioned a fee will be paid to the author for an original work which is translated into another language...

- b) Each dramatic, musicodramatic, operatic, pantomimic, choreographic and cinematographic work published may be performed in public without the author's consent, against payment of a fee to the author (Article 8 of the Law on Copyright).

If such works have not yet been published, they can be performed in public only on condition that they have been performed at least once in public and that for a further performance the permission of the Committee of Arts, affiliated to the Council of Ministers of the USSR is obtained (Article 8 of the Law on Copyright). In this case a fee is also payable to the author.

- c) In conformity with a decree of the Central Executive Committee and the Council of People's Commissars of the USSR of 10 April 1929 (Laws USSR, 1929, No. 25, text 230), it is permitted to broadcast by radio musical, dramatic and operatic works, lectures, elocutions, etc. which have already been performed in public, without payment of a fee to the author of the work, the performers of the work, or to the theater...

Source: Prof. S. N. Bratus, *Sovetskoe grazhdanskoe pravo (Soviet Civil Law)*, (Moscow, 1951), Volume II, pp. 350-351.

DOCUMENT No. 42

(POLAND)

"Polish copyright also pays regard to the interests of society, especially to the copyright of scientific institutions and organs of socialist economy. In accordance with law it is possible to dispense with the author's consent necessary for the distribution, the adaptation or any other use of his work, by obtaining a permit from the Council of Ministers. Under certain conditions, the Council of Ministers may grant to a social organization or to an organ of the socialist economy the exclusive rights to publish a translator's single work or complete edition."

Source: "The Socialist Copyright" by Dr. Vilem Vesely, in the German translation in: "Rechtswissenschaftlicher Informationsdienst", Berlin-Ost of 20 October 1954, Nr. 20, p. 564.

DOCUMENT No. 43

(BULGARIA)

"The Bulgarian copyright relies to a great extent on the provisions in force in the Soviet Union. In conformity with it, works created whilst carrying out official duties for different organs, may also be used by these organs without the author's consent and eventually also without payment of a fee to the author.

"The central administration of cinematography possesses the copyright in every film made by it in its entirety. By a declaration of the Committee of Sciences, Arts and Culture a copyright may be withdrawn with the consent of the Council of Ministers which is also to fix the compensation. Where an author of a public or cultural institution or organization refuses his consent to allow a work which has already been published or performed to be used in public, without good reasons, the Chairman of the Committee of Sciences, Arts and Culture may give such authorization..."

Source: *Ibid.*

DOCUMENT No. 44

(SOVIET ZONE OF GERMANY)

"A West German publisher who, by imposing excessive conditions, tries to prevent the distribution of Thomas Mann's works in the German Democratic Republic, violates the principles of the Potsdam Agreement as well as the Constitution of the German Democratic Republic and will be guilty of abuse and exploitation of copyright.

"For this purpose he cannot rely upon copyright.

"Berlin Country Court, Judgment of 7 August 1952 — 4 Q 12/52.

"The petitioner is the owner of the copyright in Thomas Mann's works, for which the respondent attempted to get a license to publish a new edition in the German Democratic Republic. In the course of the negotiations for a license which were dragging on for years, the respondents offered to pay a licensing fee of 5% and an author's fee of 15%, although the customary fee in Germany is only 3% on the sales price. The petitioner asked however for a licensing fee of 10% and also for the payment of all fees in German marks of the Bank der Deutschen Länder or in dollars.

"Since having regard to the blocking of dollars and Westmark credits in the German Democratic Republic, the respondents could not comply with this request, they published a new edition of Thomas Mann's works without a license and paid the licensing fees they had previously offered and the author's fees into the Deutsche Notenbank in favour of the persons entitled.

"Thereupon, the petitioner applied for an interim injunction to restrain the respondents from reproducing and distributing the works listed in detail. The Berlin Country Court rejected this application.

"Extract from Opinion:

"The petition for issuing an interim injunction is not well founded.

"In the Potsdam Agreement the Allied Powers pledged themselves to maintain and to treat Germany as a political and economic unit, and to give the German people an opportunity of organizing their life on a democratic and peaceful basis. In the German Democratic Republic and in the democratic sector of Berlin the Potsdam Agreement is the legal basis for all measures and activities of the state and therefore also the legal basis of any decision which the courts will have to make in matters affecting the political, economic and cultural interests of the whole German people. This action raises fundamental questions of the German peoples' entire cultural development. Our nation's cultural units will be endangered if the works of Thomas Mann, the greatest living author, will remain inaccessible to a large part of the German people.

"The undeniable fact, that the respondents reproduced and sold already 60,000 copies of the poet's renowned work „Die Buddenbrooks" and that orders for 75,000 further copies of this work were received, shows how imperatively wide strata of the working population of the German Democratic Republic ask for the author's works.

"At the same time the petitioner's claim constitutes an abuse of the copyright acquired by him. The petitioner rightly submitted that copyright is an absolute right and therefore, from a legal point of view it is property in the sense of Article 22 of the Constitution of the German Democratic Republic, which is valid law and guarantees property rights stipulating that the rights and the limits of the enjoyment of property result from the laws and the social duties towards the community. The Potsdam Agreement is also law in the meaning of this Article. This follows especially from Article 5 of the Constitution of the German Democratic Republic which emphasizes that the generally recognized rules of international law are binding on the state and on every citizen.

"Furthermore there can be no doubt that it is every German's supreme social duty to stand for our nation's entity in all the aspects of life, consequently also in the field of culture. Moreover, in Article 24 of the Constitution of the German Democratic Republic the maxim is established, that the use of property shall serve the welfare of the community. Since the petitioner disregards the limits set on his proprietary rights and consequently also on his copyright in the sense of the Potsdam Agreement and the Constitutions of both parts of Germany, legal protection of his abusive exploitation of the copyright in Thomas Mann's work, which he had acquired, must be denied to him in accordance with the laws in force in the whole of Germany. Of course, the petitioner's claim for license fees to the amount of 23.026,50 DM, which were already credited to his account at the Deutsche Notenbank and which will be essentially increased in the future, will remain valid. Thus, no material damage will result from this to the petitioner nor will any result in the future.

"Therefore, his petition for an interim injunction must be rejected. By this decision the court fulfils its noble obligation to protect and to promote by democratic judicial means the development of art and literature, which serve the whole German people."

Source: *Neue Justiz*, 20 November 1952.

c) DISCRIMINATION AGAINST PRIVATE PROPERTY

In principle, the Communist State's proprietary rights are given preference to private ones. State property is protected as a principle and not only in individual cases, as customary in the Free World.

Examples:

- a statute of limitation can be pleaded against a private do not apply to the state;
- restrictions on recovery in cases of bona fide acquisition do not apply to the state;
- the state claims privileges for itself by presumptions of ownership (see the following document).

DOCUMENT No. 45

(USSR)

"(4) Actions for recovery are subject to the respective periods of limitation. After the period of limitation has elapsed, a proprietor can no longer institute proceedings for restitution of property. This, however, does not mean, that a person who holds property illegally, becomes its owner. Soviet Civil Law does not provide for acquisition of property through usurpation. Such property becomes unappropriated property and according to Article 68 of Civil Code of the RSFSR passes to the state by a procedure which is regulated by special laws. From this, the courts developed the principle that the periods of limitation do not apply to claims of restitution of state property. In such cases the courts proceed from the opinion that property, the restitution of which could not be claimed from the state in an action of recovery, becomes state property being unappropriated property. The non-applicability of the statutes of limitation to actions for recovery instituted by state organs gives a special protection to state property, which co-operative, collective and personal property does not enjoy.

"(5) Article 60 of the Civil Code of the RSFSR provides that an owner of property can only re-claim his property from a person, who acquired it bona fide from another person, if he lost it, or if somebody stole it from him. In this case recovery is restricted by law. Where the owner of property transfers his property to another person as trustee and the latter sells the property to a third person who did not know of the existing trust, the owner cannot institute an action for the recovery of his property against the bona fide purchaser. On the other hand, if an object is stolen from its owner or if he lost it and the thief or the finder sells it to a third person, the owner can claim the restitution of his property from the purchaser despite the purchaser's good faith. The owner of an object may claim its restitution in any event from someone who acquires it in bad faith. In such cases recovery is unlimited ...

"This regulation regarding restrictions on the recovery of property does not apply to state institutions and undertakings, which may institute an action for the recovery of objects, belonging to the state irrespective whether sold, legally or illegally, or whether the purchaser acted in bad faith or bona fide (Article 60 of the Civil Code). State institutions are entitled to claim restitution of objects from a bona fide purchaser, irrespective of the fact, whether these were stolen, lost, or transferred by an economic organization to a third person who sold them ..."

"The leading part of socialist property, in the socialist economy, does not permit restrictions on its recovery ..."

...

"(7) One of the means of protecting the socialist economy, introduced as a practice of our courts, is the presumption in favour of state property. Where it is doubtful whether an object belongs to the state or to a co-operative (social) organization, or whether it belongs to the state or to a citizen, the presumption is that the object in question is state property. Thus, the burden of proof in a lawsuit between a co-operative (social) organization and the citizen, as to the proprietary right in an object, is on the citizen..."

Source: Prof. D. M. Genkin, *Sovetskoe Grazhdanskoe Pravo (Soviet Civil Law)*, (Moscow, 1950), Vol. I, pp. 307-310.

State property also enjoys special privileges with regard to executions as the following document shows:

DOCUMENT No. 46
(USSR)

"Immovables belonging to a state organization can in no case be transferred to individual citizens but only to co-operatives and social organizations..."

"The economic organ concerned has at its disposal movables in the form of money which are utilized for their destined purpose. Ordinary movables — raw materials, unfinished goods, fuel, etc. — which are destined to serve the planned needs of the undertaking are inalienable.

"Immovables are not subject to execution; movables however — except certain stocks (like stocks of fuel and raw materials for three months) which are needed for the running of an undertaking — are subject to execution..."

"The division into rolling stocks and capital investments does not only affect the authority of economic organs to use these exclusively according to their destination, but it is also of importance to third parties. Creditors of economic organs, whose credit is derived from investment business, can only get payment from accounts and other capital for investments, creditors whose credit is derived from active business can only get payment from working accounts and other working capital..."

Source: *Ibid.*, pp. 298-299.

Not only in the Soviet Union, but also in the so-called People's Democracies, state property is exempt from execution.

DOCUMENT No. 47
(CZECHOSLOVAKIA)

"The new law on civil law suits also determines the new procedure of execution. In view of the fact that the all-over economic plan today is the basis of all economic activity, the procedure for execution must be in line with this principle. It must sufficiently protect the bearers of socialist economy and these are therefore accorded a special position based, among others, on the fact that immovables are to be transferred from private property to collective property. The execution which replaces bankruptcy is a means for the restoration of the economy, for keeping abreast with the economic plan and for the liquidation of such economic enterprises which do not fit into the planned economy."

Source: Alois Neumann: *Nový podnik Rád v Lidové Demokracii*, (Publisher: Law Institute of the Ministry of Justice, Volume 1952), p. 99.

DOCUMENT No. 48
(CZECHOSLOVAKIA)

From: *Code of Civil Procedure*.

Article 437:

Execution directed against the State, and State-, National- and communal enterprises and against the Central National Insurance Institute:

- 1) for monetary claims against the State, State-, National- and Communal enterprises and against the Central National Insurance Institute execution may take place if the authorized supervisory institute designates assets which can be used for execution or indicates other means of execution. The court calls upon the supervisory institute to express itself on the matter within 30 days; if this request is not complied with, the execution may be ordered and be effected in all cases in which this is admissible.
- 2) An execution effected contrary to these regulations as well as all action taken in this respect are void. The court officially repeals the execution as well as all relevant actions.

Article 483:

Execution against associations and other corporations:
the State may decree that executions against associations and other corporations may be effected only in accordance with and to the extent of the stipulations of § 437."

The preference shown to State property as indicated by these examples is also apparent in the stricter penal protection of State property in similar cases.

Greater protection of state undertaking is no injustice in itself as long as it does not exceed the limits set by law in a constitutional state. The fact, however, that private property is prejudiced as against state property must be considered an injustice, as for instance in the case where one of two agricultural undertakings, located next to each other, enjoys preferential treatment because it is State owned. In this connection it has to be mentioned that in all countries within the Soviet orbit offences against property are threatened with unusually severe punishments. As the following examples show, offences against state property entail more severe punishments than those against private property. Any nail or tool in a state factory enjoys special protection as state property.

DOCUMENT No. 49
(CZECHOSLOVAKIA)

Penal Code of the Czechoslovak Republic of 12 July 1950.

Article 245:

- (1) He who steals state property or property of co-operatives by:
 - (a) taking away an object forming part of such property with the intention of disposing of it as if it were his own;
 - (b) disposing of an object forming part of such property as if it were his own;
 - (c) enriching himself in an unjustified way to the detriment of such property;Shall be punished with imprisonment up to five years.
- (2) A person who intentionally causes damage to state property or to the property of a co-operative, particularly by destroying, damaging or disabling it. Shall be punished likewise.
- (3) An offender shall be punished with imprisonment from 5 to 15 years:
 - (a) if he is earning his living by committing one of the offences mentioned in section (1);
 - (b) if he causes considerable damage by committing one of the offences mentioned in section (1) or (2);
 - (c) in case of aggravating circumstances.

Compare:
Article 247:

Theft.

- (1) He who takes away another person's property with the intention to dispose of it as if it were his own, shall be punished with imprisonment up to 2 years.

DOCUMENT No. 50
(BULGARIA)

Bulgarian Civil Code of 9 February 1951.

Article 104:

Theft of *state*, co-operative or other public property shall be punished with imprisonment *up to 10 years*. Theft of such property shall be punished with imprisonment up to 15 years:

- (1) if the theft is considerable;
- (2) if the stolen object is of special importance;
- (3) if the stolen property is not continuously guarded, like agricultural inventory, machinery, tools, cattle, etc., or where it is left on the fields;
- (4) if the theft was committed by an official taking advantage of his position of trust;
- (5) if the theft was committed in a manner mentioned in art. 183.

Thefts mentioned above, committed by force or threat (robbery) are punished with imprisonment for at least 10 years. In less serious cases wrongdoers are punished with imprisonment up to three years in accordance with Articles (1) and (2), sub 3 and 4.

Compare:

Article 181:

- (1) Whosoever takes a movable object from another person with the intention of unlawfully appropriating this object, will be punished for theft with imprisonment *up to three years* and in less serious cases with imprisonment up to six months or with corrective labour.
- (2) The same act is also deemed to be theft if part of the movable property is found in the wrongdoer's possession.

Article 182:

Theft is punished with imprisonment from 1—5 years:

- (1) if committed by several persons jointly or by one person armed whether or not he makes use of his arms;
- (2) if the object stolen is by custom or having regard to its nature not permanently guarded as agricultural tools, cattle, agricultural products on the field, objects in a railway station, in a port, on a ship, in a goods-van, in a motor vehicle, in a restaurant or in any other public place;
- (3) if committed by a person who shared the same apartment, household or working room with the person from whom he stole the object;
- (4) if committed by a functionary taking advantage of his position of trust;
- (5) if the wrongdoer, with the intention to commit a theft, fraudulently pretends to represent an authority;
- (6) if committed by using forged or stolen keys;
- (7) if objects are taken away from a corpse (resurrectionism).

Article 105:

Embezzlement of *state*, co-operative or other public property is punished with imprisonment *up to five years*. In less serious cases offenders are punished with imprisonment up to three years.

Compare:

Article 189:

- (1) Whosoever unlawfully appropriates another person's movable property in his possession or custody, shall be punished for embezzlement with imprisonment *up to three years* and in less serious cases with corrective labour.

Article 108:

Destroying or damaging state, co-operative or other public property shall be punished with deprivation of liberty *up to 10 years*, in as far as no more severe punishment is provided for by law.

Where the act was committed by an official or by a person to whom the object was handed out for work, for use or for service, it will be punished with imprisonment up to 15 years. In less serious cases the wrongdoers are punished, in accordance with the aforementioned paragraphs, with imprisonment to three years or with a fine up to 4000 Lewa.

Where one of the acts mentioned in paragraphs 1 and 2, is committed only through negligence, it is punished with imprisonment up to two years or with a fine up to 2000 Lewa.

Compare:

Article 201:

A person who intentionally and unlawfully damages or destroys another person's movable or immovable property or mutilates or slays another person's animal, shall be punished with imprisonment *up to three years* or with corrective labour, in less serious cases with a fine up to 4000 Lewa.

Article 110:

Whosoever obtains knowledge of one of the crimes enumerated in this paragraph (offence against state property) having been or about to be committed and does not report it to the competent authorities shall be punished with imprisonment up to 2 years or with a fine up to 2000 Lewa always provided that no heavier punishment shall be inflicted for the actual crime.

(Annotation: There exist no corresponding provisions concerning private property.)

Article 111:

The punishments provided for crimes as set out in Articles 193—197 and Article 200 (offences against private property) is increased by half where such crimes are committed against state, co-operative or any other public property.

(Articles 193—195 — embezzlement)

(Articles 196—197 — extortion)

(Article 200 — concealing stolen property).

II. THE SUPREMACY OF THE STATE IN CONTRACT

As the above mentioned constitutional provisions show, the whole economic system is based on the "plan". It also determines the contents and the extent of contracts as far as they affect economic life. The omnipotent State does not permit its citizens to regulate their contractual relations according to their own free will and in their interest within a framework of laws which only stipulates fundamental rules. The interests of the State are alone decisive. Therefore, in the law of contract provisions apply which in general exclude freely concluded contracts and which prescribe compulsory contracts.

DOCUMENT No. 51
(USSR)

"(2) All deliveries of products rationed by the plan (materials, plant equipment and fuels) are made on the basis of contracts between undertakings; the conclusion of such contracts is compulsory. The Council of Ministers of the USSR confirms the annual and quarterly supply plans for those kinds of products. On the basis of the plans the individual receiving-undertaking is allocated a certain quantity of materials, equipment and fuels, as laid down by the plan for a certain period. The delivering-undertaking receives instructions which correspond to the allocation of the receiving-undertaking. With this order the delivering-undertaking is instructed to deliver a certain quantity of products to a certain undertaking. Thus it follows that in this field neither the suppliers nor the purchasers can choose their contracting parties themselves. The plan itself determines which undertakings in each individual case are to conclude contracts with each other. Furthermore, the allocation as well as the corresponding orders issued to the delivering undertaking are binding. The receiver of an allocation not only has the right (within the period specified) to make use of the allocation granted to him, but he is also obliged to utilise it. Likewise, the delivering undertaking is obliged to comply with the order received. Thus the undertakings are in this case obliged to conclude a contract resulting from the Plan. The Plan establishes what has to be acquired and produced in a certain period of the Plan, how the acquired and manufactured products are to be distributed and in what way and for what purpose they are to be used. If the recipients of rationed materials were permitted to leave the allocation unused, or if the delivering-undertaking, in spite of an order having been given, could refuse to deliver its products, this would mean that the people's economic plan would be modified in this part not by the plan-regulating organization — which is authorized to question the position and to decide the questions — but completely accidentally by individual undertakings which evade the obligation to conclude contracts with each other. The inadmissibility of such a violation of plan-discipline is evident. The socialist contract constitutes an obligation on the part of both contracting parties towards the State and towards society, which promotes in every way possible the strict fulfilment of the plan and consequently also of the contracts which make the plan a reality.

- "(3) In the given case, the legal meaning of the Plan Act lies in the fact that it establishes for an economic organ a planned task, establishing the obligation to conclude a contract. This obligation of the economic organ, undertaking the task, is above all a liability towards the State, i.e., a liability not of the Civil, but of the Administrative Law, a general liability to comply with the legal directives of the competent state organs. This liability consists of the conclusion of the contract. According to the Administrative Law, the undertaking is responsible for violations of this liability. The execution of the order of the plan-organization is the conclusion of the contract. However, this relation simultaneously contains elements of Civil Law. The administrative act, which obliges the delivering organization (*vis à vis* the State) to deliver a certain quantity of products rationed by plan to a certain purchasing organization, applies also to this organization. The allocation of rationed materials to this organization does not only entitle it to receive a certain quantity of products, but also puts it under an obligation to utilise this allocation. Thus, the obligation to conclude a contract is imposed on both the future contracting parties. The obligation (*vis à vis* the State) on the part of the delivering-undertaking as well as of the purchasing-undertaking to conclude a contract leads to a mutual liability of these undertakings towards each other, and in case one of them refuses to conclude a contract, the other may lodge a complaint with the court of arbitration . . .
- "(4) The contents of the contract, which is to be concluded on the basis of the plan-task, as expressed in the plan-act, depends to a considerable degree on the contents of the plan-task as such. This plan-task distributes the annual quantity of the manufactured goods to the various purchasers — economic organizations according to their requirements, their efficiency and other concrete working conditions of each of these undertakings. In arbitration practice it has been established (based on the principles of state planning in a socialist economy) that the plan-act, which entails the liability of undertakings to conclude a contract with certain other undertakings, thereby simultaneously imposes the liability on them to do everything necessary so that the future contract really can be fulfilled."

Source: Prof. D. M. Genkin (chief editor), *Sovetskoe grazhdanskoe pravo (Soviet Civil Law)* (Moscow 1950), pp. 360-361.

Legal provisions of the law of contract are in principle applied in favour of the state and against the private individual.

DOCUMENT No. 52

(SOVIET ZONE OF GERMANY)

Decree on the Extension of Periods of Limitation of 27 November 1952.

Article 1:

- (1) Claims which refer to the people's property or which are to be asserted by agencies of the German Democratic Republic, are not subject to limitation prior to 31 December 1953.
- (2) The same applies to the claims of social organizations and such co-operatives as work on the basis of communal property, as the agricultural production co-operatives, the consumers' co-operatives, the peasants' trade co-operatives and the production co-operatives of artisans, provided the claims are registered with the Deutsche Notenbank in accordance with the law for the regulation of inter-German payments.
- (3) The claims of agricultural co-operatives in liquidation are also not subject to the period of limitation prior to 31 December 1953.

Article 2:

This Decree comes into force on the date of its promulgation.
Berlin, 27 November 1952.

The Government of the German Democratic Republic
The Prime Minister The Minister of Justice
Signed : Grotewohl Signed : Fechner

Source: *Gesetzblatt*, 1 December 1952, No. 167.

DOCUMENT No. 53
(SOVIET ZONE OF GERMANY)

*Decree on the Extension of the Periods of Limitation of
17 December 1953.*

Article 1:

The limitation of the claims defined in the Decree of 27 November 1952 on the Extension of the Periods of Limitation (*Gesetzblatt*, p./1252) does not expire until 3 December 1954.

Article 2:

This Decree will come into force on the date of its promulgation.
Berlin, 17 December 1953.

The Government of the German Democratic Republic
The Prime Minister The Minister of Justice
Signed : Ulbricht by proxy Dr. Toeplitz
Deputy Secretary of State
of the Prime Minister

Source: *Gesetzblatt*, 29 December 1954, No. 134, p. 1311.

DOCUMENT No. 54
(CZECHOSLOVAKIA)

From the Civil Code of the Czechoslovak Republic.

Article 251:

If the requirements of the economic plan demand it, the competent organs may modify legal liabilities material to the fulfilment of the uniform economic plan.

Article 298:

If the requirements of the economic plan demand it, the competent organs may abolish legal liabilities material to the fulfilment of the uniform economic plan.

The City Court of East Berlin decided that a demand for a commission legitimate in itself was unethical and therefore had to be rejected because the contractually laid down provision "damages the people's property". Thus, contractual liabilities need not be fulfilled if judges loyal to the Party line state: "The claim is too high. It injures the nationalized economy."

DOCUMENT No. 55
(SOVIET ZONE OF GERMANY)

"City Court Berlin — 1/5.0.148.51 —
Communicated by the serving of a writ on
(a) the plaintiff on 16 February 1953
(b) the defendant on 13 February 1953,
Signed : Thiel, Court Clerk.

In the Name of the People!

In the matter of Fritz Dornacher, commercial traveller, plaintiff,
Berlin-Weissensee, Buchallee 54
Attorney : Dr. Greffin, lawyer,
Berlin C 2, Königstrasse 46/7,

versus

Giesen & Jesse, coal merchants, Berlin O 17, Mühlenstr. 24, defendants represented by Deutsche Handelszentrale Kohle, Berlin NW 7, Unter den Linden 40, Attorney: Pita Heinemann, lawyer, Berlin C 2, Rosenthalerstrasse 49, payment of commission, the first Civil Senate of the City Court of Berlin, by way of a written decision through Senior Judge Rehse, has passed judgment as follows:

- 1) The claim is dismissed.
- 2) The defendant to bear the costs of the proceedings.

Facts.

The plaintiff was a commercial traveller for the coal merchant's business Giesen & Jesse, Berlin O 17, Mühlenstrasse 24, which in August 1948 had been placed under temporary trusteeship and administered by the Town Council of Greater Berlin, Administrative Office for Special Property, because the owner had been deprived of his trade license.

The trustees had appointed a certain Mr. Sadler as administrator and trustee.

In accordance with the Law of 8 February 1949, published in the Ordinance Gazette I/54 of 2 December 1949, list 3 and number 148, the firm was expropriated and transferred to the property of the people. On 1 April 1950, the DHZ Kohle became its successor in title. On 17 February 1950, the former trustee concluded a commission agreement with the plaintiff, according to which the plaintiff was granted a commission of five percent as from 1 April 1950.

In this action the plaintiff demanded the commission for the month of May 1950, and claimed

that the defendant be ordered to pay a commission of DM 3,402.— to the plaintiff.

The defendant claimed

to dismissal of the claim

and explained that the claims for commission were not justified, since in the first place the plaintiff did not work for DHZ during the months of May and June and furthermore since it was known to him that in accordance with official orders payments of commission were prohibited in respect of deliveries to nationalized enterprises, authorities and all other organizations. Furthermore, Sadler had not been authorized to conclude such contracts.

It appeared from a contract concluded on 6 April 1949 between Sadler and the plaintiff and from a letter of 8 January 1950 that the plaintiff had derived the major part of the profits from transactions of the former firm. The contract concluded on 17 February 1950 was only a continuation of the contract of 6 April 1949, and would also afford an inflated profit to the plaintiff. In respect of the results of the evidence and the further statements of the parties, reference was made to the contents of the dossier.

Judgment:

The decision must rest on the fact, that at the time of the conclusion of the contract in February 1950 the former trustee Sadler was no longer trustee of the firm, which was then people's property, since the firm Giesen & Jesse had already been expropriated and transferred to the property of the people in 1949. However, as it is evident from the opinion of the Town Council of Greater Berlin, Department of Economy, of 12 January 1952, (compare with the following document) that Sadler continued to conduct the affairs of the expropriated firm until its transfer to the DHZ Kohle on 1 April 1950, it had to be examined whether the contract could impose a liability on the people's property. The answer to the question as to the liability on the part

of the people's property as a result of Sadler's actions must however be in the negative for the following reasons:

Even the trustee of a firm is only authorized to conclude legally binding transaction in respect of the property under his trusteeship within the framework of proper management. Consequently the representative of people's property is to much greater extent obliged to examine his actions with a view to ascertaining whether the transaction carried out by him can be borne by the property of the people.

Sadler omitted to do that. From the directive of the Ministry, which prohibits the payment of commission on deliveries to nationalized enterprises, authorities and other organizations, it can be seen that commission contracts are not just and fair either in respect of the people's property or in respect of co-operative property. It is irrelevant in this connection, whether the directive was published prior to or after the conclusion of the contract of February 1950.

Decisive alone is the fact that in our State it cannot be permitted that a private individual obtains the major part of the profit. That this is the case in respect of the contract concluded is evident from the commission of 5 percent, which would in only one month afford the plaintiff an income of DM 3402.—

From the plaintiff's former business relations with the expropriated firm it is evident that the plaintiff, who also concluded the contract of 6 April 1949, received the major part of the profits. The new contract of February 1950 can only be construed as a continuation of the former business relations, intended to procure also in the future an increased profit for the plaintiff. The plaintiff and Sadler, who knew that the firm in question was no longer a private undertaking but people's property, had no scruples to burden the people's property in favour of the plaintiff in such a manner. In full knowledge of all these facts they both acted unethically. In our State the concept of ethics can only be thus interpreted that an action is unethical if the working people cannot consider it just and fair in our state. This is the case of the contract concluded which greatly damages the people's property as a result of the high commission. Therefore, the contract is void according to article 138 of the Civil Code.

Claims for unjustified enrichment on the part of the plaintiff do not exist according to articles 812, 818 and 819 of the Civil Code, since the plaintiff has to be treated as if the action for restitution was pending in court.

Therefore, the action has to be dismissed and costs have to be paid according to article 91 of the Civil Procedure.

Signed: Rehse

Certified: Berlin C 2,
30 March 1953

Signature: illegible
Court Clerk

DOCUMENT No. 56
(SOVIET ZONE OF GERMANY)

City Council
of
Greater Berlin

Berlin C 2, 26 May 1952
Klosterstrasse 64
Tel.: 420051:2617

Administration of Special Properties
Ref: II B-Gs/Di
To the High Court, Berlin
Berlin C 2
Littenstrasse 16—17

Subject: Wholesale coal merchants Giesen & Jesse,
Berlin 0 17, Mühlenstrasse 24.

Ref: 5.0.148.51 dated 4 March 1951.

In reply to the enquiry addressed by the Berlin High Court to the City Council of Greater Berlin, Department of Economy, which was passed on to us as the competent department the following is for your information:

Herr Karel Sadler acted as a trustee of the sequestered firm Giesen & Jesse from 27 July 1948 until its transfer to the DHZ Kohle on 1 April 1950. For the time of his activity as a trustee Herr Sadler is liable for all transactions in the concern and the liabilities arising therefrom.

It was also possible for Mr. Sadler to make such arrangements as are contained in the enclosed letter dated 17 February 1950.

By Order:
Signed: Krause

DOCUMENT No. 57
(SOVIET ZONE OF GERMANY)

*Judgement No. 1/U/31/52 Appeal Court East-Berlin of
2 March 1953.*

"In the matter of a set off against debts due to national property. Judgment of the Appeal Court of 2 March 1953 — 1 U 31/52.

Extract from the Reasons:

"The defendant cannot plead successfully a right to offset. In its decision the lower court disregarded the fact that the plaintiff is a trustee of national property. National property is inviolable and enjoys special protection as the economic basis of our State. The organs created for the independent administration of national property are charged with carrying out this administration in conformity with the plans established for this purpose. They alone are in a position to judge when funds will be available, within the scope of the plan, to meet justified claims against a holder of national property. It is the result of setting off that such claims which are equal in value are considered to have expired at the time at which they were first found suitable to be set off against one another (article 389 of the Civil Code — wording follows below). A prerequisite for setting off is, inter alia, that claims to set off against one another be of the same nature. This is not the case here, since a claim which is conditioned on the plan — such as the plaintiff's claim — cannot be regarded as being of the same nature as a private claim that is not conditional on the plan. The result of any other view, especially a merely formal application of the rules of the Civil Code, would be that the implementation of the financial plan would be considerably influenced, balked and disturbed by settings-off which are not controlled by the plan. Therefore, article 389 of the Civil Code has insofar obtained a new meaning, which has to be taken into consideration by the courts in the present epoch of our struggle for the fulfilment of the Five-Year Plan. The same points of view which simply do not allow that claims be set off from the basis against a holder of people's property, also apply on the general exemption of the trustees of people's property from judicial execution of enforceable judgments. A general admission of settings-off against the trustees of people's property would mean nothing else than the invalidation of this exemption from execution. For this reason alone the lower court should have realized in the present case, in which the counterclaim for the set-off was neither recognized by the plaintiff nor considered in the plan, that its decision would not do justice to the actual legal position. For the above mentioned reasons it should have dismissed a set-off without examining the justification of the individual claims, even if the other requirements of art. 387 of the Civil Code had been given. From this it does not follow that the defendants are worse off as regards their rights against the plaintiff, for they had the possibility of asserting their claims by way of a counter-claim, insofar as these arose within the scope of regular business relations and did not affect capital investments, in which case would they not come within the jurisdiction of a civil court. It is their own concern if they did not avail themselves of this possibility within the framework of art. 139 of the Civil Procedure, the more so as the Senate had drawn their attention to this possibility."

Source: *Neue Justiz*, 1953, p. 502.

Extract from the German Civil Code.

Article 389 (Effect).

The effect of a set-off is that all claims being of equal value shall be cancelled as from the date at which they were entered against one another and considered suitable to be set off.

DOCUMENT No. 58
(SOVIET ZONE OF GERMANY)

Decisions of the Supreme Court — Civil Law.

“Articles 134, 594, section 1 of the Civil Code.

“The setting off by a private creditor of his counterclaim against a claim owed by the nation conflicts with the principle of the inviolability of national property and is thus inadmissible.

“Decision of the Supreme Court of 16 November 1954 — 1 Zz 212/54.

“The defendant had ordered from the plaintiffs, an enterprise owned by the nation, 5,250,000 units of firelighter for delivery in the heating period 1951/52. The plaintiffs accepted this order by their letter of 23 August 1951 and by a confirmation of the order dated 9 October 1951.

“In fulfilment of the contract, the plaintiffs only delivered to the defendant 1,890,000 units of firelighter. By a letter of 30 November 1951 they declined the further fulfilment of the contract. The plant necessary for the production of the firelighters was dismantled, as the premises were needed for other purposes. The defendant only made a partial payment for the firelighters actually delivered. The remaining sum of DM 7,995,000 is still outstanding.

“After fruitless reminders the plaintiffs sued for payment of this sum together with interest to cover the delay.

“The defendant asked for the action to be dismissed. In her submission, she is entitled to a counterclaim which she applies against the claim in the action. This counterclaim is said to be the claim for compensation for loss of profits which she could assert against the plaintiffs because they did not fulfil the contract. She submitted that she failed to earn a profit amounting at least to the value of the claim in the action, inasmuch as the firelighters which the plaintiffs failed to deliver were lost to her turnover.

“The plaintiffs were not, in her submission, within their rights when they refused the further fulfilment of the contract.

“The plaintiffs opposed this set-off as being inadmissible vis-a-vis the claim in the action, which is part of the national property. They further submitted that they did not have to answer for the non-fulfilment of the contract, since the Administration of National Enterprises, their superior authority, forbade them, in the interest of the execution of the Five-Year Plan, the further production of firelighters.

“The district court dismissed the action. It held, on the basis of the evidence, that the refusal of the plaintiffs further to fulfil the contract for delivery made with the defendant was unjustified, and hence the defendant's counterclaim for damages for loss of profits, in the amount of DM 8904 was reasonable. As both claims were equal and due, it was held that the defendant was entitled to present her counterclaim for a set-off, which presentation could not be prevented by the fact that the claim in the action was part of the national property.

“The attorney general appealed on the grounds that the decision of the District Court, in admitting the set-off, infringed the inviolability of national property and at the same time expressed doubts as to the liquidity of the counterclaims which the defendant presented. The appeal succeeded.

From the reasons:

“There is no need to enter into the material grounds of the counterclaim since the grounds of appeal, to the effect that the set-off against claims owed by the nation is inadmissible as being in conflict with the principle of the inviolability of national property, are just.

“This principle which is inherent in the nature of national property implies that national property is incapable of distraint. National property

and its social function, which is to act as the main support of our planned economy, would be exposed to an intolerable risk if private creditors were generally to be permitted to possess themselves at will, by way of distraint, of objects forming the property of the nation. From this, however, it follows further that a unilaterally declared set-off of a private person against a national claim cannot be allowed even if both the opposing claims are of similar nature and due. The Senate in the respect approves the view of *Nathan* (NJ 1953 p. 740) and thus infers from the provisions (sanctioned by our State) of art. 394 (1) BGB (Civil Code), that a sett-off by the creditor with a claim not being the property of the nation is inadmissible. Even though the inclusion of this provision in the law may have flowed from considerations of social policy which are no longer relevant to our social system — the “*Buergerliches Gesetzbuch*” did not know of claims which, owing to the social quality of the debtor’s person must not be exposed to distraint, — the legislators’ purpose, namely the special protection of claims secured against distraint, does nevertheless exist today as it did then. It is therefore not merely unobjectionable but indeed indispensable to continue the application of art. 394 (1) BGB in its new sense, as it results from the nature of our national property (cf. also the comments of *Dreus* and *Krauss* on the decision of the District Court of Potsdam 2 February 1954, in “*Neue Justiz*”, 1954, p. 575.)

“In the decision referred to above, and which is to be rejected, the District Court of Potsdam only adduces reasons of a formal nature for its view that the unhampered offsetting of debts owed to the nation’s property with the debtor’s counterclaims is admissible and effective. Even so, one may be permitted to assume that the Court deemed the main and decisive support for its view to lie in the absence from the new laws of our State of a provision outright prohibiting a compensatory set-off against national claims. In this, however, it overlooked the fact that the question of a set-off applied against national property leads directly to the question of the disposal of national property and that it is accordingly needful to pose the question concerning the competence so to dispose.

“On this point it must be stated that national property is not merely inviolable, but also indivisible. There exists only one owner of the national property, namely our democratic State. All media of circulation, and hence also all titles to claims which a national enterprise acquired by way of its participation in trade, are components of the one and undivided property of our State.

“The legal representatives of the national enterprises or trade organizations do indeed possess a right of disposal, but this is limited inasmuch as they are in principle only entitled to make dispositions as regards the media of circulation, and these only to the end of carrying out the tasks imposed on the enterprise within the framework of the plan. Each disposition which exceeds this competence is thus void, not merely relatively, i.e. in relation to the national enterprise concerned, but also absolutely, as being in contravention of a legal prohibition, and hence incapable of establishing rights in favour of a person outside the national property. (Article 134 BGB).

“It is, of course, conceded that a disposition conflicting with the plan or otherwise inadmissible, need not in each particular case endanger the substance of our national property. Nor is this relevant. The only decisive consideration is that it is intolerable, and hence inadmissible, to concede to private persons generally the right to dispose in any way of national property, because this would also be bound to endanger its substance and thereby also its economic function; and this the District Court failed to recognize in its treatment of the fulfilment of the financial plan wherein it considered the individual claim in isolation. The protection of our national property as the most essential and decisive support of our entire economic system thus requires strict compliance with, and observance of, the principles put forward, particularly by the law courts of our State which have, according to article 2 of the GVG (Constitution), among their primary tasks the

protection of our national property and, hence, of our nationalized economy.

"The presentation by a private creditor of his counterclaim to offset a claim on behalf of the nation does indisputably represent an act which directly offsets a change in the legal position, i.e. a disposition, and a disposition not merely as regards the creditor's own claim, but also as regards the claim owned by the nation which the disposition is both meant to extinguish and which it would in fact extinguish if the claim presented for the set-off existed, and if the set-off were admitted. It would thus lie within the power of a private creditor to extract from the custodian of national property concerned, against the latter's will, but in accordance with his duties, a part of the property under his sole disposition, possibly even a medium of circulation indispensable to the fulfilment of his economic plan.

"Such dispositions cannot be allowed even if they were to take place on the basis of legally recognized and proper title, by way of distraint. Accordingly, they are all the less admissible in the case of a purely private disposition such as a declaration of the set-off of counterclaims.

"Upon all these considerations it is held that the decision of the District Court contravenes the principle of the inviolability of the national property and must therefore be reversed."

Source: *Neue Justiz*, 1955, p. 157 ff.

DOCUMENT No. 59
(USSR)

Various Kinds of Damages.

"(5) Article 411 of the (RSFSR) Civil Code casts an obligation upon the court upon establishing the amount of damages "to take in every case in to account the financial positions of the person who causes the damage and of the person who suffered the damage". This does not mean, however, that the court is obliged in any case in which the person who caused the damage is economically weaker than the person who suffered it, to reduce the damages awarded as compared with the actual amount of damage.

"Article 411 of the Civil Code is not applicable in case the person who suffered the damage is not a citizen but a socialist organization. (Paragraph 13 of the Decision of the Plenum of the Supreme Court of the USSR of 10 June 1943).

"If an agricultural co-operative is ordered to pay damages to one of its members in respect of physical injury, then the financial position of the person who suffered the damage as well as the economic capacity of the agricultural co-operative are to be taken into consideration. (Sec. 10 of the Decision of the plenary session of the USSR Supreme Court of 5 May 1950)."

Source: Prof. S. N. Bratus (chief editor), *Sovetskoe grazhdanskoe pravo (Soviet Civil Law)* (Moscow 1951), Vol. II, pp. 315-316.

Article 411. (RSFSR Civil Code).

In determining the amount of compensation to be awarded for an injury, the court in all instances must take into consideration the property status of the party injured and that of the party causing the injury.

DOCUMENT No. 60
(USSR)

Liability According to Article 406 of the Civil Code.

"In accordance with article 406 of the Civil Code, the court may decide that the person who caused the damage but who, according to articles 403-405 is not liable to compensation, has to pay damages in spite of this fact and with reference to his financial position and the financial position of the person who suffered the damage.

"The RSFSR Supreme Court decided that Article 406 of the Civil Code is not applicable where a citizen's claim for damages is directed

against a department of State organs, because the State, which takes care of the working people through special organs of social welfare, cannot be forced to carry out the same function through another of its organs. The application of Article 406 of the Civil Code to departments of State organs as defendants would however mean that the full responsibility for the damage would be imposed on the State, since the financial position of the State is always stronger than that of an individual worker. (Report on the Work of the Supreme Court of the RSFSR for the year 1926).

"This consideration excludes the application of Article 406 also where the defendant is not a department of a State organ but another socialist organization. The financial positions of the various socialist organizations cannot be compared with one another either since the means of each organization depend on its statutes, its programme and the regulations in respect of the distribution of profits.

"Consequently, Article 406 of the Civil Code could only be applied to actions for damages between individual citizens. However, as a result of the steady increase in the citizens' material welfare the sharp differences in their financial positions are gradually disappearing..."

Source: Prof. S. N. Bratus (chief editor). *Sovetskoe grazhdanskoe pravo (Soviet Civil Law)*, op. cit. pp. 313-314.

Article 406 (RSFSR Civil Code).

In situations where, in accordance with articles 403—405, the person causing the injury is not under a legal duty to repair, the court may nevertheless compel him to repair the injury, depending upon his property status and that of the person injured.

Scattered provisions of the Soviet Civil Law show the absolute supremacy of the State in all questions of property law and commercial law.

The following documents consist of a treatise on the ineffectiveness of legal transactions and what results therefrom. Applicable legal provisions are added below.

DOCUMENT No. 61
(USSR)

"According to Article 30 of the Civil Code of the RSFSR, a transaction is ineffective which pursues an illegal objective or was concluded in order to evade the law, as well as a legal transaction which obviously aims at injuring the State. Article 30 of the Civil Code, which deals with transactions pursuing an illegal objective, does not refer to all transactions which are contrary to law, but only to such as run contrary to the social order of the USSR, the socialist economic system, the socialist property, the abolition of private property in the productive industries, the prohibition of man's exploitation by man and to socialist planning.

"Therefore, special penalties are provided in accordance with Article 147 of the Civil Code for a transaction within the meaning of Article 30 of the Civil Code of the RSFSR: The confiscation of any gain derived by the parties as the result of such transaction in favour of the State...

"The Supreme Court of the USSR declared the lease of a garden invalid according to Article 30 of the Civil Code of the RSFSR, because to allow another to use a piece of land for payment violates the law on the nationalization of land. (Decision of the Court Collegium on Civil Matters of 17 April and 22 May 1944 — Collection of Decisions by the Plenum and Separate Collegia of the USSR, 1944, pp. 232—233). In the decision, taken by the Plenum of the Supreme Court of 26 August 1949, it is pointed out that, according to Article 30, with the consequences resulting from Article 147 of the Civil Code of the RSFSR, the courts are under an obligation to declare invalid the contracts of State institutions and enterprises with private individuals concerning the

preparation of projects and estimates of capital construction, because it is prohibited by law to entrust private individuals with such tasks.

"Transactions contrary to the statutes must also be considered as coming within the meaning to Article 30, as such transactions violate the basis of State planning which determines the objects of every organization by laying these down in the statutes of the organization, and an organization must not exceed these limits in its activities. A store whose object is the retail sale of goods, cannot sell goods wholesale. A trade 'artel' can only sell goods of its own production. Therefore, the purchase of goods from another producer for the purposes of resale must be considered ineffective in accordance with Article 30 of the Civil Code. Article 30 applies also to transactions of socialist organizations with citizens and to transaction of citizens among each other. Thus, according to Article 30 with the consequences resulting from Article 147 of the Civil Code of the RSFSR, the USSR Supreme Court pronounced as invalid the agreement between a citizen and a socialist organization relative to transactions concerning the sale of products of this organization on a commission basis, because only State organization are allowed to carry on commercial activities. (Collection of Decisions of the Plenum and Separate Collegia of the USSR Supreme Court, 1940, pp. 220—221). According to Article 30, a contract concluded between private citizens in respect of the sale of part of a building is ineffective if it is a cover for the unlawful sale of land. (Decision of the Court Collegium on Civil Matters, USSR Supreme Court, of 12 February 1944, Case No. 18, Collection of Decisions of the Plenum and Separate Collegia of the Supreme Court of the USSR, 1944, p. 217). Ineffective, according to Article 30, is a transaction in respect of the purchase of a day's work, performed by a member of an agricultural co-operative. (Decision of the USSR Supreme Court of 3 November 1933, Protocol No. 63). Invalid, according to Article 30 and 147 of the Civil Code of the RSFSR, are contracts of sale of a speculative nature, the utilization of personal property in order to obtain unearned income from it, etc.

"Article 30 of the Civil Code, which deals with transactions contravening the law, does not only refer to the law as a basic principle emanating from the legislative organs, but to the basic principles of justice as such. As mentioned above, any offence against planning acts always comes within the meaning of Article 30.

"It must be pointed out that no state of mind of the person concerned, as, for instance, the intention to violate the law, is required for the application of Article 30, which deals with transactions pursuing an aim that is contrary to law. The establishment of the ineffectiveness of a transaction which is contrary to the Soviet order cannot be made dependent on the parties' intention to violate such a basic legal principle, nor even on the parties' knowledge that they will violate such a basic principle by the conclusion of their transaction. In order to establish the ineffectiveness of a transaction according to Article 30, the objective factor, i.e., the contradiction of a basic principle, is sufficient...

The Inadmissibility of Repayments

"If a transaction is ineffective because it is illegal, evades the law or obviously intends to injure the State, there is no question of repayment. Neither of the parties is entitled to demand from the other the return of that which has been performed. Any unjustified enrichment on the part of one or the other party shall be confiscated in favour of the State. (Article 147 of the Civil Code of the RSFSR).

"Under Article 147, the completion of transactions contrary to law or obviously aiming at prejudicing the Soviet State, entail not only the ineffectiveness of such transactions, but also the confiscation in favour of the State of all the articles which the parties have obtained...

"If for instance a works manufacturing nails violates the distribution plan by concluding a delivery contract with an organization which is not entitled to the nails in accordance with the distribution plan, then

such a contract, being illegal, need not be fulfilled in accordance with Article 30 of the Civil Code of the RSFSR. However, if it was fulfilled, the nails which the organization received and the money which the works received for the nails are to be confiscated in favour of the State.

Source: Prof. S. N. Bratus, *Sovetskoe grazhdanskoe pravo*, op. cit. pp. 225-227; 234-235.

DOCUMENT No. 62

(USSR)

From the Civil Code of the RSFSR

Article 30:

A legal transaction made for a purpose contrary to law, or in fraud of law, as well as a transaction directed to the obvious prejudice of the State, shall be invalid.

Article 147:

In the event the contract is invalid as one contrary to law or directed to the obvious prejudice of the State (Article 30), none of the parties shall have the right to claim from the other the restoration of that which such party has performed under the contract.

Unjust enrichment shall be collected for the benefit of the State (Article 402).

Article 402:

Whoever has been enriched at the expense of another by reason of his act which is either contrary to law or is directed to the prejudice of the State must surrender to the State whatever he has unjustly received.

DOCUMENT No. 63

(USSR)

Article 149:

In the event the contract has been declared invalid by reason of fraud, violence, threat, or malicious agreement between the agent of one party and the other party (Article 32), or where the contract is invalid as one intended to take advantage of distress (Article 33), the party aggrieved may claim from the other party the restoration of all that was performed by that party under the contract. The other party shall have no such right.

Unjust enrichment by the aggrieved party shall be collected for the profit of the State (Article 402).

DOCUMENT No. 64

(USSR)

Article 150:

Where a contract intended to take advantage of the distress of another (Article 33) is not declared void from its very inception but has been rescinded merely as to its operation in the future, the aggrieved party shall have the right to claim from the other party the restoration of only that part of the bargain performed by the claimant for which the aggrieved party, up to the time of rescission of the contract, did not receive counterperformance.

Unjust enrichment of the aggrieved party shall be collected for the profit of the State (Article 402).

DOCUMENT No. 65

(BULGARIA)

Bulgarian Law on Debts and Contracts.

Article 74:

Each party to a void or invalidated contract shall restore to the other party everything received from the latter by virtue of such contract. If a contract is disputed on the grounds of fraud or threats, the perfor-

mance of the party guilty of such fraud or threats shall be confiscated in favour of the State.

If a contract is void because it contradicts the law, the national economic plan or the rules of the socialist community, all the performances of the contracting parties are confiscated in favour of the State. The court may refrain from the application of this rule to one contracting party which acted from excusable reasons.

A contracting party which paid exorbitant prices, interest, rents or other remunerations, may reclaim the excess. If speculative business transactions are involved, the balance is confiscated in favour of the State.

Source: Izvestia, 22 November 1950, No. 275.

It has to be mentioned that the public prosecutor plays a decisive part in all civil lawsuits, consequently also in lawsuits involving private persons on one and state agencies on the other side. Details on this are contained in Part "B" of this Collection (Judiciary). Only three examples are given here.

DOCUMENT No. 66
(USSR)

"It must be stressed that an action for a declaratory judgment on the ineffectiveness of such transactions as are not already ineffective in themselves can also be instituted without the co-operation of the parties interested in the transactions. The public prosecutor is authorized to institute such proceedings. He may on his own initiative institute proceedings for a declaratory judgment on the ineffectiveness of the contestable transaction, if the interests of the State and the working population demand it. The question of the ineffectiveness of such transactions may also be raised by the court itself. Under Article 33 of the Civil Code of the RSFSR, a suit for a declaratory judgment that a transaction is usurious may be instituted by the injured party itself as well as by the competent State organs and by social organizations. If a usurious legal transaction is made by the family of a person who was drafted into the USSR forces, State employees are obliged to institute proceedings for a declaratory judgment on the ineffectiveness of the transaction (Annotation to Article 33, Civil Code of the RSFSR)."

Source: Prof. D. M. Genkin, Sovetskoe grazhdanskoe pravo (Soviet Civil Law), op. cit., p. 255.

The same regulation is applied in the Soviet Zone of Germany.

DOCUMENT No. 67
(SOVIET ZONE OF GERMANY)

General Instruction of the Ministry of Justice. No. 9/53, of 19 January 1953.

To the District and County Courts of the German Democratic Republic.
Co-operation of the public prosecutor in civil matters.

On 9 December 1952, the Public Prosecutor of the German Democratic Republic sent Instruction No. 34/52, reproduced below, to the District and County Public Prosecutors of the German Democratic Republic.

"According to Article 20 of the Law on the Office of the Public Prosecutor in the German Democratic Republic, the Public Prosecutor is entitled to co-operate in all civil lawsuits and in all proceedings of voluntary jurisdiction for the purpose of safeguarding democratic legality. This co-operation is necessary in all legal issues significant for the development of our social, national and economic order and for the promotion of Socialism.

(1) In the first place, all legal issues concerning public property and property of social organizations fall within the scope of this instruc-

tion. As the result of this instruction all public prosecutors are under an obligation to co-operate in such proceedings. Communal property plays an outstandingly important part in the building of Socialism and in the implementation of the Five-Year Plan. Therefore particular vigilance is required on the part of the public prosecutor to ensure that the democratic legality is safeguarded. Such co-operation of the public prosecutor is required in proceedings in which the following are involved as parties:

- (a) nationalized enterprises and nationalized farms;
- (b) the Deutsche Notenbank;
- (c) The Reichsbank;
- (d) The Post Office;
- (e) the state-owned wholesale trade;
- (f) consumer's co-operatives;
- (g) commercial organizations;
- (h) producers' co-operatives;
- (i) Party and Mass Organizations.

As provided by law, the public prosecutor co-operates by submitting written statements and by taking part in court proceedings. The County and District public prosecutors are instructed to co-operate closely with the agents for socialist property. If differences of opinion occur or in doubtful cases, the County public prosecutor must apply for a decision to the District public prosecutor. If necessary, the District public prosecutor will apply for a decision to the Chief Public Prosecutor of the German Democratic Republic. In the majority of cases direct participation in the hearing on the part of the public prosecutor will not be necessary; previous advice given to the agents for socialist property will be sufficient. In cases in which the decisions of the courts deviate from the public prosecutor's opinion, the competent public prosecutor will discuss the question of an appeal with the party concerned, i.e. with one of those mentioned in No. 1 (a) to (i).

In cases in which the decision of the Appeal Court also deviated from the public prosecutor's opinion, the question will arise whether the decision should be reversed, and a report is to be submitted to the District public prosecutor or to the Chief Public Prosecutor.

- (2) The co-operation of the public prosecutor may also be necessary in other civil lawsuits, if the object of litigation has a bearing on the basic structure of the socialist State. This may for instance apply where the lawsuit is concerned with granting equal status to an illegitimate child or with the protection of health (award of damages in respect of accidents). Beyond this, the public prosecutor may co-operate in any civil matter if his co-operation is requested by one of the litigants or by the court, and if he deems it essential in order to safeguard democratic legality.
- (3) The Minister of Justice will inform the courts accordingly and instruct them to send the written matter and all the decisions in any proceedings mentioned in No. 1 (a) to (i) and in No. 2 to the public prosecutors as well as to the parties concerned, and to invite the public prosecutor to every hearing, provided the conditions set out in No. 1 (a) to (i) and No. 2 are given.
- (4) With this new regulation concerning the co-operation of the public prosecutor in civil matters, the courts are released from their duty to inform the public prosecutor in accordance with art. 607 of the Code Civil Procedure. In the future, the public prosecutor shall co-operate also in matrimonial matters only within the framework of this instruction.

Signed : Dr. Melzheimer.

I order herewith that the public prosecutor as well as the parties concerned are to receive all written matter and all decisions in any proceedings mentioned in No. 1 and where the conditions mentioned in No. 2 apply. The same applies to the Summons to hearings.

Signed : Fechner.

The rights and powers of the public prosecutor are dealt with in laws concerning the public prosecutor or in the Civil Procedure Code in almost identical terms. The Polish Code of Civil Procedure may serve as an example.

DOCUMENT No. 68
(POLAND)

From the Polish Code of Civil Procedure.

Article 90:

The procurator can institute any action as well as take part in any stage of a case, regardless of who initiated the action, if in his opinion this is required in the interest of the People's State.

Article 91:

The procurator is not bound with either of the parties and he can give declarations and submit proposals which he deems appropriate and also cite facts and evidence for their support.

Article 93:

- (1) The procurator can appeal every court decision, as far as the means of appeal are provided for.
- (2) ...

Article 95:

The Procurator General of the Polish People's Republic can, in cases provided for in Article 396 institute a special appeal against valid decisions.

Article 96:

The person, in whose interest the procurator initiated proceedings, may enter the case at any stage as plaintiff.

Article 396:

The Minister of Justice, the First President of the Supreme Court and the Procurator General of the Polish People's Republic can appeal by a special appeal every valid decision closing proceedings in a case if the decision is contrary to the interest of the People's State or if it was taken in violation of basic legal regulations.

Source: Kodeks postępowania cywilnego (Code of Civil Procedure) (edition of 1 January 1955; Warsaw 1955).

Care is taken that private commercial enterprises do not expand; steps are taken to prevent their being able to compete with nationalized commercial organizations.

DOCUMENT No. 69
(HUNGARY)

Ordinance of the Hungarian Minister of Internal Trade on the Employment of Persons by Small Merchants (No. 2/1954 (XII. 4) Bk. M.—).

Article 1:

- (1) A small merchant may employ in his business subject to limitations of Article 2 as many persons as are listed in his SzTK — list (Health Insurance List — translator's annotation) on 1 October 1950.
- (2) The total number of employees a small merchant is permitted to employ for any reason, may not exceed three persons. A member of the family is not to be considered an employee.

Article 2:

If a petition, supported by reason is lodged by small merchants who employed less than three persons or none at all, the District (City or Town) Council-Commerce Section- after having heard the opinion of the KISOSZ (Territorial Federation of Small Traders-translator's annotation), may allow the employment of one person — subject to the restriction of Art. 1, sec. 2.

Article 3:

A small merchant may at most employ two apprentices. Apprentices are not counted in the total number of employees according to Article 1, sec. 2.

Article 4:

This Ordinance comes into force on the date of its publication.

BOGNAR Jozsef, p. m. Minister of Interior Trade.

Source: Magyar Közlöny, 4 December 1954.

Supplies to private commerce are held up as far as possible, as another means of forcing private merchants to liquidate.

DOCUMENT No. 70
(SOVIET ZONE OF GERMANY)

Berlin, 30 December 1953.

Statement of Kurt Schlegel, formerly employed by DHZ Chemie at Cottbus.

"I was the head of the Welding Materials Department of the German Chemicals Trading Centre at Cottbus. Our Department had to supply welding materials and implements to all who required them. A number of supply contracts with private dealers were in force until the spring of this year and private trade was regularly supplied under these contracts. Experience had shown us that co-operation with these private dealers was definitely successful. No difficulties arose in respect of turnover or payment. In the spring of this year the Central Management of the DHZ-Chemie, Berlin N.W. 7, Marienstrasse 19—20, instructed the heads of the various DHZ Branches to discontinue supplying private traders and to terminate the existing supply contracts. With regard to the termination of such contracts the Central Management (in this particular case the head of the welding materials department, Klubescheidt, and the Deputy Director Wessel), gave direct orders to find reasons for the termination of these supply contracts; for instance, to deliver to these private dealers large quantities of goods within a short period, so that they would inevitably have difficulties in paying punctually, i.e., within the strictly maintained limit of 14 days. Unpunctual payment was considered a breach of contract and therefore the contracts were terminated at short notice without the possibility of an appeal. A second means which was to be employed according to the instructions of the Central Management in order to effect the discontinuation of trade relations with private dealers, was to have an inspection of their stockrooms carried out in order to check whether fire prevention measures were in accordance with police and fire-prevention requirements. In most cases such inspections had the desired result and we could stop delivering to private orders. The case of the firm Otto Schmals of Elsterwerder constitutes a particularly strong example. As the result of proceedings instituted against the firm, the proprietor was sentenced to a term of imprisonment.

"The Central Management was successful in its endeavours. They intentionally utilised the economic and political predominance of the DHZ in order to terminate existing contracts and to deprive private specialized trades of their supplies."

Undesirable commercial enterprises of private merchants are vigorously closed if competition with a nationalized trade organisation is feared.

DOCUMENT No. 71
(SOVIET ZONE OF GERMANY)

The Town Council Magdeburg
Administration of the Central Wards
Department: Handicrafts and Trade
Domplatz 1—4, House 2, Room 17
Tel.: 338 81/85, Ext. 179.

Messrs. Johannes & Hermann Kühne
Corn and Feeding Stuffs
Magdeburg, Behringstrasse

Magdeburg, 13 May 1953.

Re.: Chr/Krz.

Deprivation of Trade Licence.

You are prohibited from carrying on your business (wholesale and agency), because the national economy requirements do not necessitate the continuation of your trade by its owner. This prohibition is to take effect immediately.

The unauthorized carrying on of trade as well as noncompliance with the above order will be considered an infringement of the Economic Penal Code of 23 September 1948, and will be punished accordingly. Your trade licence, your trade register certificate, your registration card of the Labour Office, your trade classification and tax code card have to be returned immediately to the above office.

By order:

Signed: Christoph.

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There is a tendency to liquidate sooner or later every independent trade enterprise. This applies also to handicraft enterprises, although in some countries of the Eastern bloc such enterprises have for the time being been granted a certain freedom, however limited it may be. However, the ultimate aim of Communist dictatorship is the elimination of freedom down to the last craftsman.

DOCUMENT No. 72
(USSR)

"The narrowly restricted, legally permitted small private economy must not be confounded with the citizens' personal property and with the personal property of a farming member of a collective farm. The citizens' personal property and the personal property of the farming member of a collective farm use a special form of socialist property and are closely connected with its development. The private trading of individual farmers and small tradesmen has on the other hand not only nothing to do with socialist property, but is, on the contrary, doomed to complete failure as socialist property develops. The XVIIth Party Conference of the CPSU (B) set itself the task of '... completely uniting small industrial enterprises in co-operatives', (The CPSU (B) in Resolutions, 1941, Part 2, p. 491 (Russian)) the result of which will be the complete disappearance of private dealings of small tradesmen and of individual craftsmen working for their own account..."

Source: Prof. D. M. Genkin, *Sovetskoe grazhdanskoe pravo*, op. cit., p. 344.

The following document shows how the independence of craftsmen is destroyed. (See also Document No. 37).

DOCUMENT No. 73
(CZECHOSLOVAKIA)

From: Speech of the Minister of Finance, Jaroslav Kabes, in the National Assembly on 11 December 1952:

"Independently working artisans are given the chance of integrating themselves into the socialist sector; however, if they prefer their independent activity, they must realize that they will have to pay different and higher taxes...

"In this connection it is necessary that traders and artisans who employ other workers, as for instance business-men, transport firms, forwarding-agents and inn-keepers as well as house owners will have to pay much higher taxes. Their income is taxed at the rate of 6 %, if their annual income does not exceed 15,000 Kcs. The rate of tax increases up to 90 percent if the annual income exceeds 500,000 Kcs."

Source: Prace, 12 December 1952.

DOCUMENT No. 74
(USSR)

Deposition: Appeared Laszlo N.N. who says as follows:

"My name is Laszlo N. N. (His name is not to be published so as not to endanger his relatives in Hungary). I was born in Budapest... I am a metal fitter by trade and escaped from Hungary in August 1954; my present address is Wels Camp No. 1002 in Austria.

"There existed no private commercial enterprises nor any independent artisan in my native town... or in its neighbourhood. Business houses had been nationalized and all craftsmen had joined the co-operative.

"I know a shoemaker who remained independent for a while. In the beginning it had been explained to him that before long there would only be nationalized enterprises and that all private craftsmen would be expropriated. Therefore, it would be in his own interest to join a collective as soon as possible. At first, he refused to do so, whereupon he had to pay excessive taxes. Although he tried to pay these additional taxes, he was soon no longer able to do so. Then he joined the collective in autumn of 1953. He had to liquidate his business and to transfer part of his machines to the co-operatives. Thereupon, his tax arrears were remitted.

"The shoemakers' co-operative consisted of altogether five shoemakers."

Read, approved, and signed.
27 November 1954.

The following Polish document shows that the auditors' obligation to professional secrecy has been abolished — at least in the People's Democracies — in order to exercise control over the co-operatives which, according to law, are independent and can freely choose their managers.

DOCUMENT No. 75
(POLAND)

Order of the Central Association of Co-operatives of 16 May 1952, on the Protection of the Secrecy of Audits (Co-operatives' Bulletin No. 6, item 59).

"In observance of the provisions of Article 64, paragraphs 1 and 2 of the Law on Co-operatives in respect of the obligation to maintain secrecy in respect of all information on the management, turn-over and

irregularities which become apparent in the course of auditing', as well as in observance of the provisions of the Decree of 26 October 1949 on the protection of official and state secrets, and simultaneously in acknowledgment of the necessity to impart information to authorities, public offices and institutions by auditors and auditing organs of the co-operatives on the findings during auditing — the Board of Directors of the Central Association of Co-operatives orders the following:

- “(1) Auditors are obliged to maintain secret the matters coming to their knowledge in the course of an audit or otherwise officially as described in Article 64 of the Decree of 29 October 1920 on co-operatives (uniform text in Dziennik Ustaw No. 29/50, item 232) and in the Decree of 20 October 1949 on the protection of state and official secrets (Dziennik Ustaw, No. 53, item 437/49).
“It is not considered a violation of official and auditing secrecy if the auditor imparts information obtained in the course of the audit verbally to:
- (a) the secretaries of Party organizations and Party committees or their deputies;
 - (b) the chairmen of trade-union councils and of groups of Farmers' Mutual Assistance Organizations or to persons who are authorized by them;
 - (c) the organs of state and internal (departmental) control.”

The existence of independent artisans is destroyed by the arbitrary withdrawals of their trade licenses. A characteristic feature in this field, as in others, is the lack of effective legal protection, especially the lack of an independent administrative court.

DOCUMENT No. 76
(SOVIET ZONE OF GERMANY)

“The County Council of Hettstedt.

30 November 1953.

Mr. Karl Schmiegelt
Gerbstedt
Strasse der Einheit

Subject: Closing of enterprises and withdrawal of trade licenses.

According to the provisions of sec. 16 of the Law of 9 August 1950 for the promotion of handicrafts, we withdraw your licence for carrying on an emergency slaughtering business. Your affairs will have to be settled by 11 November 1953. Thus, your enterprise will be closed on 30 November 1953.

Reasons: Since you were arrested at Gerbstedt in connection with the riots of 17 June 1953, and since it could be proved to you that you assaulted members of the Red Army, you violated in your capacity as a qualified artisan severely the existing democratic order. By acting in this way you manifested that you are not willing to co-operate in the establishment of a united, peaceful and democratic Germany. For this reason you have already been expelled from the United Socialist Party of Germany. In view of your actions, you can no longer be considered a suitable and reliable person to carry on the trade of an independent artisan.

You are entitled to lodge an appeal against this decision within two weeks, as from receipt of this letter. The appeal has to be filed at this office.

Signed: (Hanke)
Chairman of the County Council”

DOCUMENT No. 77
(SOVIET ZONE OF GERMANY)

The County Council of Koenigswusterhausen.

Koenigswusterhausen,
6 February 1953
Luckenwalderstrasse 20
Tel. 432.

Mr. Erich Kennert, Carpenter
Gr. Ziethen
Grenzstrasse 9.

Your trade licence for a builder's joinery, issued to you on 11 October 1945, is herewith withdrawn. You are immediately to discontinue your trade.

Reasons: As a result of the situation of your premises*, there is a risk that profiteers, speculators or agents may utilise the undertaking and thus endanger the population and yourself. This risk is greater than the need for carrying on a builder's joinery on your premises.

Signed: Schmidt.
Acting Deputy Chairman of the
County Council of
Koenigswusterhausen"

Since industry, trade and commerce as well as large landed estates have either by law or as a result of ruthless destructive measures almost completely passed into the hands of the state — represented by the Communist Party — the emphasis of the fight against private property is now in the field of agriculture. The original aim, viz., the collectivization of the entire agricultural industry and thereby the destruction of an independent peasantry, could not yet be achieved. It had to be realized that even the most paltry production of food was endangered by the rash and forcible collectivization of agriculture. In spite of this, the aim of eliminating free peasantry is not to be abandoned. The situation is now as follows.

By disproportionately favouring co-operative farms and by imposing disproportionately heavy burdens on free farmers, small and middle class farmers are urged by all means possible to join co-operative farms. In this manner it is suggested that they should "voluntarily" join the co-operatives. The lead comes from the Soviet Union which declared a ruthless war until the annihilation of big farmers — the so-called "kulaks".

DOCUMENT No. 78
(USSR)

"The liquidation of the kulaks as a class, which completes the first stage of development of the Soviet State, and the general collectivization of agriculture, which signifies the entry into the second stage, will be carried out simultaneously. Stalin taught: 'This revolution at one and the same time decided three basic problems of the socialist structure:

- (a) it liquidated the most numerous class of exploiters in our country, the class of the kulaks, the bastion for the restoration of capitalism;
- (b) it led the largest class of workers in our country, the peasants,

* Note: near the Western Sector of Berlin (— Editor)

from the path of individual farms, which is the result of capitalism, to the path of a socialized co-operative, socialist economy;

- (c) it gave the Soviet state a socialist basis in the widest and most vital but also most backward field of economy, in the field of agriculture.'

"Thereby, the last bases for a restoration of capitalism were destroyed in the country and simultaneously new, decisive conditions, necessary for the establishment of a socialist national economy were created."

(Extracted from: V. V. Nikolayev, "On the Question of the Principal Stages of Development of the Soviet State" in "Soviet Contributions to State and Legal Theory" (German translation by: Gesellschaft für Deutsch-Sowjetische Freundschaft, Berlin-East, 1953, p. 266 ff.)

The target aimed at is the incorporation of all small and middle class farmers in the co-operative farms. Upon joining a collective farm, the farmer transfers his entire land — except a small plot around his house — as well as his live-stock and supplies and equipment to the collective.

Reference is made to the following provisions of the Standard Charter (November 1952) of agricultural collectives in Czechoslovakia. The disadvantages suffered by a farmer upon leaving a collective farm should be noted.

DOCUMENT No. 79
(CZECHOSLOVAKIA)

Article 2:

Members of the co-operative shall combine all their land for joint co-operative farming, including the arable land that was previously farmed individually by them. All boundary-marks that previously divided the land of individual members of the co-operative (except such as are there to prevent soil-erosion) shall be ploughed in and large consolidated tracts of land shall be formed, which shall be collectively farmed by the members.

The land that members have pooled for joint farming shall remain their property. If a member withdraws from the co-operative, or if he is expelled, the co-operative shall restore his land to him for private farming. If the restoration of the land he has contributed for joint use might prejudice the co-operative farming, the co-operative shall allot to him another plot of land of the same size and quality.

Article 3:

A house and garden plot is to be left for private farming of the family of every member who has transferred his land to a uniform agricultural co-operative. The area of this, including garden or orchard, is not to exceed half a hectare. With the approval of the Regional National Committee, this may be one hectare of grazing land in grazing regions, but the arable land, including garden and orchard, is not to exceed half a hectare. The area of the part of the house-and-garden plot used for growing special produce (vegetables, grapes, etc.) may not exceed 1/10th hectare.

Article 5:

Upon joining the co-operative each member shall transfer to the collective farm his livestock and equipment, i.e., draft animals (horses and oxen) and other farm animals except those which he retains for his personal use, also agricultural machines (sowing machines, mowers, threshers, winnowers and other machines needed for joint farming),

vehicles and agricultural implements, as well as those farm buildings which the co-operative needs for joint farming.

Article 6:

The value of the live-stock, implements and farm buildings contributed shall be assessed by a commission elected at the general meeting of the members in the presence of the representative of the District National Committee. The member of the co-operative shall also be invited to the assessment proceedings. The assessment shall be made according to current prices. The prices shall be approved by the members' meeting...

Twenty percent of the approved price at which the livestock equipment and farm buildings were taken over shall go to the indivisible fund as a compulsory contribution of the member. The balance of the price at which the equipment and buildings were taken over shall be considered the member's share.

If the member withdraws from the co-operative or if he is expelled, the co-operative shall restore to him for private farming, within the period laid down by the general meeting, his equipment and buildings up to the value represented by his share, and his live-stock (up to the value which remains after deducting his contribution to the indivisible fund and compensation payments made to him).

Source: Lidova Demokracie, 16 November 1952, p. 5.

In Roumania land and live-stock and equipment immediately become the property of the co-operatives. Upon withdrawing from the co-operative, the farmer's only claim is for the return of a corresponding area of land. No mention is made of the quality of the land given in replacement.

This principle means *inter alia* that a co-operative farmer can inherit private property. However, those parts of his heritage which are suitable for collectivization, i.e., land and investment goods automatically pass to the collective farm of which the heir is a member.

The dwelling house, garden plots, implements and cattle he needs for private farming are permitted to him and formally remain his. But actually, all members are regarded as joint owners. Reference is made to the following documents.

DOCUMENT No. 80

(ROUMANIA)

From: Standard Charter for the Management of an Agricultural Collective.

Article 4:

Upon joining the collective farm, the members transfer their entire land to the ownership of the collective farm...

Article 16:

Those who withdraw from a collective farm will at the end of the financial year receive an area of land corresponding to that which they contributed to the collective farm.

Source: La Documentation Française, 11 September 1953, No. 1780.

DOCUMENT No. 81

(ROUMANIA)

From: G. H. Georghiu Nedelschi, "The Right to Personal Property in the Roumanian People's Republic".

"At the present time, national policy in respect of capitalist elements is a policy of restriction and elimination . . .

"The families of collective farm members, and not each collective farm member as such, are allotted a plot of land next to their house for their personal use, and their dwelling house, cattle, poultry and some agricultural implements are to a small extent their personal property, insofar as they are required for farming their plot of land. This one family constitutes the basis of a collective farm . . .

"From the economic point of view it is furthermore necessary that the family and working unit remain tied to the collective farm. This principle is laid down in Article 9 of the Constitution, which deals with the farmers as members of a collective farm. Accordingly, before the family and working unit can be regarded as a collective farm the following is necessary: the members of a farm on completion of their 16th year must become members of the co-operative . . . they must work the prescribed minimum of working days and the income obtained from these working days must constitute the main source of existence of the farm.

"The rights to use and dispose of the goods, which are the personal property of the collective farmstead, are jointly exercised by all members of the farm. None of the members of a family may, without the approval of the others, dispose of any part of the goods belonging to the farm.

"Since all the jointly owned goods of the farm belong to all the members as a body, they cannot, in case of death of a member, be bequeathed by that one member of the farm. Only when the last member of that family dies, can the goods mentioned be bequeathed . . ."

Source: Justita Nova, 1954, No. 2, pp. 192, 195.

The following documents show that, formally, agricultural collectives are joined and left voluntarily. But since the Communists aim at collectivizing agriculture as a whole as soon as possible, such 'voluntary' actions are assisted by rigorous measures.

DOCUMENT No. 82

(HUNGARY)

" . . . The first speaker is the Chairman of the agricultural co-operative. He reports that on the day after Prime Minister Imre Nagy had spoken (June 1953), he noticed that at midnight a large crowd was still gathered in front of the house of the family Harmadas. Signatures were being collected to petitions for withdrawal from the collective. In this one night more than 90 people expressed the wish to withdraw. 'We could have coped with it' — said Jenoe Szatai — 'if the People's Council had not made such grave errors. Let's be honest. The People's Council wanted to achieve the transformation of the village into a socialist village and was not interested in the means employed. A map of the village was publicly exhibited, showing in red the houses of inhabitants who had joined the collective. The People's Council threatened the farmers with high taxation, in order to induce them to join the collective. If a ladder was at the left of a haystack, this was sufficient for the imposition of a fine of 100 forints on the person who left it there. A fine was also imposed if the ladder was 5 m long or if it was only 2 m long. My pork delivery quota was suddenly raised from 150 to 230 kg, and was already demanded in November although it was only due in December.'

"Laszlo Kühne said: 'The People's Council only harmed us. We were forced to cultivate rubber plants. We objected in vain that the soil was

not moist so that these plants could flourish. The reply was: "That does not interest us." We had a loss of 7000 forints. And when we spoke the truth, we were stamped as the enemies of the people.'

"The chairman of the collective tells us in a fury: 'The Council ordered that we start sowing on December 28. One cannot sow when there is snow on the ground. I objected. "That doesn't interest us", they replied, "the plan must be fulfilled." We collected the last bit of grain we had in order to be able to sow: we sowed 100 hundredweights of grain in the snow. The following day, the fields were crowded with ravens which ate everything up to the last grain. We fulfilled the plan, but we did not reap one ear of wheat . . .'" (In this connection reference is made to Documents 50 and 90 on compulsory contracts.)

Source: Magyar Nemzet (Budapest), 30 August 1953.

DOCUMENT No. 83

(BULGARIA)

"... At the end of 1950 and in the beginning of this year (1951), gross aberrations occurred. In the Koula District, for instance, farmers were exposed to individual pressure in order to force them to join collectives. In some cases, illegal and arbitrary arrests took place, threats were uttered and fines imposed. Similar aberrations occurred also in other districts. In the Assenovgrad District and elsewhere too, farmers were forced to form collectives.

"Our warriors made up their minds to transform the physiognomy of the Bulgarian village by a cavalry attack. In some cases, they operated light heartedly and without considering their responsibility, made promises according to which the State would give everything to the collective farm members: money, food, fodder, even houses . . ., whereas in other cases they brutally confiscated land, cattle and agricultural implements, which, according to regulation, were to be left for the personal use of the collective farm members. The T.K.Z.S. (working co-operative of agricultural enterprises) was frequently formed during the night, accompanied by the ringing of the alarm bells (tocsin) or by a band.

"What do these requests for withdrawal from the T.K.Z.S. mean? — continues V. Tchervenkov. They indicate an emphatic hesitation on the part of some of the new collective members. They mean that we did not succeed in convincing them of the soundness of work in the collectives."

Source: From a Speech by Volko Tchervenkov to the Active of Party members of the Sofia District, Delivered on 7 April 1951, Otechestven Front, 12 April 1951.

It is a fundamental principle of the collective that members bear the business risk, for instance, they are paid on the basis of what they actually produce. However, the following document shows how little influence members have on the management of their collective.

DOCUMENT No. 84

(USSR)

"The system of obligatory grain delivery to the State was introduced for kolkhozes and single farms by the Decree of the Council of People's Commissars of the USSR and the Central Committee of the CPSU (B) on 19 January 1933. (See *Collection of Laws of the USSR*, 1933, No. 4, p. 25).

"Later, this regulation was also extended to embrace a series of other agricultural products.

"At the present time the products of the most important technical cultures are handled on the contract system. The increase of the average weight of technical, that is, of vegetable, melon and fodder cultures is the particular characteristic of the development of our agriculture.

In the Ukraine, the contract system applies to linseed, hemp, sugar-beets, tobacco, machorca, cotton, etheric oils as well as to fruits, grapes and silk worms. The contract system has acquired enormous importance in connection with sugar-beet, and it is also employed in the weeding industry.

"Contractual agreements have a "plan-character" because in our country kolkhoz production plans are based on a State Plan, which in turn governs both the extent of production and the prices of agricultural raw materials.

"Contracts are concluded annually by the kolkhozes on the basis of the general State Plan applying to them. Thus, a contract for the delivery to the State of sugar-beet is on the basis of the plans for sowing, yield and gross deliveries of sugar-beet which is established for the kolkhozes.

"The contract specifies the mode of its fulfilment (time limits, what qualities are wanted for the processing of the crops, etc.) and provides for a system so that both sides check on each other that the Plan gets fulfilled. The contracts, being instruments for the fulfilment of the State production plan and of the control of a series of important branches of production, play an important part in the application of the law on planned balanced development of the national economy by the State. They are a means of control (by establishing obligations for the performance of agricultural work) and of distribution of agricultural produce (by means of compulsory deliveries from the kolkhozes) by State planning. . . Differing from contracts of sale which only deal with the final disposal of the goods the obligations which regulate the production of agricultural commodities constitute the most important part of the contractual agreements. The fulfilment of the obligations concerning production forms the condition for achieving the gross yield which is established by Plan. This fulfilment guarantees that the obligations to sell the products are complied with.

"The contractual relations of the contract system for agricultural products are subject to special legal provisions. Contracts are made on the basis of standard contracts which are confirmed by the competent ministries and authorities and which constitute special normative acts, having general applicability throughout the Union and regulating this field of relations.

"The norms of the Civil Codes of the Republics in the Union are capable only of derivative application to the conditions of the contractual system covering the agricultural products of the kolkhoz.

"The conditions laid down in the standard contracts cannot be modified when actual contracts are concluded. If disputes result regarding the interpretation of the contracts, the courts have to base themselves on the conditions specified in the standard contracts. They must disregard all conflicting provisions and also those provisions which aim at circumventing the conditions laid down in the standard contracts. . .

"The General Clauses in the standard contracts concerning the sowing areas, gross yields, quotas for delivery to the State, are realized in the contracts in accordance with the production plans. . .

"The local State officials are entitled and bound to exercise a systematic control over the conclusion and the fulfilment of such contracts. The principle of the "actual fulfilment" of the contracts is especially emphasized by the fact that these contracts have the force of law. Here it should be mentioned that the obligation of "actual fulfilment" of the contracts is expressly provided for in the statutes of the agricultural artels.

"Actions against kolkhozes which fail to fulfil their obligation to deliver produce as specified in the contracts, are heard by the courts under a special procedure in accordance with the instructions of the People's Commissariat (now Ministry - ed.) of Justice of the USSR, issued on 1 February 1945. In trying such cases, the court cannot enter into discussion on the question of the rationality of the delivery obligation of the kolkhoz, the grant of a respite, etc. The court examines:

1. whether the Government Ordinance applies the contract system to the kind of products in question;

2. whether the kolkhoz was informed of the contract plan having thereby incurred the obligation to conclude a contract by the procedure laid down in the statutes of the artel and in conformity with the standard contracts;
3. whether the contract was concluded in accordance with the tasks established in the plan (otherwise the courts will have to produce from the contract plan);
4. whether the kolkhoz did in fact fail to fulfil its contractual obligations.

"In deciding law cases of this type it is the court's duty to secure strict and unconditional compliance by the parties with the provisions of the contracts which possess the force of law. The main obligations of the kolkhozes are as follows:

1. the obligations concerning production;
2. the obligations regarding the sale of agricultural produce.

"The contracts impose on the kolkhozes concrete obligations regarding the performance of agricultural work and the initial processing of the products, and also define the times and degrees of quality for the work. Thus, for instance, a kolkhoz undertakes to sow sugar-beet at the technically most suitable times and within 5—6 days, in straight rows and with simultaneous application of fertilizers . . .

"The obligations of the kolkhozes to deliver products on the basis of the contracts require unconditional actual fulfilment. Should a kolkhoz may be unable to fulfil its contract because of calamities it has to submit proof therefor which must be confirmed by documents of the State Insurance.

"The People's Court of the Area of Kulikov, District of Tchernigov, thus dismissed an action brought by the kolkhoz "Ryadanskya Shitty" in which it was submitted that unfavourable climatic conditions had prevented the kolkhoz from fulfilling its obligations resulting from a contract for makhorka (tobacco). The decision of the USSR Supreme Court in this case stated that the makhorka crops perished over an area of 17 hectares, because the sowing was unduly delayed, as shown in the evidence of the kolkhoz representatives and in the minutes of the management's meetings. Therefore in the above circumstances and even though part of the crop perished through early frost, there were no grounds for the complete exemption."

Source: Z. V. Bosyan, Contractual Agreements on the Agricultural Production of Kolkhozes (in German), in Rechtswissenschaftlicher Informationsdienst, 20 November 1954, pp. 621 ff.

When making use of their right to withdraw from a collective, the farmers rely on the right which time and again has been officially guaranteed to them by the Government. However, withdrawals from collective farms, and, even more, the dissolution of a collective, clearly conflicts with the aim of the rulers, which is the elimination of any kind of individual farms. Farmers are authorized to withdraw, but those who want to withdraw are marked as enemies of the people. Lower agencies, at any rate, pursue by all means a policy of forcible collectivization. Among other methods they play tricks on farmers who withdraw.

DOCUMENT No. 85
(CZECHOSLOVAKIA)

"The kulak Jan Barnet was recently sentenced by a people's court in Kromeriz to 5 years' imprisonment, loss of civil rights for five years, confiscation of property, 2,000 Kcs. fine, payment of court costs and expulsion from the town of Prasklice for the rest of his life. Although he called himself a noble Middle-European, he was a miserable blood-sucker in the midst of the population of the village. It would not be

right to imagine Barnet as a person with a fat neck, a fat stomach, a tuft of hair on his hat and a chain leading to the West. He cannot even be called a kulak on account of the number of hectares which his land measures, for he only had 13 hectares... Nevertheless, the whole population knew that Jan Barnet was a kulak.

"In the First Republic he belonged to the best farmers of the village... In the autumn of 1952 he joined a collective farm and one year later was sentenced to a month's imprisonment for theft of the collective's property. On 1 January he left the collective and he resolved to destroy the collective. He gave the members of the collective an ultimatum to withdraw from the kolkhoz within 24 hours and called them traitors of the peasant-class... His open hatred of the working people and the people's democratic regime and the organization of opposition by the band of kulaks were not his only criminal deeds, however. He was also a saboteur of meat, milk, eggs and other deliveries."

Source: *Nase Pravda*, 3 September 1954.

DOCUMENT No. 86
(CZECHOSLOVAKIA)

Ladislav Podivinsky, Jaroslav Skoupil, Ludvik Bartonek, Gabriel Vymetal, Jan Zapletal, Ladislav Spacil, Frantisek Skoupil, Vojtech Navratil, Stanislav Otruba, all from Nameste in Hana.

All these kulaks who during the First Republic exploited not only their helpers, but even small farmers, who being members of the Agrarian Party helped determine the governmental policy directed against the working class and small farmers, who helped the bourgeoisie to step on workers' rights, — these disguised themselves as peaceful members of a collective farm. In autumn of 1952 they decided to join a collective farm, and for the chairman they nominated Gabriel Vymetal, who was actually one of them. In their collective they took care only of their own fields; they did not help small farmers in the village. In August 1953 when their collective should have been changed to a collective of the type III, they rather left the collective. As they were aware that a joint leaving would have been suspicious and that similar persuasion for joint anti-state action is punishable by law, they submitted their requests for leaving the collective separately. But this trick did not help them. Our security organs were on guard. And if these kulaks expected a reward for their attempt to undermine the collective, a reward for trying to fulfill one of the "10 Commandments" of traitors, they certainly have been rewarded. For their activities against the republic they were put on trial before the people's court in Olomouc and sentenced: Vymetal — 3 years, Zapletal and Podivinsky 2½ years, Spacil 2 years, Fr. Skoupil, Jar. Skoupil and Navratil 1 year, Otruba and Bartonek 6 months.

Source: *Radio Brno*, 28 September 1954.

DOCUMENT No. 87
(HUNGARY)

"Withdrawal From a Kolkhoz.

"Those kolkhoz-members, who after all this want to work for themselves individually must receive their share of land at the end of the agricultural year. They must also receive the share due to them according to their work-unit, but at the same time all arrears and credits, forming their share in the common debt will be taken into account. Any concessions granted to kolkhoz members in recent months must be cancelled and they must pay the original debt and fulfil their delivery quota. Their equipment and livestock must be valued at the present free market prices, and should the leaving member wish to take away items which were paid for at the time of his joining up the kolkhoz at the then ruling fixed price, he can only do so on payment forthwith of the market price."

Source: *Radio Kossuth*, 19 September 1953.

The following document reveals the disadvantages that farmers have to face upon leaving a collective farm.

DOCUMENT No. 88

(HUNGARY)

A Successful Battle Was Waged and the Expansion of the Disintegrating Influence of Hostile Elements Was Restrained for the Protection of the Agricultural Collectives.

"Accounts cannot be settled with members leaving a kolkhoz, unless their intention to withdraw was reposed 6 months prior to the termination of the agricultural year. After the harvest, members leaving will be given as many fields as they contributed upon joining up; in the first place, from scattered plots or, in case such plots are not available, from plots which are located on the outskirts of the collective... Cattle and equipment contributed upon joining must not be returned... Accounting is made in money... debts will be deducted... No labour-book will be given to a member who leaves by unilateral decision.

Source: *Hirlap (Győr)*, 12 November 1954.

The following decision of the Hungarian Supreme Court — the decisions of which, according to the Communist legal concept, are legally binding on all other courts — illustrates a particularly hard case of the lack of remedies available to farmers who availed themselves of their right to withdraw from a collective farm. This decision means that plots which were "voluntarily" contributed to the collective, can on no account be returned and that no action for their return can be brought.

DOCUMENT No. 89

(HUNGARY)

Supreme Court Decision on the Principle Concerning Requisitioned Agricultural Land and Properties.

"In recent times individuals repeatedly commenced actions against production co-operatives, and the courts' decisions in these cases were not always right. In many cases these actions were nothing but hostile activities aimed at hindering the economic consolidation and productive work of the agricultural production co-operatives.

"Accordingly, upon the suggestion of the Procurator General, the Supreme Court of the Hungarian People's Republic arrived at the following decision of principle: Neither the former owner or any other person shall be entitled to make any claim whatever against agricultural production co-operatives, State farms or machine stations in respect of agricultural land, buildings on agricultural land, agricultural equipment ("inventory") or any other property which prior to any decree or permit of a State administrative organ passed into the ownership, possession, or use of agricultural production co-operatives, State farms or machine stations. Such claim must be rejected by the court at the outset, that is to say: without a hearing.

Source: *Szabad Föld (Free Soil)*, 4 August 1954, p. 5.

Actions against agricultural production collectives were made virtually impossible by this decision, as the following document illustrates.

DOCUMENT No. 90
(HUNGARY)

More Careful Protection of the Property of Production Collectives.

"Above all, we must defend the property of production co-operatives against attacks from outside. Although less frequently than before, there are still cases of kulaks' agitation against production co-operatives and more often other, criminal acts aimed at damaging and weakening production co-operatives . . .

"We must mention here the civil actions which, at the end of 1953 and in the first half of the last year, were instituted against production co-operatives and behind which, in most cases, the open or concealed intention to win back the kulaks' properties was hidden. These actions, which jeopardized the property of the production co-operatives and their economic balance and infringed the interests of the whole working peasantry, ceased after the publication of the 'Decision of Principle, No IX' of the Supreme Court."

Source: From a Speech by the Procurator General, Czako Kalman, in Szabad Nép, 3 February 1955.

While members of collective farms are only "entitled" to work, collective farms as such enjoy special protection. Any utterance against the institution of collective farms is considered an especially severe offence.

"Incitement against production co-operatives" is considered an especially severe offence in Hungary. Even verbal insult of the leader of such a production co-operative is considered such an incitement and is punished by three years deprivation of liberty and loss of civil rights for five years.

DOCUMENT No. 91
(HUNGARY)

"The District Court of Kecskemét passed a sentence on Mrs. István Bodo of Tiszabicska for incitement against a production co-operative. Mrs. Bodo, the wife of a former constable, openly attacked the local production co-operative "Szabadság" (Liberty). She started arbitrarily to till a field of the production co-operative. When the Chairman of the production co-operative drew her attention to the illegality of her action, Mrs. Bodo rebuked him with insulting words. For this, the District Court of Kecskemét sentenced her to imprisonment for three years, to a monetary fine of 2000 forints and to loss of her civil rights for five years."

Source: Magyar Nemzet, 18 February 1955.

The following document shows that collective farms are widely protected against execution, whereas no such protection is granted to free peasants.

DOCUMENT No. 92
(USSR)

"... The following must be considered especially in connection with the question of levying execution on the property of collective farms and co-operative organizations. No execution may be levied during the existence of co-operative organizations on the following of its properties: dwelling houses, production premises and outhouses, equipment and tools of collective farms and co-operative organizations, raw materials and fuel required for the work of the enterprise for a period

of three months, the co-operative organizations' share in the superior co-operative organization. Further, no execution may be levied on the following property of collective farms: on the undivided funds of collective farms (excepting sums of money in these funds); on live-stock and agricultural implements for the fulfilment of the production plan; on as yet unpicked harvests; on seed required during the current agricultural year; on such quantity of cattle as is needed until the new harvest is brought in.

"Execution may be levied only up to 70 per cent of that amount which, at the date of execution, may be found in the account of the collective farm's undivided fund and deposited with the Agricultural Bank.

"3... (a) the undivided funds of a co-operative organization are composed of all its funds (except the share-funds), i.e., the original fund and the special fund, as, upon withdrawal from a co-operative organization or upon its dissolution, only the amounts contributed to the share-fund are returned to the members.

According to the standard charter of the agricultural artel its undivided fund contains the following:

- (1) the entrance contributions of the collective farm members amounting to 20 to 40 rubles per farmstead (according to the district concerned);
- (2) 25 to 50 per cent of the value of the collectivized property of the farm according to the productivity of the farm concerned;
- (3) the confiscated property of kulak farms which constitutes the contribution of the small and middle farmers who joined the collective farm. The workshops of the collective farms, their equipment, cattle, etc. also form part of the undivided fund of collective farms."

Source: Prof. D. M. Genkin, *Sovetskoe grazhdanskoe pravo op. cit.*, pp. 321-322.

In order to force as yet free peasants into joining collective farms or to bring about their economic elimination, excessive delivery quotas and taxes are imposed on them, as shown in the following examples.

DOCUMENT No. 93

(BULGARIA)

Deposition: Appeared Andre Mitruco, born 5 May 1912 at Selo Iasn, farmer by profession, prior to his escape to Yugoslavia on 4 June 1951 lived at Selo Iasn, arrived in Austria via Yugoslavia on 19 May 1954, now living in Camp No. 1002 Wels, Austria, who says as follows:

"When the Communist seized power in 1944, all landed estates exceeding 200 holds *) were expropriated. Those farmers whose estates were smaller could keep them for the time being, they were not, however, allowed to employ farmhands. I myself owned a farm of 60 holds. Compared with those of agricultural collectives the outgoings of my farm were roughly as follows.

"I had to pay a yearly agricultural tax of 60,000 Lewa, whereas agricultural collectives had to pay no agricultural tax at all. Delivery quotas for free farmers were fixed quite arbitrarily. Where the Community administration thought that a farmer could produce more, his delivery quota was raised. I remember that once, in order to fulfil my meat delivery quota I and four other farmers had to buy an ox for which we had to pay 15 Lewa per kilo on the free market. When we delivered the meat, we only received 4 Lewa per kilo.

"From about 1949 onward, farmers were pressed into joining the collective farms. Up to that date, all but 13 farmers of my community had already joined the collective. I myself and the others refused to join. In consequence, we were again and again imprisoned for one to

*) 1 hold = appr. 0.6 hectares.

two weeks by the Militia. I myself had been imprisoned six times by the Militia up to January 1951, because I refused to join the collective. Other measures were also taken against free farmers. For instance, the Militia arrived at the farms immediately after the harvest and seized the whole crop, except the seeds required for the following year and small per capita quantities of produce for subsistence. In the autumn of 1950, I had fulfilled my delivery quota after the harvest. One day, however, the Militia arrived at my farm, declaring that I had not delivered enough. When I said that I had nothing left, they broke into my house, made a thorough search and took away all the maize and wheat that I had left, even the seeds. They told me to buy seeds for the following year at the village shop. From the proceeds of melons and wine I sold, I had to buy new seeds in order to enable me to sow wheat and maize. However, people from the Militia returned again and again to force me into joining the kolkhoz.

"In June 1951, another delegation came, consisting of representatives of the Community administration and the local police; they wanted to force me to sign an entry form to join the collective.

"I left the house under a pretext and escaped without taking anything with me. I know that the families of some farmers who escaped before I did, had been interned. My wife and my two children of 8 and 13 were also taken into an internment camp on the Black Sea.

"On 1 August 1954, I sent my wife a registered letter, reply paid. I hoped that they had returned home meanwhile. On 24 November 1953, I had a reply from my wife in which she wrote that she and my daughter worked in the kolkhoz, while my son had found work at the railway station. It may be concluded from this that my farm had been expropriated. She also wrote that Chervenkov *) had asked all those who had escaped to return; no harm would come to them. I noticed that she did not ask me of her own accord to return. She obviously knows that the promises made to those who returned to Bulgaria were not kept. About the middle of October, representatives of the Bulgarian Embassy in Vienna arrived in Camp No. 1002 at Wels to summon all Bulgarians there to return to Bulgaria. They were promised that they would be exempt from punishment and that their property would be restored to them. However, nobody went. On the contrary, there was an uproar and one official of the Embassy was thrown out.

"I am prepared to confirm the accuracy of my statement under oath."

Read, approved, and signed.

26 November 1954.

The following document shows the technique of fixing delivery quotas. See particularly the reward of denunciators (Article 25 of the Decree).

DOCUMENT No. 94

(ROUMANIA)

Decree No. 143 of the Roumanian Government, Concerning the Delivery Quotas for Agricultural Vegetable Produce.

Article 1:

For the purpose of ensuring the supply of the working population with agricultural produce, of building up stocks of high-class seeds and of securing the supply to Socialist industry of agricultural produce; and in order to further the exchange of goods between the towns and the country, owners and cultivators of arable land (without regard to their capacity in which they work it), are compelled to deliver to the State agricultural products.

*) Prime Minister.

Article 4:

Individual farms shall deliver agricultural produce at prices fixed by the State and in quantities increasing with the area of the cultivated land (measured in hectares), and in quantities corresponding to the natural economic conditions and to the fertility of the soil of the district in which the farm is located.

Article 10:

Any person who, whether as owner or otherwise, has in his use threshing-machines, mills, oil-presses or winnowing machines, shall deliver to the State all agricultural produce received by him in kind, by way of consideration at prices fixed by the Council of Ministers.

Article 12:

The delivery plans for the country, provinces and districts shall be drawn up by the "State Committee for the Purchase of Agricultural Produce" and submitted to the Council of Ministers for approval. The president of the Provisional Committee for the Province and the District, together with the representative (delegate or otherwise responsible person) of the "State Committee for the Purchase of Agricultural Produce" for the province and the district, shall fix the delivery quotas of the parishes and the individual farms on the basis of the plan so approved.

Article 16:

The compulsory delivery quotas for individual farms shall be fixed as part of the plan for the parish by the President of the Provisional Committee for the district and by the representative of the State Committee for the Purchase of Agricultural Produce.

Article 19:

Within fixed days from the publication of the delivery quotas so fixed, farmers may lodge objections to such quotas with the Provisional Committee of the parish.

Article 20:

The objections shall be decided by the President of the Provisional Committee for the district and the district representative of the State Committee for the Purchase of Agricultural Produce. Their decision is effectual. Objections must be decided within 15 days of lodgment. Persons whose objections have been dismissed may appeal to higher authorities.

Article 23:

The delivery quota of any person who does not complete his quota within the time fixed and according to the conditions laid down, will be increased as follows:

- (a) by 3% if the delay does not exceed 10 days;
- (b) by 5% if the delay amounts to from 10 to 20 days;
- (c) by 10% if the delay amounts to from 20 to 30 days;
- (d) by 20% if the delay exceeds 30 days.

Article 24:

All persons, who have failed to deliver their compulsory quotas within the 30 days' grace period allowed and all persons who have failed in the duties laid upon them in that they impeded in any way the completion of their delivery quotas, shall be punished as laid down in Decree No. 183 of 30 April 1949. Persons who made incorrect statements as to the extent of their arable land or as to the classification of their farms with a view to getting their farms put into a lower classification from the applicable higher one, shall be similarly punished.

Article 25:

Kulaks who do not declare their whole arable land or who destroy or hide agricultural produce subject to delivery, no matter in what

manner it is done, shall be punished as laid down in Decree No. 183 of 30 April 1949 and their agricultural produce subject to delivery shall be confiscated by the State.

Twenty-five per cent of the products confiscated in this way shall be sold at delivery prices to any poor and middle farmers who have helped in the discovery of the lawbreakers."

Source: *Buletinul Oficial*, 26 May 1950.

The principle of paying persons to denounce others has its place in Hungary.

DOCUMENT No. 95
(HUNGARY)

"The toiling peasants should help the authorities in their endeavours to discover slaughterings, and it should be known to everybody who gives information, that he will receive in cash 10 percent of the confiscated goods."

Source: *Neplap (Szolnok)*, 1 February 1955.

The purpose of assessing collective farms differently from free farmers is made clear in the following document.

DOCUMENT No. 96
(ROUMANIA)

Decision of the Council of Ministers Concerning the Delivery of Agricultural Vegetable Produce.

"Exhibitions of the Reasons:

"...In order to support agricultural collective farms, a reduction in the fixed delivery quotas for agricultural produce will be granted to them..."

"Deliveries must be turned into a means to mobilize the masses of the poor and middle peasantry against the kulaks, into a means to mobilize all the working class, in support of the policy of state deliveries in the People's Democracy."

Source: *Romania Libera*, 28 May 1950.

The following documents show how discrimination works.

DOCUMENT No. 97
(ROUMANIA)

Decree No. 45 of 26 January 1953, Concerning Compulsory Delivery of Milk to the State.

The Praesidium of the Great National Assembly of the Roumanian People's Republic enacts as follows:

Article 2:

The milk quota for kulak farms, possessing cows, shall be based on the quotas for peasants' farms in the district in question, plus an additional 30 percent thereof. Kulak farms possessing no cows must deliver their quantity fixed for kulak farms of the district in question possessing one cow. They are permitted to supply produce of an equivalent character as laid down in the resolution of the Council of Ministers in discharge of their obligation towards the State.

Article 8:

The milk quotas for kulak farms possessing sheep or goats, shall be based on the norms fixed for peasant farms plus an additional 30 percent thereof.

Source: *Buletinul Oficial*, 26 January 1953, No. 3.

DOCUMENT No. 98
(ROUMANIA)

Resolution No. 160 of 21 January 1953, Concerning Compulsory Deliveries of Meat to the State.

The Council of Ministers of the Roumanian People's Republic resolves:
As beginning from 1 January 1953, estates and farms shall deliver meat to the State in accordance with the quotas, conditions and prices laid down in this Resolution.

Article 2:

Kulak farms shall deliver meat on the basis of the quotas fixed for peasant farms of the district in question, plus an additional of 30 percent thereof.

Sruoce: Monitul Oficial, 21 January 1953, No. 5.

DOCUMENT No. 99
(BULGARIA)

Order of the Council of Ministers and the Central Committee of the Bulgarian Communist Party of 16 December 1953, Regarding Deliveries of Agricultural Produce to the State.

The various regions of the country are divided into six categories, having regard to the natural fertility of the soil of the region . . .

The most important agricultural products, such as wheat, rye, maize, oats, barley, . . . , beans and sun-flowers must be delivered as provided in the following Table.

Area in decar

(10 decar = 1 hectare) from which deliveries have to be made to the State

Amount to be delivered stated in kg per decar for each of the six categories: (I to VI)

	I	II	III	IV	V	VI
(a) Private landowners:						
up to 5	12	10	8	6	4	2
from 5,1 to 10	15	13	10	7	5	3
10,1 15	18	15	12	8	6	4
15,1 20	23	19	16	10	7	5
20,1 25	30	25	20	12	8	6
25,1 30	37	29	22	15	9	7
30,1 35	40	32	24	17	10	8
35,1 40	45	37	29	19	12	9
40,1 45	49	41	32	23	14	10
45,1 50	53	45	35	26	17	11
50,1 60	58	49	39	30	21	12
60,1 70	62	53	43	33	24	14
70,1 80	65	56	45	36	27	18
80,1 90	68	59	48	39	30	20
90,1 100	71	62	51	42	32	22
100,1 125	75	65	54	45	34	25
125,1 150	79	69	57	48	37	27
150,1 175	82	72	60	51	40	29
175,1 200	85	75	62	53	42	31
more than 200	87	77	64	55	44	33
(b) members of a kolkhoz in regard to their privately worked plots	12	10	8	6	4	2
(c) kolkhozes (agricultural co-operatives)	34	28	21	15	10	6
(d) In respect of arable land belonging to the People's Councils, co-operatives and other organizations, which does not form part of a kolkhoz but is worked by the organizations themselves	34	28	21	15	10	6

The Executive Committees of the District People's Councils together with the District Committees of the Bulgarian Communist Party and the District Representatives of the Ministry of Deliveries, may, as regards individual villages of the District increase or decrease (but by not more than 20 % in either direction) the delivery quotas set forth in the above Table; but so that the total weight for the category applying to the whole district is not altered...

Land devoted to the cultivation of potatoes is divided into four categories, depending on the natural fertility of the soil in which the potatoes are grown.

Potatoes must be delivered as provided in the following Table:

Area on the basis of which deliveries to the State are computed	Delivery quotas in kg per decar			
	I	II	III	IV
(a) for private landowners:				
up to 2 decars	200	180	165	150
from 2,1 to 10 "	210	190	175	160
" 5,1 " 10 "	220	200	185	170
" 10,1 " 15 "	230	210	195	180
" 15,1 " 20 "	240	220	205	190
more than 20 "	250	230	215	200
(b) for kolkhozes	220	200	185	170
(c) In respect of land belonging to People's Councils, co-operatives and organizations, which does not form part of a kolkhoz, but is worked by the organizations themselves, there apply the delivery quotas of the kolkhozes above.				

Compulsory deliveries of meat.

The deliveries of meat (live weight) to the State are based on quotas fixed separately for each district.

Meat (live weight) stated in kg per decar for each of the five categories (I to V)

(a) for private landowners owning land having an area in decar of:						
up to 10	3,1	2,8	2,5	2,1	1,7	
from 10,1 to 20	3,6	3,2	2,7	2,3	1,8	
20,1 " 50	4,6	4,1	3,5	2,9	2,3	
50,1 " 70	5	4,4	3,8	3,2	2,5	
70,1 " 100	5,4	4,8	4,1	3,4	2,7	
100,1 " 200	5,8	5	4,3	3,6	2,9	
more than 200	6	5,2	4,5	3,7	3	
(b) for kolkhozes for each decar						
	2	1,8	1,6	1,4	1,2	

Source: *Izvestia*, 25 December 1953.

Taxations can also be used to ruin free farmers.

DOCUMENT No. 100
(POLAND)

"... Let's endeavour to stop kulaks accumulating capital. Capital of this kind is derived from exploitation and serves to exploit the working people even more.

"How can we reduce the volume of capital-formation? We can obtain this end by levying our land taxes on "class" principles, that means that we are very strict about progression. If we take higher taxes from kulaks we prevent them from accumulating money, with which other-

wise they would buy goods needed by our toiling peasants. It might be sold at black market prices..."

Source: *Lodzki Express* (Lodz), 30 January 1954.

DOCUMENT No. 101

(USSR)

Law Concerning Agricultural Taxes, dated 8 August 1953.

The Supreme Soviet of the USSR has resolved as follows:

From 1 July 1953, an agricultural tax shall be levied on the households of members of a kolkhoz at fixed rates on every one hundredth of a hectare of land occupied...

Article 1:

The agricultural tax shall be paid by:

- (a) the households of members of a kolkhoz (members of an agricultural artel, of a mixed industrial and agricultural artel (promkolkhoz) and a fishery artel);
- (b) Single-peasant farms and farms of other citizens, not being members of a kolkhoz to whom plots of land have been assigned in a village that is under the control of a village Soviet for administration purposes.

Article 2:

The tax in respect of a farm is assessable on the basis of the size of the land used by it...

Article 3:

The tax on households of members of a kolkhoz is assessable in respect of the area available for cultivation at rates on every one hundredth of a hectare.

Article 6:

Households of members of a kolkhoz, if individual members of such a household have not in the current year attained the fixed minimum of working days on kolkhoz work and had no valid excuse, shall pay 150 % of the normal rates.

Article 7:

Households which in the current year withdrew from a kolkhoz (or were expelled) shall be assessed as though they were single-peasant farms whatever the date of their withdrawal (or expulsion).

If individual able-bodied members of a family connected with a kolkhoz are not members of the kolkhoz or have withdrawn (or were expelled) from the kolkhoz and do not undertake any other work for which they are remunerated, the assessment shall be increased to 175 % of the amount of tax which would otherwise be payable under this law.

Article 12:

Single-peasant farms are assessable to farm tax at double rates laid down in Article 3 of this Law.

Article 13:

Single-peasant farms which join a kolkhoz prior to the due date for the first of the instalments of the farm tax shall be assessed on the basis of the rates applying to kolkhoz members.

Households which enter the kolkhoz after the first instalment was due shall be charged at the rates which would be applicable to members of a kolkhoz for the proportionate period of the year for which they are liable to tax on this basis...

Source: *Izvestia*, No. 188 (11259), 11 August 1953, pp. 2-3.

DOCUMENT No. 102
(HUNGARY)

Deposition: Appeared Otto N.N., born on ... at..., lately living at Sopron ... from where he escaped on 11 October 1953, now living at Wels, Austria, in Camp No. 1002, who says as follows:

"I was an employee of the County Administration. (Tax Department). My activities were concerned, in the first place, with supervising the collection of taxes from farmers. Twenty-five parishes came within my purview. The actual amount of the tax was fixed by the Government.

"Farmers had to pay the following kind of taxes:

- (1) land tax;
- (2) income tax;
- (3) turnover tax.

"Land tax was fixed by the Government; there was a uniform rate per hold for the whole country.

"At the County Administration's discretion this rate could be modified by differentials, according to the fertility of the soil. Thus, the County Administration could reduce the land tax for inferior soil and increase it for more fertile soil. There existed a secret Government directive, issued in 1951, and still in force at the time of my escape, which was on the following lines.

"The idea was that the County authorities should make use of their power to create differentials from the norm to charge additional taxes on the farmers who either were considered to be kulaks or people's enemies or who were otherwise undesirable persons. The scheme was to force such farmers to leave their farms by assessing them intolerably high taxes. The employees of the tax department had to bind themselves on oath not to disclose this secret directive to anybody. Thus, it could happen that two farms lying side by side and pretty well of the same size paid agricultural taxes differing from each other by 50 to 60 %.

"The amount of taxes which a County had to produce was fixed by the Government in advance and depended on the area and the fertility of the soil. Subject to producing the revenue budgeted for the County, authorities were free to spread the burden as suited them provided they observed the points I have just mentioned.

"There existed a directive that every year in each parish at least three or four farmers had to be brought to ruin as described above. Every year in August we had to report on our success to the Ministry. Moreover, the enforcement of the secret directive was watched over by the Ministry the whole time. It has happened in various parishes that within one year ten and more peasants from one parish were "noiselessly" expropriated. In 1952, more than 10 farms were expropriated in this way in each of the following parishes: Magyaratad, Szilvas-Szentmarton, Igal. Just now, I cannot for the moment remember the names of the other villages in which the same occurred.

"If the farmers could not pay the taxes assessed on them, distress was levied on their property and in addition they were sentenced to imprisonment for nonpayment of their taxes. But this remark applies only to kulaks. Small farmers, if they could not pay their taxes, were offered the opportunity to join a collective farm. If this happened, it operated to cancel any taxes they owed.

"The following were to be considered kulaks, according to an instruction issued by the Ministry of Finance:

- (1) all the farmers possessing more than 25 holds of land;
- (2) all who had been engaged in business, or had owned a factory or had been proprietors of large estates; this applied even when they had no landed estate any more but only one or two houses. Such persons were called: "political kulaks";
- (3) former officers, former high officials, who had already been expropriated except for one family house (also "political kulaks");
- (4) Persons, who possessed a landed estate and employed more than three persons.

"Every tax-payer had a grey-coloured tax-book while the tax-books of the persons who belonged to the kulak class were green and their records, both parish and county, were marked with a large "K" (Kulak).

"The process of classifying persons as kulaks was as follows. The various parishes submitted a list of suggested names. The decision rested with a commission composed of the Chairman and the secretary of the County and the secretary of the Party Group in the county administration and the members of the management of the county.

"I should like to emphasize, that even after the proclamation of the "New Course" by Imre Nagy in July 1953, for instance taxes were being collected just as before in August 1953. An order was given that the word "kulak" should not be used any more, apart from that there was practically no change.

One change was, however, made; the amounts of taxes due were fixed for a period of five years in advance, so that if a person could not pay his taxes in one year, he had a chance, for instance if he had a good harvest, of working off his arrears in the following year. The essential was that the total sum due for the period of five years was paid.

"The above-mentioned secret directive provided that the parish had to take criminal proceedings against anyone whose arrears of taxes amounted to 15,000 forint or were in excess thereof. The minimum punishment in such cases was imprisonment for five years. Furthermore, the actual amount in arrears was automatically increased by a 30 % supplement thereon and the courts were empowered to inflict fines as well.

"Another secret directive of the Ministry of Finance provided for similar treatment of kulaks in the matter of income tax and turnover tax. The county administration was permitted to assess higher taxes on kulaks than on other persons at its discretion.

"I had to supervise 25 parishes in a comparatively wealthy area. In 1952 things worked out so that thanks to the above-mentioned measures coupled with delivery quotas which in the case of wealthy farmers had been increased and made difficult to fulfil in an average over the whole area 9 or 10 farmers from every parish lost their estates. In some parishes even more farmers met with this fate, as for instance in the parish of Somogysard, where 15 farmers lost their estates in 1952. But in other, less favoured parishes, their number was not so high. In 1952, about 200 to 250 farmers must have lost their estates in these 25 parishes alone.

"The land expropriated in this way principally went to swell the state farms. If there existed no state farm in the vicinity, the land was allocated to collective farms.

"Collective farms had to pay taxes in like manner, but not nearly to the same extent as free farmers. And when a collective farm could not pay even the lower rates of taxation, there was no question of distress or fines.

"Since in general the taxes could only be collected after great delays, the County used to engage several hundred people after the harvest, that is, when the farmers had got money for their crops, whose sole task it was to act as tax collectors and collect taxes. Their political past had naturally been looked into from the point of view of getting the most unprincipled men.

"Every tax-collector was expected to collect at least the sum of 1,000 forints or its equivalent in kind per diem. Failure to reach this sum was rewarded with immediate dismissal. The collectors were empowered to demand immediate payment from the tax-payer, who was given ten minutes to make up his mind. If he could not pay the required amount in cash, the collectors were empowered to seize anything belonging to him, except his household effects. Household effects included one suit, one table, one cupboard, one bed, some kitchen implements and the seed for the following year. If cattle was expropriated, it was valued at special prices, fixed for this purpose, which were much lower than prices in the free market. For a house, for instance, for which a farmer could get 8,000 forints on the free market, he would be allowed in pay-

ment of his debt 2,500 forints, a pig weighing 60 kilo would be taken as worth 200 forints, although 800 forints could be got for it on the free market.

"The collectors earned no premium even if they fulfilled or more than fulfilled their norm of 1,000 forints per day. However, they received a premium for every animal "collected". For instance, they received a premium of five forints for each pig they brought in. The animals were transferred to the state breeding establishments, which in turn paid agreed prices for it to the fiscal administration.

"The chairman of the county to which I belonged was named Szederkényi. He was a trained official, dismissed after 1945, but reinstated in 1951 for his technical abilities. He had, however, no power of decision, but had to carry out the directives of the Party group in the county administration.

"The actual head of the county was Béla Kenedy; he was secretary of the management of the county and member of the Communist Party.

"The head of the Finance Department was Josef Baranyai. He had been a financial expert in 1945, and afterwards became a convinced Communist. In his dealings not only with the farmers but also with his employees he was utterly ruthless. His right hand was a certain Belá Varga, who was also a convinced Communist and who was working with him as personal assistant."

Read, approved, and signed.

19 August 1954.

DOCUMENT No. 103
(HUNGARY)

Deposition: Appeared George N.N., who says as follows:

"My name is George N.N. I am a gardener by calling. My last residence was . . . from where I escaped on 12 May 1954. At the present time I am living in Camp No. 1002 at Wels/Austria.

"Although the usual "kulak persecutions" were stopped when the "New Course" was adopted, they continued in practice.

"The following case occurred in my parish. A farmer who owned 12 holds of land and was generally known as hostile to the regime, had gathered in his whole crop. Suddenly, he was called upon to pay a sum of considerable amount allegedly due to the fiscal authorities, which he did, because he had no alternative; but he had no money left over to pay for his grain threshed at the local Machine and Tractor Station which had to be paid for on the spot. After a while he was arrested under the pretext of having sabotaged the people's food supply by not having had his threshing done. Thereupon he undertook to deliver not only his quota but also his entire crop to the parish if they would only release him. His whole crop was promptly taken away from him, he was not even allowed to keep the seed for next year, and the threshing was done by the parish. The net result was that he delivered much more than he was obliged to deliver. I am sure that it was intended in this way to intimidate the other farmers, in order to induce them to deliver their grain quotas more punctually and more completely.

"Another method was to stage a trial of farmers, especially kulaks, for alleged non-fulfilment of their grain deliveries. The sentence of the court was made public shortly before the harvest was completed. Moreover, "cultural groups" swooped down on the parish who expatiated on the matter in order to drive into the population what they would have to face in case their delivery quotas were not completed. The following examples may be quoted here.

"In the parish in which I lived, there were two farmers each possessing about 25 holds, who were therefore kulaks according to the usual terminology. In summer of 1953, that is after the proclamation of the "New Course", but before the harvest, these two farmers were arrested by the police one day and shortly after they were sentenced for sabotage of compulsory deliveries. One of them was sentenced to imprisonment for a year and the other to five months. The sentence was published

by loudspeaker in our parish. A "cultural" group arrived, which acted as described above.

"I am willing to confirm the correctness of my statement on oath."
Read, approved and signed.
30 October 1953.

In addition to the burden of excessive delivery quotas and taxes, free farmers must also pay rent to the Machine and Tractor Stations for the use of machinery on a higher scale. In this context it should be mentioned that the existing machinery belonging to free farmers was taken from them and that under State control of trade free farmers are practically unable to buy any machines. *) Machinery is assigned throughout to the Machine and Tractor Stations or to State farms, so that free farmers are obliged to pay the increased rent if they want to make any profit from their farms at all.

DOCUMENT No. 104
(SOVIET ZONE OF GERMANY)
Extract from the MTS Tariffs

Type of Work	Tariff I Agricultural collectives	Tariff II Farms up to 10 ha arable land Price in DM per hectare	Tariff III Farms between 10—20 ha of arable land Price in DM per hectare	Tariff IV Farms of more than 20 ha arable land Price in DM per hectare
Ploughing on soils not exceeding 33 on the scale:				
10—20 cm.	15.00—16.50	18.00—20.00	23.00—25.50	58.50— 78.00
21—25 cm.	17.50—19.00	21.50—23.50	26.50—29.00	66.00— 86.00
deeper than 25 cm.	19.00	23.00	29.00	30.50
Scarifying of subsoil by ground-mill	119.00	23.50	34.00	31.00
Ploughing on soils from 34-60 on the scale:				
10—20 cm.	19.00—21.00	23.00—25.50	29.00—32.00	66.00— 86.00
21—25 cm.	23.50—25.50	27.50—30.00	34.50—37.50	73.00— 93.00
deeper than 25 cm.	24.50—26.50	30.00—32.50	37.50—40.50	88.00—108.00
Scarifying of subsoil by ground-mill	123.50	30.00	41.00	100.00
Ploughing on soils exceeding 61 on the scale:				
10—20 cm.	20.50—23.00	25.00—26.00	31.50—35.00	73.00— 93.00
21—25 cm.	24.00—26.50	29.50—32.50	37.00—40.50	80.50—100.50
deeper than 25 cm.	28.00—30.50	34.00—37.00	42.50—46.00	94.00—114.00
Scarifying of subsoil by groundmill	127.00	34.00	46.00	104.00

*) See also Documents 69, 113 and 124.

In order to enable them to pay at higher rates, free farmers are expected to sell their surplus produce on the free market at higher prices after having fulfilled their compulsory delivery quotas — for which they receive low prices fixed by the State. But they are deprived even of this possibility as the following documents show.

DOCUMENT No. 105
(BULGARIA)

“As from 1 July of this year the unrestricted purchase and sale of wheat, rye, barley, oats, beans, sunflower-seeds in their natural or ground form is prohibited by order of the Ministry of Deliveries. Until the grain delivery plan is fulfilled trade in these commodities is prohibited under similar terms. The prohibition of unrestricted purchase and sale of maize, natural or in ground form, comes into force on 1 September 1954.

“Producers and consumers are prohibited from moving such commodities from one place to another, no matter what quantities are involved, if they have been sold at free prices or it is intended to sell them at free prices.”

Source: Otechestven Front (Sofia), 1 July 1954.

DOCUMENT No. 106
(HUNGARY)

Deposition: Appeared N. N. . . . who says as follows:

“My name is N. N. I was born on . . . , at . . . I last resided at . . . I fled from there on 5 June 1954, and I am now living in Camp No. 1002 at Wels in Austria. I am a semi-skilled labourer.

“At Sopron nearly every week a market took place at which the farmers could sell their products. But they could not do this unless they held a certificate issued by the authorities of their parish, granting them permission to sell their products without restriction. And they could not get a certificate unless they had already delivered their compulsory quota, or rather until not only they, but the whole parish in which they lived had fulfilled the compulsory delivery quota.”

Read, approved and signed.
22 September 1954.

This statement is confirmed in an item from a Hungarian newspaper.

DOCUMENT No. 107
(HUNGARY)

“It must be emphatically impressed on persons who are behind with their deliveries that they are not only prejudicing themselves, but also hurting the interests of the entire village, because none can receive a permit entitling them to sell without restriction so long as even one of the producers is in arrear with his compulsory deliveries.”

Source: Magyar Nemzet (Budapest), 18 February 1955.

The same principle is applied in Roumania.

DOCUMENT No. 108
(ROUMANIA)

Resolution No. 2,884 of 27 December 1952, of the Roumanian People's Republic; Decree No. 502 of 7 January 1953, Regarding the Organization of the Transport, Sale and Purchase of Vegetable Product of Farmers, Subject to Delivery.

The Council of Ministers of the Roumanian People's Republic has resolved as follows:

The transport, sale and purchase of the vegetable produce of farmers, which is subject to compulsory delivery quotas is strictly prohibited until the compulsory delivery quota of the parish is fulfilled.

After the fulfilment of the compulsory delivery quota by the parish, producers of agricultural produce in a parish may transport and sell their surplus products and dispose of the various products separately, without any restriction, subject to the approval of the President of the Executive Committee of the District People's Council as well as of the District People's Council and of the District Representative of the Committee of State for Deliveries of Farmers' Produce."

Source: *Buletinul Oficial*, 1 January 1953, No. 1.

The term "kulak", used so frequently by communist authorities, has no fixed meaning; it is, in fact, extremely elastic, as can be gathered from the following documents.

DOCUMENT No. 109

(HUNGARY)

"... Party organizations and some of the councils have recently shown a tendency to come to terms with kulaks. Some people still believe that the abolition of the lists of kulaks means that the restrictions on kulaks have ceased altogether. This arises partly from the fact that some Party and State Organizations have not yet realized what the legal restrictions on kulaks in the "New Course" means. It is true that every hundredweight of sugar, grain, meat etc. delivered by the kulak farms contributes to the improvement of the food supply of the population...; it must not however be overlooked that this can tend to increase the power of the kulaks both economically and also politically... However, there is no need to be afraid of that... The policy of imposing legal restrictions on the kulaks must not be pressed to the extent of depriving them of all incentive to produce... But this demands self-control, perseverance, and a reliance on first things in the struggle against the kulaks... It is necessary to make it absolutely clear who is to be considered a kulak..."

"Anyone who possesses land of an area of 25 holds or more and the rental value of whose property according to the land survey is at least 350 gold crowns is a kulak... those who, although their land and rental values do not reach these limits, employ one or more agricultural labourers permanently are also kulaks. Those who by ceding a part of their property to the state or by splitting up among their relatives have reduced the size of their property so that at the present time it does not exceed the above limits are by no means to be considered as no longer kulaks or as being "good kulaks"... That has not altered their hostility towards the People's Democracy. They are not to be admitted to Soviet organizations nor to the agricultural co-operatives nor to farmers' associations... Vigilance is needed not only in the villages. Kulaks can also be found in factories, in the building industry and even in public offices... In the past the kulaks figured always as bloodsuckers and exploiters of the workers and peasants... Even to-day they make common cause with foreign capitalism against the working class and the toiling peasants... There is no doubt that the kulaks are the sworn enemies of our People's Democracy."

Source: *Eszakmagyarország (Miskolcz)*, 4 January 1955.

DOCUMENT No. 110

(HUNGARY)

The Kulak Question at Jász Kisér.

"...Comrade Birkas of the Party and Executive Committee of the parish says: 'At the time of the elections we did speak of the necessity of fighting the agitation of the kulaks, but for a long time now we have not bothered ourselves with the kulak question. And now, it

seems to me, we really have a state of class-peace'. What Comrade Birkas said applies also to other organizations. It was laid down in the Resolution of our Third Party Congress: 'The policy of hemming in the kulaks must be continued the same as hitherto. A strong line must be taken against them if they do not fulfil their delivery quotas, or if they do not pay their taxes or agitate against the production co-operatives or against the People's Democracy. To this extent an end must be made of those liberal policies which have been current both in the Party and in the State...'

"Within the definition of a kulak fall all who for a prolonged period regularly lived or are still living by exploiting other persons, no matter how many holds of land they possess at the present time. The clear deduction to be made from this, is that in Jaszkes not only the small number of persons who, because of their present economic position, are compelled to deliver five percent more than middle class peasants are to be considered kulaks, but also those persons who in past years have offered part of their fields to the State remain just as much kulaks as before, because they exploited others in the past. They are enemies of the toilers."

Source: *Szabad Nép*, 11 January 1955.

The fact that there exists no legal definition of the term "kulak" puts practically no limits on the discretionary powers of the State authorities.

DOCUMENT No. 111
(CZECHOSLOVAKIA)

Division of Peasants into Classes.

"In order to determine to what class a peasant accused of some crime belongs, the first step the court must take is to establish whether he exhibits the characteristics typical of the village rich. i.e., it must consider all material facts, particularly what farm buildings or other buildings the accused owns and in what manner he exploits or has exploited his labourers, and more particularly how he exploits the middle class and small peasants and into what class the workers in his neighbourhood put him. (Decision of the Supreme Court of 7 February 1953 — 2 Tz 14/53).

"The District Court of Nove Mesto n. Vahom sentenced the accused for the crime of sabotage within the meaning of Art. 85 (1) (a) of the Criminal Code. The act of sabotage was non-fulfilment of delivery quotas for the years 1951 and 1952, in that he failed to deliver: 205 kg of beef, 463 kg of pork and 1001 eggs. He had committed a further act of sabotage in that his stock of animals on 31 December 1951 was less than the number he should have had according to the official plan by two head of cattle and five pigs. The accused as well as the public prosecutor appealed.

"The regional court at Bratislava, as appeal court, decided against the public prosecutor and in favour of the accused. It quashed the verdict of the District Court and found the accused guilty only of a crime under Art. 135 (1) and of the Criminal Code and fixed the penalty on the basis of subsection (2).

"The Supreme Court allowed the appeal of the public prosecutor on the ground that the law had been wrongly interpreted. It quashed the judgment of the regional court and ordered it to re-try the appeals of the district public prosecutor and the accused against the judgment of the District Court and to come to a decision.

Judgment

"In giving the decision under appeal the Appeal Court infringed the rule laid down in Art. 26 (1) (a) of the Criminal Code. It clearly appears from the official "motivatum" for this rule that the court must

state what criminal acts it considers to have been proved and on what grounds and that the judgment must deal with the whole of the evidence and disclose all the steps the court took to establish the facts constituting the crime and must state how it views the whole matter from the legal aspect.

"In the matter under appeal the Appeal Court in judging the issue appears to have done no more than compare the findings of the District Court with the facts put in on behalf of the accused and has made no attempt to explain the discrepancies...

"The task of the Appeal Court will now be to follow the above mentioned procedure at the retrial of the issue and to get the facts really correct, from which can be deduced how and to what extent the accused failed to fulfil his delivery quota, what was the number of animals missing and the reasons put forward by the accused for not complying with the obligations placed upon him. At the same time in reviewing what class the accused belonged to, the court must take all the relevant facts into consideration, especially whether the accused owned farm or other buildings (in the present case, two houses) and in what way he exploits or exploited the working class, particularly middleclass and small peasants and what class the workers in his neighbourhood put him into.

"The first political duty of the courts in dealing with criminal matters is to determine whether the typical characteristics of the village rich are present. This will guide the court correctly and convincingly in deciding the differences in the characteristics of the various peasants. A further task of the Court consists in exposing by its orderly presentation of the relative facts the criminal activity of the village rich who constitute irreconcilable enemies of the higher forms of agricultural production. In this connection it should be remembered that one of the most effective weapons of village rich in their endeavour to disturb the socialization of agriculture is to attack the basis on which it all rests, namely, the uniform economic plan in the agricultural production sector, which they can do by not fulfilling their delivery quotas, especially of produce which plays an important part in the nourishment of the people, such as meat, milk, eggs, etc.

"As far as the purely legal aspect of this matter is concerned it is essential to establish what was the intention of the accused in doing this act and whether he did it with the intention of rendering more difficult the implementation of the uniform economic plan. In this connection it must also be remembered that the uniform economic plan is based on the assumption that regular deliveries of animals can be expected, so that delay in making deliveries threatens the execution of the economic plan.

"The Supreme Court allowed the appeal of the public prosecutor on the ground that the law had been incorrectly interpreted and its decision appears from the terms of the judgment."

Source: Decision No. 35, from the Collection of Judgments of Czechoslovak Courts, Year 1953, No. 4, published by the Supreme Court in Prague.

DOCUMENT No. 112

(CZECHOSLOVAKIA)

The Meaning of the Expression "Village Rich"

"The first duty of the peasant is to cultivate the soil. The village rich who declines to take over fields assigned to him as a result of a partition of the area to increase productivity and intentionally refuses to work them, neglects the duties of his calling in the fulfilment of the uniform economic plan in the agricultural production sector within the meaning of Art. 85 (1) (a) of the Criminal Code. (Art. 85 — Sabotage) (Decision of the Prague Regional Court of 17 June 1952 — 4 Tk 127/1952).

"The accused A., a peasant owning 25 hectares of land, and the accused B., a (female) peasant owning 30 hectares of land, failed in

large measure to fulfil their delivery quotas of animal and vegetable produce for the years of 1950 and 1951. Furthermore both of the accused failed to maintain the number of cattle and pigs provided for by the plan, and the accused B. intentionally failed to have a sow covered.

"In 1951 the fields of the parish were repartitioned to increase productivity and most of the peasants in the parish were agreeable to the steps taken. However, the two accused persuaded some middle-class and small peasants, whom the accused won over, to join with them in preparing and signing a protest against the repartition. The fields assigned to the accused A. and B. from the harvest 1951 until March 1952, were left uncultivated over that period. The other small peasants who had signed the protest at the beginning did not work the land assigned to them. However, after enquiries had been commenced against the accused A. and B., the other peasants started on their own free will to cultivate the unworked land.

"The District Court at Podebrady decided that both accused were guilty of the crime of sabotage within the meaning of Art. 85 (1) (a) of the Criminal Code and sentenced them both to imprisonment for five years.

"Acting on Art. 43 of the Criminal Code it awarded loss of civil rights for a period of ten years. Acting on Art. 47 of the Criminal Code, it decreed the confiscation of the whole of their properties; and under Art. 54 of the Criminal Code it ordered the publication of the judgment. In accordance with Art. 53 of the Criminal Code, the Court issued an instruction that the accused were prohibited from residing in the district where the crime was committed.

"The regional court disavowed the appeal of the accused.

Judgment

"The regional court accepted the facts as found by the district court, which corresponded with the charges set out in the indictment. The indictment states that the two accused are the richest farmers in the community not only because they own the largest properties, but also because they possess the best agricultural machinery and equipment. Until 1949 they cultivated their land in a proper fashion and regularly fulfilled their delivery quotas, and only since that time, after further exploitation on a capitalistic basis ceased to be possible, they let their farms go to ruin.

"When the higher collective forms of production were introduced into agriculture, as part of the conversion of our country into a Socialist State, which must have convinced the accused that any hopes that progress could be reversed in the direction of capitalism were vain, the accused made up their minds to work against the Republic. They not only tried to render more difficult the building up of Socialism in our country by not fulfilling their delivery quotas and by openly combating the partition of land to increase productivity, but they also took advantage of their influence on small and middle-class peasants, who were not very enlightened politically and who formerly depended on them. This is proved by the fact that the misguided peasants signed the protest against the partition of land to increase productivity and in the beginning refused to work the fields newly assigned to them, whereas after the accused had been exposed and after preliminary enquiries were instituted against the accused, they changed their minds of their own accord and began work on the fields assigned to them. Typical of the defence put up by the accused is also their excuse that they were the last on the list to sign the protest against partitioning to increase productivity, although the investigation showed that the protest was prepared and signed solely on the initiative of the accused. This feature of the accused, their influence in the parish and their actions display the typical characteristics of the village rich who keep in the background and make use of other persons in the execution of their wrongful schemes.

"If one considers what the accused did as a whole and compares particular actions of theirs, immediately it becomes evident that everything

was done with a specific intent. The accused wanted to put difficulties in the way of the development of the planned economy and they wanted to render the development and fulfilment of the uniform economic plan ineffectual or at least to disturb it. They were village potentates and being such they waged an unrelenting fight against the economic principles of the Czechoslovak Republic and tried to sabotage the development of the village to Socialism.

"As to punishment, the lower court in exposing their wrongful acts properly held that the crime involved a high degree of danger to the State. A special feature of their wrongful acts was their opposition to the demands of the small and middle class peasants which at the same time constituted a danger to the People's democratic rule of the Republic. These facts alone would earn them a severer punishment than that inflicted by the District Court. The District Court inflicted the minimum punishment because both accused were old people. The loss of civil rights was pronounced as the inevitable consequence of sentencing the accused to imprisonment for more than two years, for a crime of which intent is an ingredient. For the same reason and also because the crime itself was evidence of their hostile attitude towards the rule of the People's democracy, the confiscation of the whole of their property was also ordered in accordance with Art. 47 of the Criminal Code. The publication of the sentence as provided for in Art. 54 of the Criminal Code seems also to be reasonable, since it is necessary to inform the general public of the dangerous activities of the village rich. The lower court was justified in prohibiting them from returning to reside at their old place under Art. 53, since the undisturbed building up of Socialism requires that people of the type of the accused should be prevented from exerting an influence on the middle class and small farmers of their former sphere of activity."

Source: Decision No. 23 of the Collection of Decisions of Czechoslovak Courts, Year 1953, No. 3, published by the Supreme Court in Prague.

To remove any vestige of doubt the Communist press made the point that the abolition of the so-called "list of kulaks" must not be regarded as an amelioration of the kulaks' position.

DOCUMENT No. 113
(CZECHOSLOVAKIA)

"In many villages "class-peace" reigns, or worse, the kulaks are active and are temporarily exerting a certain influence on the progress of affairs in the village... It is known that last summer, during the period between the harvest and the autumn tasks, the kulaks made a frontal attack against those agricultural co-operatives which up till now have not shown satisfactory results because they do not comply with the statutes. Kulaks it was who convinced and often exerted pressure on the less enlightened or timorous members of the co-operatives to withdraw from them. Many Party members and functionaries of the People's Administration believe that the abolition of the lists of kulaks and of the ten percent supplement on delivery quotas mean that the struggle against the kulaks is being called off. Such views are childish and entirely wrong. There is no change in Party policy towards the kulaks... Above all, the Communists should know that we have not yet reached the stage at which we can liquidate the kulaks as a class. Today the policy is to isolate them, force them into a corner and restricts their freedom... We must not allow the kulaks to use and exploit hired help permanently. Furthermore, we must not allow them... to own tractors, threshing-machines and similar equipment. We will not give them the advantages which small and middle class peasants possess today... We will resolutely prosecute and punish accordingly to law, like any other wrecker of society, any kulak who sabotages supply..."

Source: Pravda (Bratislava), 3 February 1954.

The following deposition of a witness illustrates the means by which the struggle against kulaks is carried on.

DOCUMENT No. 114

(HUNGARY)

Deposition: Appeared William N. N., who says as follows:

"In 1953, as in previous years, shortly before the harvest had to be delivered the police received orders to charge a number of private farmers with sabotaging the harvest, in order to induce the other farmers as a result of the trials which then took place to deliver their obligatory quotas punctually. The police were ordered to charge several farmers, the cases to be spread fairly evenly over the whole district. The farmers in question were exclusively persons whom it had been decided to liquidate because they were efficient farmers or for their anti-Communist attitude which was known to the Communist Party. My friends learned this from policemen, who were official Communist Party members, but only because otherwise they would have lost their jobs. Only the various chiefs of the police and perhaps their deputies were real Communists. These policemen told my friends that they had a list of the farmers which might come in question and that they had, if possible, to bring a strong case against one or another of the persons mentioned on the list. The police found their evidence by noting where ears of corn lay which they found when driving round in the country. They then enquired whom the lost ears of corn could have belonged to and if it was one of the farmers on the list, they started criminal proceedings for sabotaging the harvest. Such trials were staged as show trials. The idea was to convince the population, who in many cases considered these farmers to be decent and honest, that they were actually wicked wreckers and enemies of the People's Democracy.

"A lawyer with whom I was acquainted, whose name I do not want to mention, once defended a farmer on this charge. This farmer was a middle-class farmer holding only 12 holds of land, however, he possessed a threshing-machine and a tractor and therefore was considered to be a kulak. Some bundles of ears of corn, which the farmer allegedly had thrown away with the intent of sabotaging the people's food, provided the evidence. The farmer refused to plead guilty and although the ears of corn had naturally nothing on them to show to whom they belonged, the court found him guilty. This farmer was sentenced to imprisonment for two and a half years and confiscation of half of his property. His threshing-machine was confiscated.

"I knew this farmer also personally, but I do not want to mention his name, in order not to endanger him."

Read, approved and signed.

28 October 1954.

As illustrated above, the rates of the quotas of compulsory deliveries of agricultural products per hectares and of animals go up as the farm increases in size. As also explained above, kulaks have to bear special supplements to the standard rates which increase similarly with the size of the farm. The natural consequence (which is presumably the one wanted) is that the farmers concerned cannot fulfil their delivery quotas in spite of extremely hard work. The only choice left to them is to join an agricultural collective, and by doing so they lose what little independence they have hitherto retained. If they do not want to take this step, inability to fulfil their compulsory deliveries

ensures their downfall. They are charged — in most of the cases for sabotage — and thereby inevitably lose their property, as is shown by the following documents.

DOCUMENT No. 115
(CZECHOSLOVAKIA)

From: Administrative Penal Law of 12 July 1950 of the Czechoslovak Republic.

Article 53:

Protection of the production of vegetables.

He who does not do his duties or infringes any regulation in connection with vegetable production, especially

(a) he, who does not fulfil the plans in respect to sowing areas and yield.

(b) — (e) ...

will be punished with a fine up to 250,000 Kcs or with imprisonment not exceeding six months.

Article 56:

Protection of the production of animals.

(1) He who does not do his duties or infringes regulations in connection with the production of animals, especially he who does not comply with the plan of production of animals or who takes no care of their health or does not watch over their yield or the orderly increase of domestic animals, shall be punished with a fine up to 260,000 Kcs, or with imprisonment not exceeding six months.

DOCUMENT No. 116
(ROUMANIA)

Decree No. 202 Amending the Criminal Code of the Roumanian People's Republic.

Article 268 (7):

- (1) Non-compliance with a duty to deliver within a fixed period the quantities of agricultural, vegetable or animal products, which are subject to delivery is punishable with a fine as laid down in the relative law and with the legal procedure provided for this purpose.
- (2) Non-compliance activated by criminal intent, with a duty to deliver within a fixed period the quantities of agricultural, vegetable or animal products, which are subject to delivery, or non-compliance with criminal intent, with a duty to sell or to deliver products, provided such duty is explicitly specified in the Laws or in the Resolutions of the Council of Ministers, is punishable with correctional detention for a period between one month and one year. The acts mentioned in sub-sec. 2 are punishable with correctional detention for a period between three months and three years, if they were jointly committed by a group of persons or if there was prior agreement to combine between a number of persons.

Source: *Buletinul Oficial*, 14 May 1953, No. 15.

DOCUMENT No. 117
(BULGARIA)

Bulgarian Criminal Code of 9 February 1951.

Article 87:

He who, with a view to interrupting the food supplies (within the meaning of Article 85) does not fulfil or fails to fulfil wholly the plans connected with rationing or the economic tasks imposed on him is

liable to be punished for the offence of sabotage with imprisonment for a period of not less than one year and in especially severe cases with imprisonment for a period of not less than 10 years or with death.

DOCUMENT No. 118
(CZECHOSLOVAKIA)

A Kulak Sentenced.

"Recently the People's Court at Hranice sentenced the kulak Albert Klezel from Spicky, being behind with his deliveries, to imprisonment for 5½ years, to loss of his civil rights for six years, to confiscation of his private property and to pay the costs of the proceedings.

"The trial showed that the kulak always was and will be an inveterate enemy of the working class and of the small and middle class farmers, and that he is a direct ally of the murderers and diversionists of (Radio) Free Europe."

Source: *Straz Lidu (Olomouc)*, 29 October 1954.

The real purpose of the criminal proceedings instituted against free farmers can clearly be gathered from the two following documents. In addition to a comparatively small penalty, confiscation of the defendant's whole fortune is ordered. It is also worth mentioning in this connection that decisions of this nature emanate from the Executive.

DOCUMENT No. 119
(CZECHOSLOVAKIA)

Order.

Held by the Penal Commission of the District National Committee at Mnichovo Hradiste after proceedings as provided for by Law No. 89/1950 on administrative penal procedure: —

Vaclav Simon, farmer, resident at Brezina No. 10, District Mnichovo Hradiste is guilty

of not having completed his compulsory deliveries in respect to animal and vegetable produce for the year 1951, and of having jeopardized thereby the uniform economic plan.

Thereby he committed an offence under Art. 53 (a) and Art. 56 (1) of the Administrative Penal Law (No. 88/1950*) and in view of these provisions he is sentenced to a fine of 50,000 crowns payable to the Treasury. If it is not paid he is subject to a sentence of three months imprisonment. At the same time under Art. 21 (1) of the Administrative Penal Code,**) his farm including all its animals, birds and the articles thereon, is confiscated by the State. As laid down in Art. 32 of the Administrative Penal Code, an order is hereby made prohibiting him from taking up his abode at his previous residence. This decision will be published in accordance with Art. 24 of the Administrative Penal Code.

Judgment

It was established after investigation that the accused Vaclav Simon had not completed the delivery quotas presented for his farm which had an area of 18.78 hectares, in the operational year 1951. He failed to deliver: 4,961 liters of milk, 481 kg of pork, 410 kg of oil plants, 1,117 kg of beef and 10,20 kg of poultry, which were destined for

*) Wording in Document 115.

***) *Text of Art. 21 (1)*: "In inflicting a sentence for a severe offence the National Committee may order the confiscation of the prisoner's property, where he manifested with intent an obvious hostility towards the rule of the people's democracy. See also Art. 47, Criminal Code.

public consumption. As regards the cultivation of his land, his farm belonged to the agricultural production co-operative at Brezina, so that the major part of his delivery quotas of vegetable production had to be fulfilled by the co-operative. In respect to his nonfulfilment of the milk deliveries it must be pointed out that the accused did not keep the number of cows provided for by the plan.

Also in respect to pork he could not deliver his compulsory quota because he did not comply with the plan in respect to the number of pigs to be kept. The circumstances were such that he could have completed his deliveries which leads to the conclusion that he intentionally did not complete his compulsory deliveries. His hostile attitude towards the rule of the people's democracy found expression in the fact that he withdrew from the agricultural production co-operative in order to jeopardise the uniform economic plan.

Since the interests of the working class call for it, it is further ordered that he may not take up his abode again at his present residence.

Source: Cesta miru (Liberec), 17 January 1953.

DOCUMENT No. 120
(CZECHOSLOVAKIA)

Order.

Held by the Penal Commission of the District National Committee at Mnichovo Hradiste on 20 August 1952, after verbal proceedings as provided for by Law No. 89/1950 on the administrative criminal procedure:

Ladislav Cermak, born on 15 May 1896, farmer resident at Zásadky No. 6 is guilty

of having upset the uniform economic plan by not sowing the areas established in the plan and by failing to complete his compulsory deliveries of milk.

He thus committed an offence under Art. 53 (2) and Art. 56 (1), of the Administrative Penal Law No. 88/1950, and in view of these provisions he is sentenced to a fine of 20,000 crowns payable to the Treasury. If it is not paid he is subject to a sentence of one month imprisonment.

Under Art. 21 (2), his farm at Zásadky No. 6, including all animals, birds and the articles thereon is confiscated by the State. Having regards to Art. 24 of the Administrative Penal Code, it is ordered that this decision should be published once at the accused's expense in the periodicals "Cesta míru" and "Hlas nové vesnice".

Judgment

It was established after investigations that the accused Ladislav Cermak did not fulfil his duties as an independent farmer in respect of his farm having an area of 11.15 hectares, and that in spring of last year he did not put into cultivation 4.2 hectares of a sowing area, so that other people had to do this.

Furthermore he did not fulfil the task set to him of planting 2.08 hectares with sugar-beet, but had only planted 0.68 hectares.

Moreover, in first half of the past year, in which the accused had to deliver 6,000 liters of milk, he failed to deliver altogether 1.026 liters of milk for public consumption, and thus without reason deprived the public of that quantity of milk.

Source: Cesta miru (Liberec), 30 May 1953.

III. FAMILY LAW

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Art. 16, United Nations Universal Declaration of Human Rights.

Parents have a prior right to choose the kind of education that shall be given to their children.

Art. 26, par. 3, United Nations Universal Declaration of Human Rights.

The function of marriage in the Soviet Union and in the People's Republics is to produce adherents to the system or, as the Minister of Justice of Czechoslovakia, Alexei Cepicka, put it on 7 December 1949: "The essence is that the family through the work, which their members contribute, shall strengthen the social order and guarantee socialist education to the children."

The Supreme Court of Hungary said in March 1953 in a case of abortion, that everybody had "constructive duties" to perform within the new community, one of them being giving birth to children: "Every birth of a child contributes to the indefatigable struggle of the masses for the elevation of the working population."

In cases of marriage with foreigners, however, the danger prevails that the issue of such a marriage might not be useful to the system. Consequently, marriages between foreigners and citizens are restricted if not prohibited in the "People's Democracies", as the following document proves.

DOCUMENT No. 121
(CZECHOSLOVAKIA)

*Law No. 59 of 29 October 1952.
Concerning Marriage With Foreigners.*

The National Assembly of the Czechoslovak Republic hereby enacts the following law:

Article 1:

For a marriage between a citizen of the Czechoslovak Republic and an alien, the consent of the Ministry of Interior or an authorized executive body is required. Without this consent such a marriage will be void.

Article 2:

This law will come into force on the day of its promulgation. It will be executed by the Minister of Interior.

(s) Gottwald
Zapotocky
Nosek

A similar law in the Soviet Union has been repealed under the pressure of public opinion all over the world.

In marriage too, politics figure prominently. The following documents show that a divorce is possible on the grounds of differences in political ideas.

DOCUMENT No. 122
(SOVIET ZONE OF GERMANY)

District Court Magdeburg,
23 Ra 167/51

Magdeburg, 9 July 1951

Decided 14 June 1951

IN THE NAME OF THE PEOPLE

In the Case

of Horst Krapat, husband, at present House of Correction, Bautzen/Sa.
P.O. Box 100, No. 323A

Petitioner

v.

his wife, Margot Krapat, née Schuz, Magdeburg, Langer Weg 69

— for divorce —

the District Court Magdeburg, Department 23, after hearing oral argument on 14 June 1951 before Judge Richter

decides as follows:

The marriage which had been contracted at the registrar's office of Magdeburg Altstadt is dissolved on the grounds of fault attributable to both parties.

...

Judgment

Action and cross-action, based on par. 43 EG (Marriage Law) are well-founded. The parties have become estranged in the course of their marriage on account of conflicting political views to such an extent that a continuation of this marriage could morally not be justified. Therefore, the Court is satisfied that a renewal and continuation of cohabitation which is the foundation of marriage, would be impossible.

The marriage of the parties is dissolved by virtue of pars. 43, 53 of the Marriage Law, the fault being attributable to both parties.

Source: *Neue Justiz (New Justice)*, No. 11 of 5 June 1953, p. 369 ff.

DOCUMENT No. 123
(SOVIET ZONE OF GERMANY)

Arts. 43, 49 Marriage Law.

1. It is a serious violation of marital duties of one partner prevents the other from active participation in community life.

OG Decision of 13 April 1953 — 1Zz 17/53

Decision of the Court:

In its decision the District Court overlooked the fact that the prevention of active participation in community life, as put forward by the petitioner, is a serious offence against marital duties, which in its gravity surpasses other common transgressions. It affects the interest

of the community more than any other transgression. The District Court should not have confined itself to the statement that the conduct of the respondent had been condoned by intercourse in March 1951. Generally it can be presumed that a violation of marital duties has been condoned if intercourse has subsequently taken place.

However, this presumption does not hold true in every case. The evidence of the witness S. replaced the presumption that the violation of marital duties had been condoned. S. testified that he had tried without success until shortly before the separation of the parties, i.e., until shortly before 1 May 1951, to convince the respondent of the necessity for the petitioner's participation in political activities. Further proof of the unlikelihood of a condonation can be found in the testimony of the same witness who had overheard the respondent saying: "I have to take up some political activity so as to have no difficulties with my divorce." This would not have been necessary if there had been condonation.

On the basis of the presumption that there had been condonation the District Court has not gone further into the petitioner's pleadings. It did not deal with the argument that the respondent had abused leading statesmen of the progressive Nations. The Court has therefore misconducted itself contrary to par. 139, Law of procedure (ZPO). Nor did the District Court appreciate the evidence of the witness that the respondent had remarked on New Year's Eve 1950, 1951, that she could never agree with the petitioner's political views.

The decision of the District Court is against the law because it did not appreciate the decisive significance of the violation of a marital duty by obstruction of active participation in politics (par. 43, Marriage Law [EG]), also because it has too rigidly applied par. 49 Marriage Law by presuming condonation on the grounds of intercourse and because it failed to apply par. 139 of the Law of Procedure (ZPO).

The judgment is quashed and the case remitted for a new trial.

DOCUMENT No. 124

(POLAND)

Judgment -
of a Civil Division of the Polish Supreme Court of 11—29
December 1951 — Reference No. C 1083/51.

Decision (Excerpt):

The Supreme Court has considered:

... The District Court wrong in holding that the petitioner's claim that serious political differences had separated him from his wife, could not be a ground for divorce.

First of all a marriage must be based on ideological unity which cannot prosper if there are conflicting views on basic political and social problems, especially if one partner represents a progressive, the other however a reactionary creed. If such differences cannot be surmounted in the course of marriage, they may cause the complete breakdown of the marriage.

Source: Excerpt from The Decision of the Supreme Court (Civil and Criminal Court) (in Polish) — printed by order of the President of the Supreme Court — (Warsaw; Law Publishing Co., 1953), Volume 2.

Compulsory divorce is also possible if one of the parties fled to the West or has been imprisoned for a long term.

DOCUMENT No. 125

(POLAND)

Art. 30, par. 1 ...

par. 1 The Court may however in exceptional cases dissolve the marriage without the consent of the parties on grounds of public policy if the parties have been separated for a long time.

Source: Kodeks Rodzinny (Family Code) of 27 June 1953, Dziennik Ustaw, 1950, No. 34, item 308.

A sentence imposed by a Soviet Military Court is also considered a ground for divorce as the following example proves.

DOCUMENT No. 126
(SOVIET ZONE OF GERMANY)

Fürstenberg/O., 11 December 1952

Ursula Junker
Fürstenberg/Oder, Wohnstadt
Block 9a, Aufgang A

To the
Registry of the Municipal Court
Fürstenwalde/Spree

Concern: Junker v. her husband — 3 Ra 59/52

Regarding my petition for divorce I refer to the letter of the District Court Bautzen of 11 September 1952 — AZ. 4 AR 125/52 and I declare:

My husband committed a criminal offence without my knowledge and consent. He was sentenced to penal servitude for 20 years. Sentence was passed by the Military Court on the ground of espionage and treason against the German Democratic Republic. I was informed of this in a letter of 23 January 1951.

He therefore is an enemy of the people building for socialism, eventually, communism, as well as an enemy of all patriots in their struggle for peace.

The still existing marriage is an embarrassment to me, a citizen of the German Democratic Republic whose personal attitude towards the building up of socialism is positive — as I can prove — I work daily in our Center Factory, the Iran Works Combine Ost/VEB. This situation is socially and morally intolerable. It weighs upon me and affects my work. For this reason, I file this application and ask for the rejection of my husband's claim as set out in the letter of 11 September 1952 of the District Court Bautzen AZ 4 AR 125/52. As a traitor of the cause of humanity he has lost all rights. I request that my application for divorce be granted without further delay. I cannot understand how there could have been a delay in such a clear case. As a member of the party and of the working class, the Socialist Unity Party of Germany, I shall turn for help to the President of the Supreme Court, Hilde Benjamin, through the President of our Republic, Wilhelm Pieck, if the Municipal Court Fürstenwalde should not be in a position to bring about my divorce as quickly as possible.

There is nothing I have to add to this statement. I request an immediate decision in my divorce suit.

(signed) Ursula Junker.

The above stated written pleadings of the petitioner who is, as she stresses herself, an ardent defender of the SED party policy, has had a decisive influence on the divorce suit.

DOCUMENT No. 127
(SOVIET ZONE OF GERMANY)

District Court
Fürstenwalde/Spree
3 Ra 59/52

Delivered: 19 December 1952
signed: Bellack, Judicial Officer,
recording clerk.

Judgment

In the Name of the People

In the lawsuit
of Ursula Junker, wife, née Domschke,
Fürstenberg/Oder, Wohnstadt Block 9, Aufgang A
— Petitioner —

v.
her husband, insurance official, Manfred Junker, at present House of
Correction Bautzen

— Respondent —

Attorney for the respondent:
Fritz Pempel
Fürstenwalde/Spree
for divorce

the District Court Fürstenwalde/Spree, after hearing oral argument
on 19 December 1952 before judge Erdmann, presiding judge and the
lay assessors Zuckermann and Müller, decides as follows:

1. The marriage of the parties, which was contracted on 6 August
1949 at the Civil Registry of Beeskow, is hereby dissolved.
2. The respondent is adjudged to be the guilty party.
3. The respondent is condemned in costs.

Facts

The parties contracted a marriage on 6 August 1949 at the registrar's
office of Beeskow. The petitioner was born on 6 March 1929, the respon-
dent on 13 June 1926. Both are German nationals. The child Barbara
Junker, born on 19 December 1949, is the sole issue of the marriage.
The parties last joint place of residence was Beeskow. The last time
intercourse took place was in April 1950.

The petitioner says:

The respondent has been sentenced to 20 years of penal servitude for
espionage. He was arrested in April 1950. Having regard to the fact
that the petitioner is a state employee and as she feels that her husband's
crime is an impediment to her career, she cannot be expected to remain
married to the respondent. There is no expectation of renewed
cohabitation at a future date.

The petitioner requests,
that the marriage of the parties be dissolved and that the respondent
be solely held to blame.

The respondent requests,
that the petition be dismissed and cross-petitions for dissolution of the
marriage on the ground that both parties were at fault.

At a hearing of the Court the respondent admitted that on 4 April
1950 he was arrested by the Soviet Occupation Forces and that he was
sentenced to 20 years penal servitude. He claims that in January 1951
he had for the first time an opportunity of writing a letter to the
petitioner and at once informed her of the term and reason for his
sentence. In return he had received some affectionate letters. Far from
reproaching him, the petitioner had assured him that, whatever might
come, she would wait for him. If the petitioner wanted a divorce on
the ground of his sentence, he, the respondent, would refuse to accept
this ground. By the letters there would be sufficient condonation.

In August 1951 he had received a letter from the petitioner, asking
him to give her her freedom, because she was still so young and all
her life still before her. This was the true ground for the petition.

The respondent is of the opinion that a party which considers
matrimony a tie, will eventually violate marital duties accordingly
and thus cause the complete destruction of this community. The
petitioner, therefore, should be held to blame.

Further references are made to the written pleadings of the parties.

Decision

The petitioner's claim succeeds, cross-petition dismissed.

The argument in the case had revealed the truth of the petitioner's
statement concerning the respondent's punishment, when the latter was
examined by the Court. The petitioner cannot be expected to continue
a marriage to a man who has indulged in such dishonourable activities.
He was sentenced to 20 years penal servitude. The respondent adduced
no evidence that the petitioner had written affectionate letters to him
at the beginning of his term of imprisonment. It has to be taken into

consideration that the petitioner was still comparatively young and that the couple had only been shortly married. Therefore, the petitioner had not realized what 20 years of penal servitude meant for the existence and the durability of such a young marriage. Not even if the respondent proved that the truth of his statements, could the Court have found joint responsibility for the breakdown of the marriage. All these grounds were, as mentioned before, decisive. The divorce of the parties is based upon pars. 43, 52, Marriage Law of 20 February 1946. Costs are based on par. 91 ZPO...

(Signed)

The wives of persons politically incriminated may avoid the difficulties they encounter by obtaining a divorce.

DOCUMENT No. 128

(HUNGARY)

Deposition: Appeared Alice NN. who says as follows:

"My name is Alice NN. I was born on 1 November 1932 in Budapest, which was my last abode. I fled from Hungary on 14 November 1954. At present I am living at 4, Wallenstrasse, Vienna.

"I am an acquaintance of a Mrs. Balinty, who has been convicted of political crimes together with her husband. Immediately after serving their sentence their deportation from Budapest was ordered. Mrs. Balinty was released before her husband. She was told on her release that the deportation order would be cancelled and that she could return to Budapest provided she would get a divorce. She obtained a divorce, whereupon the deportation order was cancelled. This happened in 1952.

"In another case a woman named Sylvia Nagy, née Kegel, married to a man who had been convicted of political crimes could only find work as a common labourer in house building or other manual jobs unless she would get a divorce. Apart from that she had been assured that she would no longer be watched by the police, as before, as the wife of a convicted criminal. Thereupon she asked for a divorce. This happened in 1954."

Read, approved, and signed.
Munich, 1 February 1955.

If the parents cannot or do not want to educate their children in accordance with the aims of the Soviet community, their children are taken from them and are educated by the state authorities.

DOCUMENT No. 129

(CZECHOSLOVAKIA)

Family Law (Law No. 265 of 27 December 1949)

Article 53:

Parental authority implies special rights and obligations by the parents to guide the activities of their children, to represent the children and to administer their property. It shall be exercised in accordance with the interests of the community.

Article 54:

... The parental authority shall be exercised in a way which meets the requirements of the child's welfare and the interest of the socialist community.

Article 60:

If the parents do not meet their parental obligations properly, the Court may take appropriate action. It can impose special restrictions

on the parents which also apply to the guardian, and if it should be necessary it can transfer the administration of the child's property to a trustee.

Article 61:

1. ...
2. If the exercise of the parental authority is impaired by a permanent impediment, or if the parents abuse their parental authority or if they neglect their implied duties, the Court will remove the children from the parental authority.

Article 62:

If the interest of the children so requires, the Court may order that the parents who have been deprived of their parental authority should have no access to their children.

The legal measures mentioned in Art. 60 of the above Act on Family Law may also consist of transfer to an educational institution. Such or similar measures are taken in all the constitutional states, and at first view this provision does not seem to be important, as many laws in the countries of the Soviet orbit *prima facie* seem to be in accordance with constitutional principles. However, the following document imparts a completely different impression, namely the intention to eliminate "capitalist relics" from the mind of youth and to gain new slaves for work.

DOCUMENT No. 130

(CZECHOSLOVAKIA)

*Extract from an essay "Educational Institutions for Youths",
by Dr. Josef Eliás.*

- "1. At the end of 1951, educational institutions were transferred to the Ministry of Justice in conformity with proclamation No. 316/1951, published in the Official Bulletin, Part. I. Until that time the existence of educational institutions for youths were not uniformly regulated. Their actual tasks was not defined either. These institutions fulfilled — each one in its own way — the tasks of bourgeois correctional institutions and their methods of work corresponded also to this task. Consequently, the judiciary had the task to reorganize these institutions immediately, to give them a solid judicial basis and to place the education administered in institutions on a new, socialist basis.
"The first step was already taken through the publication of proclamation No. 28. 730/51-II/5 of 22 November 1951. In this proclamation it was established in first instance that trustee education of youth is accomplished in these institutions, either by virtue of decisions of the penal courts according to par. 71, Section 1, the Criminal Code or by virtue of an ordinance of the Guardianship Court according to par. 71, Section 2, of the Criminal Code or according to par. 60 of the Act on Family Law.
- "2. Now, we shall turn to the most important principles of the Statutes. The institutions have the task to educate — re-educate — the youth entrusted to their care in the spirit of socialism, to bring up all-round citizens, promoters and defenders of the socialist order. The institution fulfils its tasks by moral, spiritual, physical and aesthetic education. Therein, the Soviet pedagogics serve as a model to the institution. Therefore, the educational aim of the institutions is identical with the educational

aim of the socialist society. (Par 1 of the Statutes of the organization).

"The respective educational tasks and their way of practical implementation are also fully in accordance with the results of Soviet pedagogical science. Thus, for instance, education to productive performance is considered to be the most important means of moral education. The institution is bound to assign productive work to the ward at the latest five days after his arrival — for which he will also be adequately remunerated — when assigning productive work, the institution must take care that the work to be performed is generally useful, interesting and suitable to the ward's strength and capacities, whereby it is necessary that this work should be accomplished on the basis of socialist forms of work organization (competition, shock-work, etc.)...

"The institution provides the ward with adequate lodging and food and the necessary clothes, underwear and bed-linen as well as the necessary means for instruction. The ward's educational fees are deducted from his wages. These fees are fixed at a lump-sum by the Ministry of Justice. During his stay in an educational establishment the ward may dispose of the remainder of his wages — after the fees for his education have been deducted — only with the consent of the head of the educational establishment. (Arts. 16 through 21 of the Statutes of the organization)...

"The statutes of the organization provide that the educational establishment is bound to assign productive work to the respective youths at the latest five days after their arrival there. Thus, a cogent consequence results from this regulation: The educational establishment for youths must have a real possibility of assigning work. However, after the transfer of the educational establishments to the administration of the Ministry of Justice the latter discovered that actually only few establishments possessed their own work shops and agricultural undertaking and that even in such establishments it was not possible to employ all the youths in a productive way. Therefore, the following measure was taken: Branch establishments of educational institutions were affiliated to great industrial state enterprises. Such branches were also established on Czechoslovakian state farms for youths unsuited to work in industry...

"At the present, wards of branch establishments work in important productive branches and enjoy in this way all the advantages granted by the people's democratic regime...

"The fees of the trustee education in the branch establishments are exclusively paid by the wards out of their wages, and some of them should already have saved considerable sums of money. Expenses saved in this way amount to millions of crowns per month...

"As already mentioned, there existed a considerable lack of appropriate institutions after the Ministry of Justice took over the educational establishments for youths. Moreover, some of them had to be dissolved, since they were lacking all educational facilities. For this reason, only two institutions remained in Bohemia and Moravia, one for boys and one for girls. Especially morally endangered youths were assigned to these establishments. This means, that in all cases the measures taken were repressive. Of course, preventive care was out of the question. It was not possible to take preventive measures, firstly because there existed only a small number of institutions and secondly because it was not possible to differentiate between the care for both groups of youths. Because of lack of sufficient room the institutions were forced to refuse admittance to further wards or to return wards prematurely to their parents. Since it was infeasible to differentiate between the wards, the Ministry of Justice was forced to disregard the principle that the courts are to order trustee education not only in cases where the youths are threatened with moral danger, but also as a preventive measure in all cases where the circumstances hitherto existing do not offer a guaranty for a socialist education. This refers specifically to members of reactionary minded families which through

their influence permanently disturb the educational work of the school, of youth organizations, etc. The establishments of branch institutions overcame the lack of space and made it possible to differentiate between the wards...

Acquisition of knowledge is also an element of Marxist education and it can only be achieved by schooling. Therefore, a demand was made to the Ministry of Education that schools be established in educational institutions for youths and in branch establishments. The Ministry of Justice did not conceal its intention to concentrate education of the wards in these schools. The Ministry of Education fully complied with this demand. In all the educational institutions for youths and in all their branch establishments elementary technical schools were founded for those youths in need of special treatment...

"I mentioned already that the wards work eight hours a day, so that they can attend school only after their working hours. Concern was expressed that the fatigue after a whole day's work — although as a rule not heavy and exhausting — would have a bad influence on the ward's power of concentration when attending school. Such fears proved groundless in schools where the teachers succeeded in getting their wards interested in the school, by always keeping their interest alive, etc. . . .

"During that same year the Ministry of Justice also succeeded in improving the wards' clothes. At present negotiations are taking place to grant the wards a good and full diet. The number of wards increased by 300 per cent during one year. To-day, educational institutions for youths are not only for victims of capitalism but generally for such youths as are unable to overcome the relics of capitalism. It must be the final aim that a stay in an educational institution for youths is no slur but a time served to help young people to the full development of their strength through Marxist education."

Source: *Lidové Soudnictví*, Vol. IV (1953), No. 1.

Also in conformity with the above trend is the following judgment of a Czechoslovak court whereby a youth was transferred to an educational institute because of capitalist influences and insufficient performance in his work.

DOCUMENT No. 131
(CZECHOSLOVAKIA)

Case 94.

"Education by the State, ordered by the Court, is not a punishment for an offense. It is collective education which replaces the parental care and attempts to achieve the same educational aims of the socialist community as should also govern the parents in educating their children.

State education may also be ordered on account of a young person's permanent negative attitude towards his chosen work or profession, if reformation cannot be achieved through parental education. (Decision of the District Court of Ostrava of 28 January 1953, No. 7, Co 17/53.)

"The Civil District Court ordered State education for a young person... in a reformatory. In the Court's opinion, the young person who had chosen the profession of a miner and had completed the requisite term of apprenticeship kept missing his shifts. His colleagues were furious. According to a report of the employers all efforts to reform him were futile. The Court therefore thought that family education is unefficient for this young person and that only collective education in a reformatory can make out of this boy a respectable and industrious citizen. The District Court rejected the boy's parents objections.

“Excerpts from Court’s Findings:

“It is an error on the parents’ part to regard the State education of a boy, when ordered by the Court, a form of punishment, or to believe that state education is equivalent to a term in a work house. It is rather collective education which purports to replace education by parents and follows the purpose of educating the youth in socialist society. The parental authority is to be exercised to meet the requirements of the child’s interests and that of the community (art. 53, Family Law, see above). By Art. 32 of the Constitution of 9 May, 1948 every citizen is under an obligation to work according to his abilities and to contribute to the general welfare through his work. This implies that the parents shall educate their children to become respectable citizens of a socialist state.

“If for some reason they cannot meet these obligations, the Court will take appropriate measures (art. 60 of the Law concerning the Family Law.)

“The parents admit that their minor son absented himself from the shifts and therefore did not fulfil one of the fundamental duties of a citizen. They however attributed his behaviour to illness and not to a negative attitude towards work. Yet their opinion was in complete contrast with the employer’s statements which prove that all efforts to reform this youth and make him into a respectable and honest citizen of the Republic and the democratic order of the people had failed, that this boy does not have a positive attitude towards work and that he performs even the lightest work unwillingly and carelessly. The days when he was unable to work according to a doctor’s certificate were taken into account and were not added to the time he absented himself. This boy’s dislike of work therefore cannot be explained by his state of health, but only by his negative attitude towards our present constructive activities. The parents’ education however has been unable to correct this boy’s attitude.

“In this case the order for state education, i.e. proper care which replaces the parental supervision, is fully justified. It is a matter of course that the institution, which will take the boy must also take care of the ward’s health. This appears from the statute dealing with reformatories for juveniles and is based upon Soviet experience, especially on the principles of Makarenko which were relied upon by the plaintiffs.

Source: Digest of Decisions of the Czechoslovak Courts, 1953, No. 6.

DOCUMENT No. 132
(SOVIET ZONE OF GERMANY)

Municipal Court Pankow

File No.

34 Ra 755/52

Promulgated on 16 December 1952

signed: Mechelke
judicial clerk

Order

in the case

of Mrs. Esther Bossweiler, née Nath,
Berlin-Pankow, 17 Oetzaler Strasse
represented by Dr. Taeger, attorney
Berlin-Pankow, Breitestrasse 7.

Plaintiff

Diplom-Ingenieur Wilhelm-Mathias Bossweiler
Berlin-N 20, Heidebrinkerstrasse 7, b. Hayn, part. links

Defendent

represented by Dr. Wendland
Berlin-Pankow, Kissingenstrasse 45

It is hereby ordered in accordance with par. 74 Allied Control Council Law No. 16 of 20 February, upon hearing oral argument on 16 December 1952 before Judge Goerke, presiding, and the lay assessors, Magistrate Nerger and Mr. Kozialek that

The custody of the daughter of the parties, Susanne, born on 2 October 1949, is to be with the Office for Juvenile Aid and Institutional Education at the Office for Public Education of the District Administration Berlin-Pankow, on the understanding, that the child shall sojourn with the mother in the democratic sector.

Decision

The marriage of the parties was dissolved on the grounds of fault attributable to both parties, by judgement of the Municipal Court Pankow on 16 December 1952. The daughter Susanne is an issue from the marriage. She was born on 2 October 1949. The petitioner applied for the custody of the child. The respondent objected and said he would take good care of the child and also asked for custody.

According to par. 74 Marriage Law, the well-being of the child is the sole consideration in deciding upon custody. However, this does not only comprise material and spiritual well-being, but also in accordance with Art. 31 of the Constitution of the DDR, the right and the highest duty to educate the child in the spirit of democracy, so that the child will become a peace-loving individual struggling for peace.

In the Court's opinion neither party is suitable for this purpose, the mother at any rate not without the help of the Department for Juvenile Aid/Institutional Education at the Public Education of the District Administration Berlin Pankow. The father of the child, an engineer who did not want to use his abilities for the peaceful building-up of our democratic society — using them instead to support the fortress policy of the Reuter Senate — is certainly most unsuitable to get the custody of the child. But the mother as well has so far failed to show sufficient moral strength to educate the child without assistance as a citizen of our DDR able to fulfil her duties towards the community. This failure is shown by the fact, that she was willing to have the right of custody transferred to the father of the child, though she knew that he had moved to the West-sector of Berlin.

Therefore it had to be ordered, that the custody will be transferred to the Office for Juvenile Aid/Institutional Education at the Office for Public Education of the District Administration Berlin-Pankow, on the understanding, that Susanne shall stay with her mother, as long as the latter remains in the democratic sector and can be assisted by the aforementioned office in the education of her child.

This order is issued *free of charge*.

Berlin-Pankow, 16 December 1952,
Municipal Court Pankow.

(Signed)

According to Communist principles the child belongs to the state. The following document concerns a woman from the Soviet Zone who wanted to seek refuge in Western Germany and was caught. This was considered sufficient to take the child away from her, so as to prevent her from taking it with her should she attempt to escape again.

DOCUMENT No. 133

(SOVIET ZONE OF GERMANY)

Deposition: Appeared Rosemarie Marschall, born on 8 April 1908, at present residing in Berlin-Zehlendorf, Killstedterstrasse 14 B bei Beitz, who says as follows:

"I was employed as a nurse at the District Hospital Hoyerswerda since 1 August 1952. I was called before the Council of the District on 24 November 1952 on the pretext that an official matter had to be settled. From there I was taken to the State Security Service Office at Hoyerswerde by a member of that office. After an examination lasting several hours, in which I was threatened that I would loose

my job and on the other hand promised that something could be done for the release of my husband, who is still a prisoner of war, they compelled me to sign a contract to work as an informer. I resolved then at once to escape from this by fleeing but I still wanted to save as much as possible of my clothes and furniture. First of all I received instructions from the State Security Service (SSD) to collect information about some of my acquaintances. On 14 February I was again summoned to the SSD. They reproached me for my reports which lacked political judgement. I had to sign a statement again, promising better work. My position had become so pressing that, with my 12 year old daughter and a friend I set out to seek refuge in West Berlin. At the railway station of Treptow I passed a control-post. Because 30 DM were found on me and the contents of my luggage indicated my plans to escape, I was arrested. After several weeks of imprisonment in various prisons at Berlin, Magdeburg, Dresden, Weisswasser and Cottbus, I was sentenced to a 2 years' term of imprisonment. On 22 April sentence was passed for a violation of the Law concerning German Domestic Payments. On 1 August I was put on probation and was released.

"My daughter had been taken away after she had spent two days with me in the prison cell. Only after several written requests to the state attorney of the district Hoyerswerda, the District Council of Hoyerswerda informed me by letter in June 1953 that my daughter Renate had been moved to a home for normal children at Lindenau, district Senftenberg; the child, they assured me was well. After my release on 3 August, I left Görlitz, where I had moved in with friends and went to the children's home at Lindenau, requesting to let me have my daughter back.

"There was no reply. After the SSD had taken me to Cottbus on 8 August and held me there for 3 days, I applied at Görlitz for an interzonal passport for myself and my daughter to go to my mother's home at Kortal near Stuttgart. I had the intention of escaping further persecution by the SSD and wanted to remain in West-Germany. To the children's home at Lindenau I wrote again for my daughter and pointed out that I wanted to take my child on a trip to friends in West-Germany, for which I had been promised an interzonal passport. Thereupon I got a letter on 21 August 1953 from the Public Education Department of the Council of Hoyerswerda, informing me that by a resolution of the District Council I had been deprived of the right of custody over my child and that I had thereby lost the right to determine my daughter's abode. It would be impossible for my daughter to come along to West-Germany. Fearing that by further efforts I would draw the attention of the SSD to my flight, I did not dare to take further steps to get my daughter out. As soon as I had received the interzonal passport I travelled to West-Berlin. From here I shall try to achieve the eventual release of my daughter with the help of friends in the Soviet Zone."

Read, approved, and signed.

DOCUMENT No. 134
(SOVIET ZONE OF GERMANY)

Reference No.:
2 Ds 94/53
K II 78/53
signed: Seal of the District Court
Hoyerswerda.

Judgment

In the Name of the People
Criminal Case.

Versus Rose Maria Marschall, masseuse, born on 8 April 1908 at Dürrhartha, District Frankenstein, last abode at Hoyerswerda 7 Fritz Stier St.

Charge Violation of the Law concerning the protection of German Domestic Payments.

The criminal division of the District Court of Hoyerswerda gave judgement sitting on 22 April 1953 before District Judge Röestahl, presiding, and Magdalena Rehkork, saleswoman, Breeschke, and Herbert Köhler, mayor, Laubusch, both lay assessors,

Judicial Officer Konrad, recording clerk
of the Court Registry
the following decision:

signed: Seal of the District Court of Hoyerswerda.

1. The accused, Rose Maria Marschall, charged with smuggling currency of the German Bank and 30 DM West from the territory of the DDR to West Berlin, is hereby sentenced, in accordance with par. 1 and 2 of the Law concerning German Domestic Payments, in connection with par. 9 WStVO to — two — years imprisonment.
2. The period of custody since 28 February 1953 is taken into consideration.
3. The accused is condemned to pay all legal costs.

Sentence

The accused is 45 years of age, married and has a child, 12 years of age. She has been previously convicted for insulting a state policeman. She has been in custody in connection with the matter now before the court since 28 April 1953. The accused practices as a masseuse and previously had a monthly net income of DM 195.—

On 28 February 1953 the accused secretly travelled to Greater-Berlin with her daughter and an old man, accompanying them, with the intention of getting from there into West Germany. She was not in the possession of a regular notice of departure and travelling permit and had no border permit. She carried with her the sum of 270.— DM of the DNB and 30 DM West, which she pretends to have received from her mother, living in West Germany. On the station Treptow she was seized, trying to enter a train bound for the West sectors. The accused admits this.

The accused is therefore charged with a violation of the Law for the protection of German Domestic Trade, concurrently with a violation of the Law concerning German Domestic Payments.

According to the Trade Protection Law this offence is committed by taking goods without a bill of carriage into or out of the territory of the German Democratic Republic. The term "goods" means objects which are being sold or traded with. Yet a change in the possession of the objects — money is definitely an object — is not sufficient for the Trade Protection Law to apply. In this case, the accused wanted to use the 270.— DM, she carried with her, to travel to her mother and to be able to pay the fare to Stuttgart by changing it into West currency. This however is a violation of the Law concerning German Domestic Payments, because the accused had no permit to export West currency or DM of the DNB from the German Democratic Republic. In order to meet her obligations beyond the zonal borders, she should have turned to the German Bank (DNB).

The accused has therefore been found guilty of a violation of pars. 1 and 2 of the Law concerning German Domestic Payments, the punishment for which can be found in pars. 16 referring to par. 9 of the SWtVO. The accused must be punished in accordance with the provisions stated therein and the Court regards the offence proved, though the sectoral border had not yet been crossed. Only interference by the station control prevented the accused from getting *with the money* into West-Berlin. A mere attempt cannot be relied upon, as it was not the accused's merit that the plan failed.

Taking currency of the German Bank to West-Berlin constitutes a serious endangerment of the economic, social and political reconstruction of the DDR. The accused made a good living and there was no reason at all to leave the DDR illegally and to damage the DDR by taking foreign currency along with her. She has shown an intention of placing this money into the hands of our enemies, the war mongers, saboteurs and agents and she did not care whether eventually by means

of this money the building-up of socialism in the German Democratic Republic would have been disturbed. It is known to the Court that the accused had led an objectionable life, before leaving the town of Hoyerswerda. It is the opinion of the Court that she must be re-educated by a substantial term of imprisonment. The Court regards a term of imprisonment of 2 years appropriate and sufficient to fulfil this educational purpose.

DOCUMENT No. 135
(SOVIET ZONE OF GERMANY)

Council of the District Court Hoyerswerda
(Cottbus County)

Public Education Department
Juvenile Aid and Institutional Education

Hoyerswerda, 21 August 1953
Hö/Ne

Mrs.
Rosemarie Marschall
Görlitz.
Berlinerstr. 23 II r.

Regarding: Your daughter Renate Marschall, at present at the home for normal children at Lindenau.

In reply to your letter of 17 August 1953 we inform you that by order of the District Council you have been deprived of the right of custody over your daughter and consequently of the right to determine her abode. Your daughter cannot accompany you on your travel to West Germany with an interzonal passport, especially as her school will begin on 1 September 1953.

signed Hölzel
referent of the District.

However, if the mother has the right political outlook, her child will be left to her.

DOCUMENT No. 136
(CZECHOSLOVAKIA)

"Today the Courts have come to the realization that the structure of our People's Democracy guarantees to women their full place in the development of society and guarantees that a woman's work by itself, if she has proved to be suited to it, can never be a reason to deprive her of her child. Therefore the Court came to a correct decision, when it left the child to the mother who is a shock-worker and a member of the Communist Party, on the ground that her political and moral personality guarantees the proper education of the child. Likewise a mother, who has been successful in her work and has been classified as the best worker of her branch in a contest, can be trusted as a proper educator."

Source: Dr. Zdenka Patschova, Three Years of Struggle for The New Family (in Czech), in Socialistická zakonnost (Socialist Legality) (bulletin of the Ministry of Justice, the Attorney General and the Supreme Court), 1953, No. 1, p. 20 D.

PART D

LABOUR LAW

I. TRADE-UNIONS AS AN INSTRUMENT OF THE STATE

Everyone has the right to form and to join
trade-unions for the protection of his interests.

Art. 23, par 4, United Nations
Universal Declaration of Human
Rights

a) NO INDEPENDENT TRADE-UNIONS

In the countries within the Soviet sphere of power employees are denied the right to unite in independent trade-unions for the purpose of safeguarding their interests. Organizations describing themselves as "trade-unions" do, it is true, exist, and the right of joining them is granted to employees. These organizations, however, are not free associations, but are dependent on either the Communist Party, or the government, which in turn, is directed by the Party.

The pattern is set by the Soviet Union where the trade-unions are controlled by the Communist Party which to the exclusion of all other influences is the sole governing State party.

DOCUMENT No. 1 (USSR)

Article 126 of the Constitution of the USSR states:

"In conformity with the interests of the working people and with the aims of developing the organizational initiative and political activity of the masses of the people, citizens of the USSR are guaranteed the right to unite in public organizations: trade-unions, co-operative societies, youth organizations, sport and defense organizations, cultural, technical and scientific; and the most active and politically-conscious citizens in the ranks of the working class, toiling peasantry, and toiling intelligentsia to unite voluntarily in the Communist Party of the Soviet Union, which is the vanguard of the working people in their struggle to construct a communist society and is the leading core of all organizations of the working people, both public and State."

DOCUMENT No. 2 (USSR)

From the trade-union organ of the USSR:

"At every stage of their development the Soviet trade-unions have proved their attachment to the Communist Party..... On every occasion and in all matters they base their decisions on the Party, from which they get their directions....."

Source: Trud, 11 June 1954.

In Czechoslovakia, unified and centrally controlled Trade-
Unions were also established.

DOCUMENT No. 3
(CZECHOSLOVAKIA)

From the Constitution of 9 May 1948:

Article 25:

- 1) The wage-earners can rally for the protection of their rights in a united trade-union organization and are entitled to defend their interests through these organisations.
- 2) The united trade-union organization is assured of a large measure of economic control, and the decision in all questions where the welfare of the working people is involved rests in its hands:

Source: Collection of Law and Decrees (Sbirka zakonu a narizeni republiky Ceskoslovenske), 9 June 1948, No. 52, p. 1087.

DOCUMENT No. 3 a
(CZECHOSLOVAKIA)

Chapter I. United Trade-Union Organization.

Article 1:

- (1) The working people in the Czechoslovak Republic shall be organized in the united trade-union organization, constituted as an association, uniting all employees who are Czechoslovak citizens on the basis of voluntary membership, complete equality and mutual solidarity...

Article 2:

The united trade-union organizations shall have, *inter alia*, the following powers and duties :

1. to direct the organizational development of the trade-union movement and issue suitable rules for its organization and conduct;
2. sole right to establish and dissolve its trade-unions, agencies, and affiliated associations, and to direct their activities.

Source: An Act Respecting the United Trade-Union Organization, No. 144 of 16 May 1946, Ibid., 24 June 1946, No. 59, p. 1023.

Just as the individual and separate trade-unions are controlled by the State, i.e., the Party, so the Czechoslovak United Trade-Union Organization is also controlled by the State.

DOCUMENT No. 4
(CZECHOSLOVAKIA)

Voluntary Organizations.

Article 1:

For the purpose of exercising their democratic rights and thereby strengthening the people's democratic system and for the purpose to further assisting the effort to build-up socialism, the people unite in voluntary organizations, including a unified trade-unions, womens' organizations, youth organizations, unified popular organizations for physical training and sport, and cultural, technical, and scientific associations....

Article 4:

- (1). The State shall assist the development of the organizations, create favourable conditions for their activity and growth, and takes care that their internal working develops in accordance with the constitution and with the principles of the People's Democratic system.

- (2). This assistance is extended to them through the national committees. The trade-union is directed, with regard to general questions which concern the activity of the organization, by the Ministry of the Interior and in other matters by the central authorities concerned, taking into consideration the task of the various organizations.

Source: Act. 68 Concerning Voluntary Organizations and Assemblies of 12 July 1951, *Ibid.*, 1951, No. 34.

The same conditions prevail in Bulgaria. The trade-unions, in addition to serving the interests of the State, are an essential element in the forced labour system in Bulgaria today. The Labour Code of 1951 organized them into government agencies in charge of labour and insurance matters (Secs. 2, 3, 4, and 7). At the same time they are under the direct supervision of the Communist Party. In his speech relative to the acceptance of the Labour Code, Georgi Chankov, then Vice-President of the Council of Ministers and member of the Politburo of the Bulgarian Communist Party, declared:

"It is necessary today to understand that the source of every success in the economic, social and cultural-educational work of the trade-unions is the right party-political leadership over the trade-unions." (*Trud*, 17 December 1951).

As to the tasks of the trade-unions, Todor Prakhov stated in his report before the Congress of All Trade Unions in Bulgaria, held on 16—19 December 1951 as follows:

"The primary task of all our trade-unions is the successful organizing of socialist competition and the transformation of the latter into a constant method for building socialism."

Their task is also, he said: "to improve the Marxist-Leninist education of workers and employees in the spirit of the new relationship between labour and government, in the spirit of socialist patriotism and proletarian internationalism, for everlasting and indestructible friendship with the Soviet Union." (*Trud*, 10 November 1951).

Thus, being under direct government and Communist Party supervision and guidance they have now become a tool of a legal, economic and political system, for control over the working masses. Abolishing the right of workers freely to unite themselves in a union representing their interests as well as the right to strike, and establishing a regime of compulsory membership in the Communist type of trade-unions, the government is now able through the trade-unions to force a worker to accept any work given to him and to work under any conditions offered him.

DOCUMENT No. 5
(BULGARIA)

From the Bulgarian Labour Code.

Part I. Trade-Union Organizations.

Article 2:

The organizing of wage and salary earners on an occupational basis shall be unrestricted (Article 87 of the Constitution).

The trade-unions in the People's Republic of Bulgaria are mass, non-party organizations of wage and salary earners, uniting them on a public voluntary basis without distinction of race, nationality, sex, or religious conviction.

Article 3:

The Central Council of the General Trade-Union of Workers shall have the right to represent the wage and salary earners in all matters relating to labour and State social insurance.

The Central Council of the General Trade-Union of Workers shall have the right to lay before the Council of Ministers drafts and laws, decrees, resolutions, regulations and ordinances for the governance of such matters. The various Ministries shall also have power to submit drafts relating to labour and State social insurance matters, in agreement with the total council of the General Trade-Unions.

Source: Decree No. 544 to Promulgate the Labour Code, Izvestiya of the Praesidium of the National Assembly (Izvestiya na Prezidium na Narodnoto S'branie), 13 November 1951, No. 91, p. 1.

DOCUMENT No. 6

(POLAND)

Article 72 of the Polish Constitution:

1. In order to promote political, social, economic and cultural activity of the working people, the Polish People's Republic guarantees to its citizens the right to organize.
2. Political organizations, trade-unions, associations of working peasantry, co-operative associations, youth, women's, sports and defence organizations, cultural, technical and scientific associations, as well as other social organizations of the working people, unite the citizens for active participation in political, social, economic and cultural life.
3. The setting up of and participation in associations whose aims or activities are directed against the political and social structure or against the legal order of the Polish People's Republic are forbidden.

DOCUMENT No. 7

(SOVIET ZONE OF GERMANY)

From the By-laws, of the League of Free German Trade-Unions.

5. a. The League of Free German Trade-Unions (FDGB) sees in the Socialist Unity Party of Germany the party of the working-class; this party is its conscious, organized vanguard. It is the creator of the economic plans which are so important to the German people. The Socialist Unity Party of Germany is the pioneer fighter of the German people in the fight for peace and for the national unity of Germany.

Source: Manual of the Trade-Union Functionaries (in German), Berlin, 1952, Tribune, publisher of the FDGB.

The following document shows how, in the Soviet Zone of Germany, directives are quite openly issued to the trade-unions:

DOCUMENT No. 8

(SOVIET ZONE OF GERMANY)

From: Comments of the Secretariat of the District Headquarters of the SED in Cottbus on the Stage of the Preparation and Carrying into Operation of the Collective Agreement of 1953 in the State Mining Company.

"... The following conclusions can be drawn from the result of the investigation of the "brigade" from district headquarters:

1. The Secretariat of the District headquarters in Hoyerswerda must definitely put a stop to the formal making of resolutions and fulfil the following tasks for the fulfilment of the Works' Collective Agreement of 1953 :
 - a) Conferences must take place immediately by each of the various industrial groups with the secretaries of the works' party organizations and the comrades at the trade-union headquarters with the aim of determining the specific tasks of the party in the preparation and putting into operation of the Works' Collective Agreement of 1953;
 - b) Seminars on the Works' Collective Agreement of 1953 must be conducted weekly with the comrades responsible for propaganda and with the works' party leadership;
 - c) The stage of development reached in the fulfilment of Works' Collective Agreements must appear on the agenda of each meeting of the secretariat, and the secretaries of the key industries must be invited to report.
2. The comrades in the district headquarters of the State Mining Company must complete the following tasks :
 - a) Acting on the decisions of the Central Committee and the comments and directives of the Secretariat of the district headquarters, talks must be conducted with the chairman of the works' trade-union committee with the aim of overcoming the deficiencies and weaknesses in the preparation and putting into operation of the Works' Collective Agreement of 1953 in order that the main objectives could be reached. These main objectives are: the putting into operation of the Socialist competitive system, the exercising of the strictest economy on all sides, and the broad development of the raising of the outdated norms;
 - b) As a result of the comments of the Secretariat of the district headquarters on the present state of the Works' Collective Agreement, the trade-union groups in the works must be able to raise the socialist consciousness of all workers to the level of the current political objectives and to direct a relentless struggle against all Social-Democratic tendencies.

The Secretariat of the SED district headquarters in Cottbus calls on all comrades in the District Headquarters, the works' party organizations, the trade-unions and other mass organizations to study carefully the comments of the district headquarters on the preparation and carrying into operation of the Works' Collective Agreement of 1953 and to draw the appropriate conclusions for the improvement of their own work."

Source: *Lausitzer Rundschau*, 14 April 1953.

b) NO REPRESENTATION OF EMPLOYEES INTERESTS

Since in the Soviet Union there is no employer other than the State administration and since in the other countries under the Soviet regime this applies to a major part of their commerce, the organizations described as trade-unions are, because of their dependence, in no position to represent the interests of the employees. They have become tools of their state employer. Their tasks consist of promotion and putting into operation of Communist plans, especially on the economic front.

DOCUMENT No. 9 (CZECHOSLOVAKIA)

"The local working groups have, in particular, the following tasks :
 "To re-awaken the conscience of the members of the revolutionary trade-union movement and of all the employees in its works; to convert them and to ensure their loyalty to the policy of the revolutionary

trade-union movement and to resolutions made by its officials; to ensure that the aforesaid resolutions are brought into effect, to mobilise the workers in order to fulfil fixed production quotas and to raise the output of the workers, to organize and further by all possible means the spreading of Socialist competition, the concept of shock workers and innovators, and the creative initiative of the workers; to inculcate into the workers of the undertaking the principles of a planned economy, to induce them to take an active part in the elaboration, execution and control of the economic plan, and to see to it that the realization of projects entrusted to the works is carried out regularly and even overfulfilled; to detect bottlenecks that occur in production and to help eliminate them; to teach the workers of the undertaking that the realization of economic plans constitutes the pre-requisite for the raising of their standard of living and for the satisfaction of their material and cultural needs; to ensure that the principle of piece-work is introduced and observed in all branches of the undertaking and that the highest output receives fair remuneration; to ensure that higher working norms are fixed."

Source: *Odborar* (Weekly magazine for the executive departments of the trade-unions), 7 February 1950.

DOCUMENT No. 10
(CZECHOSLOVAKIA)

From the Five-Year Plan:

- (2) The united trade-union, the groups of which it consists, and the leaders of enterprises, works, authorities and state institution must co-operate in ensuring that production is increased especially by means of
 - a) education of the workers in the field of economics,
 - b) encouraging the creative initiative of the workers,
 - c) widening and intensifying the competitive system of work within the undertakings and between the various undertakings,
 - d) systematically singling out the competent workers in order to train them for more responsible leading posts,
 - e) raising the production norms and changing over to progressive tasks,
 - f) using new methods of work,
 - g) improving the organizing of work under management based on scientific principles,
 - h) improving the technical safety measures as well as the social and sanitary facilities,
 - i) making every effort to reduce absence and frivolous change of employment on the part of the workers.

Source: *From the Law Relating to the Czechoslovak Five-Year Plan (in Czech)* (Law No. 241/1948, Sect. 21), as published by Minister of Education and Information, Prague, 1949.

Trade-union officials who insist on the original tasks of the trade-unions, namely, on protecting the interests of the employees, are reprimanded.

DOCUMENT No. 11
(CZECHOSLOVAKIA)

From an Article by Premier Antonin Zapotocky.

"Certain trade-union officials assume that it is their duty to place themselves in opposition to the works management and to make claims on the state without realising that today we have another leadership and another state, and that in the interest of the workers the struggle today is a vastly different one; it is the struggle for higher production.... Instead of considering as their chief task the education and mobilization of the workers for the strengthening of socialism, they endeavour

to obtain minor advantages for the workers, even at the expense of another trade.

The chief aim of the working-class today must be to raise production by promulgating, on a vast scale, the socialist system of competition, by the application of new methods of working, and by the abolition of soft, out-dated norms.

Some officials, however, imagine... it to be their task to press for as much as possible for "their workers" in "their works", without reference to the interests of the workers as a whole. They present their claims to the works management, the ministries, and the national committees. They protest against the establishing of norms and against the prohibition of "blackmarket wages". Such a mode of procedure was acceptable under Capitalism, when the workers sought to deceive the "Norm-establishers" and to retain the lower norms, since at that time it was one of the means of opposing increasing exploitation.

But what was right then is no longer right today. We have no longer any exploiters against whom the working class must struggle. Nevertheless, there are workers as well as officials who defend the low norms as "revolutionary achievements..."

Source: Prace, 25 January 1953.

In July 1953 the Czechoslovak trade-unions openly pledged themselves to undertake the creation of a new social discipline of work, and above all to prevent workers for absenting themselves without reason and to prevent the fluctuation of man power. This pledge replaced a law passed in June 1953 in which "punitive" measures were threatened against workers who absented themselves from work without reason or change their employment without permission.

DOCUMENT No. 12
(CZECHOSLOVAKIA)

From the Cabinet meeting of 6 July 1953.

"At the Cabinet meeting summoned on 6 July at the request of the Praesidium of the Central Council of the Trade-Unions, a resolution of the chairman of the Central Council of the Trade-Unions was discussed. The government was able to state, with satisfaction, that our labourers and other workers feel themselves strong enough to draft new rules of socialist labour discipline. The government therefore decided to accept the pledge of the chairman of the Central Council of the Trade-Unions.

"The trade-unions pledge themselves to do every necessary to develop with greater energy than before the campaign to persuade the workers against absenteeism and against the fluctuation of labour and to ensure that on the one hand the infringement of a few individuals against labour discipline to the advantage of the majority is prevented and that on the other hand all workers show an awareness of labour discipline.

"The fact that the Revolutionary Trade-Union movement accepts responsibility for the abolition of unwarranted absenteeism and fluctuation of labour is a proof of the highly developed social consciousness of our working class and of other productive elements. The government is convinced that the working-class is in a position to deal with all signs of lack of discipline themselves. For this reason it repeals the government directive concerning measures towards the abolition of fluctuation of labour and absenteeism following a suggestion of the Central Council of Trade-Unions. It is now the concern of all workers, of the trade-union organizations and the works management to establish a positive sense of labour discipline in order to guarantee our economic development."

Source: Odborar No. 14, July 1953.

A semi-official article of the leading Czechoslovak daily newspaper emphasizes this pledge of the trade-unions.

DOCUMENT No. 13
(CZECHOSLOVAKIA)

"The trade-union organization assumes the responsibility for the steady development of the national economy, for the uninterrupted increase of production, and for the constant effort to heighten material and intellectual standards of the people. It is now the task of the Revolutionary Trade-Unions to apply these principles to the fulfilling of the plans, to organize the socialist competitive system more thoroughly, and to induce all workers, collectives, factories and enterprises to take part in honouring "Miners' Day" and the 36th anniversary of the "Great Socialist October Revolution".

"The trade-union organization must oppose every unwarranted wage increase with determination.

"All this demands a systematic struggle against the faulty grading of non-manual workers, against out-dated, low norms, wastage, deficient organization of work and loss of time.

"Anyone contravening the Socialist principle of wage policy in any way whatsoever is answerable to the trade-unions as an offender against state discipline.

Source: Rude Pravo, 20 June 1953.

The trade-unions in the other countries within the Soviet sphere of power have similar aims.

DOCUMENT No. 14
(POLAND)

From the speech of the secretary of the Central Council of Trade-Unions (CRZZ) of the People's Republic of Poland, Artur Starewicz, held at the III Trade-Unions Congress.

"... Our task regrading our production drive cannot be separated from tasks which we have to fulfil as regards the improvement of labour conditions and the increase of consumer goods for the masses, that is, to improve the welfare of the people. However, in my opinion two dangerous faults appear in trade union practices. The first fault is that the trade-unions tackle their problem from a limited point of view, solely appertaining to production. They can only see their actions in the light of figures which relate to the fulfilment or non-fulfilment of plans, at the same time forgetting those who elected them and whom they should serve, i.e., they forget the small people. They have got into the habit of replacing the management and are on the way to become a second management. They are indifferent to the weightiest matters, i.e., labour conditions, and the very existence of their personnel. Such bureaucrats think: 'What do I care about the people. I am only interested in the plan. The problem whether the worker lives under better or worse conditions will not put me out, but only why hasn't the plan been fulfilled'.... What is the second fault? It is a one-sided concentration on problems of daily existence and on social and cultural questions, thereby completely ignoring production and sometimes even contrasting problems regarding the workers' existence and socialist production: 'What do we care about production and the plan,' say such demagogues, and some naive people repeat it, 'we are only concerned with the welfare of the worker'. Where does such degeneration lead us? It leads to the neglect of production plans, i.e., to the neglect of that part of our endeavours whereby, with the aid of human labour, richness and reserves are accumulated, and whereby the national wealth is created, which we are to share in such a way that 80% is to be directly applied for consumption while on the other hand the remainder is to be used for the purpose of investment so as to better our standard of living. Failure to fight for the plan, deviating from its basic figures, prevents any real raise in wages, any lowering of prices, and any improvement of living conditions."

Source: Glos Pracy (Warsaw), 10 May 1954.

DOCUMENT No. 15

(ROUMANIA)

"Following the call of Comrade Gh. Gheorgiu-Dej to fulfil the five-year plan in four years, the works committees in all branches of industry, led by the key industries, have set themselves the task of increasing their production. A large number of them have set themselves the goal of completing the plan for 1953 in eleven months. Outstanding initiative was displayed in the socialist competitive system during this time, as, for example, that of the metal worker Vasile Costache in the Gh. Gheorgiu-Dej factory in Hundedoara, the founder of a movement which aims at raising steel production, or again the initiative of comrade Helene Chisiu of the cotton industry in the raising of the quality of their output.

"In the organization of the friendly Socialist competition — which forms the basis for the fulfilment and overfulfilment of the Plan — there still exist serious defects in many enterprises. Even today certain trade-union organizations, among them the miners' trade-union, regard this friendly competition as a „campaign”, something which one need only contemplate on certain fixed days. The leaders of the miners' trade-union are to be held responsible for the failure of the competition to reach the desired level in certain mining projects and for the fact that a certain number of mines have not fulfilled the production plan.

"... The vast experience of the Soviet Stakhanovite workers as well as the experience of the Stakhanovites and first-class workers of our own country must be made more widely known.

"... The power of the trade-unions, the assurance that they are equal to their responsibilities is based on the fact that they are directed by the party. It is the duty of party organizations to listen regularly to the reports of party-members from among the leaders of the trade-unions on the way in which the Socialist competitive system is organized and led. They must keep themselves informed as to whether all the workers are taking part in these competitions and whether the obligations which they take upon themselves exceed their previous output; they must also seek information about the way in which the competition agreements are drawn up and brought into effect, and the way in which Socialist competition is popularized. The offices of the chief organizations must arrange regular discussions between party members who are concerned with the trade-union groups, and who help the Communist in their struggle to mobilise the workers' efforts in closing the gaps and fulfilling the plan quota.

"The trade-union groups must be the principal agents in the mobilization of the workers for the friendly Socialist competition and in the struggle to fulfil and exceed the plan for 1953.

Source: Scanteia, 17 February 1953.

DOCUMENT No. 16

(HUNGARY)

From the Meeting of the Supreme Council of the Trade Unions.

"The Supreme Council of the Trade-Unions held a plenary session on Saturday, 6 February. Matyas Rakosi, First Secretary of the Central Committee of the party, and Imre Nagy, president of the military council, took part...

"Comrade Istvan Kristof reported in the name of the praesidium of the supreme council of the trade-unions on the work and tasks of the trade-unions. His speech included the following remarks:

"... We must frankly admit that we have made mistakes in the carrying out of the government programme. We made our first mistake in neglecting to examine the activity of the trade-unions immediately after the new programme was announced. The mistakes, which became

evident in the work of the supreme council of the trade-unions, occurred in every trade-union....'

"In order to be able to produce more shoes, clothes and other consumer goods in accordance with the new programme we need more coal and above all more electricity. It is for this reason especially the trade-unions must turn their attention to combatting the deficiencies which exist in these spheres. It is common knowledge that we have difficulty in meeting coal and electricity demands. Added to this is the fact that our coal industry has not fulfilled last year's plan. The difficulties arising out of this were increased by the unfavourable weather....

"The coal requirements for industry as well as for the population are steadily increasing. For this reason we demand of the miners that they pledge themselves as part of the output competition in honour of the Party Congress to make last year's arrears. The miners must respond to the concern of the government by tightening up factory discipline, since there is still much room for improvement in this field. That factory discipline has been slackened is proved by the fact that in December alone 21,000 tons of coal were lost through absenteeism among miners. Yet another proof of this slackness in discipline is the increased drift of labour within the industry. In the second half of 1953 a considerable proportion of the miners left the mines. The leaders of the coal-industry must realize that all this has happened merely because of the considerable change expected by the miners in the organization and safeguarding of their work did not come...."

Source: *Szabad Nep* (Budapest), 7 February 1954.

DOCUMENT No. 17

(HUNGARY)

Extract from the Leading Article of "Szabad Nep".

"...Our party organs must take care through new methods of the organization of competitions.... The party organs' duty is to control and direct in a better way the communists' activistic working in the trade-unions, that their comrades should have the possibility to carry out the great duties in connection with the organization of competitions.... It is not the party organs' duty to have the right method of production organized, yet it remains their duty to control and encourage the technical and economic leaders in order to improve the organization of the work..."

Source: *Szabad Nep*, 23 February 1954.

DOCUMENT No. 18

(HUNGARY)

Deposition: Appeared Mr. Jeorg...., who says as follows:

"I consider it out of the question that a trade-union would, in the event of someone being given unlawful notice by the managers take up such a persons' case through the foreman as the unions, as everyone knows, are merely tools in the hands of the Communist Party, and consequently must adhere to the government's policy, and further because also the managers virtually are government employees. It is also unlikely that in any one given case the manager and trade-unions should take up different points of view. I am prepared to swear to the truth of this my deposition."

Read, approved and signed.

DOCUMENT No. 19
(SOVIET ZONE OF GERMANY)

"The Principal Aims of the Trade Unions for the Fulfilment of the Five-Year Plan". (Extract from a resolution of the 7th meeting of the leaders of the FDGB held from 28th—30th November 1951).

"This includes for the trade-unions the following tasks :

1. Thorough, persistent and patient exposition and explanation of the plan, its importance, politically and economically, as a whole and in detail to every individual worker.
2. Development of real enthusiasm among the masses for the fulfilment of the plan, help and care of our working people in the fulfilment of their rightful interests. The education of the workers to a true patriotism expressed in working for our people, for the unity of Germany and for peace.
3. Mobilising of the masses, directing their attention to the most important key points of the plan, developing of their initiative on a broad scale through the competitive and activist movements.
4. Directing the initiative of all managements and trade-union members to the fulfilment and over-fulfilment of the plan with regard to quality and variety, organization of the struggle for the greatest reduction in costs, for the largest saving of material, energy and auxiliary materials and the mobilising of inner resources.
5. Directing the attention of the masses to the conscientious fulfilment of all investment projects, the rapid construction and re-construction of factories, directing the initiative of the masses to improving the organization of labour, to the increased mechanization of labour, to improved qualifications of the workers, to the encouragement of apprentices and improvement of the direction of labour.
6. Organizing the mass control of the strict observance of the plan, government directives, obligation under the collective agreements, as well as public discussions relating to the fulfilment or non-fulfilment of the plan in the works, collective discussions of the remedying of abuses and difficulties, development of public criticism of all abuses.
7. The carrying out on a large scale of information concerning the harmful activity of enemy agents, the mobilising of the masses to collective watchfulness, the relentless uncovering of the criminal activities of enemies of the people by trials conducted publicly in the works."

Source: *Handbook for the Trade Union Official (in German) (Berlin, 1952).*

**c) NO FREE ELECTIONS OF TRADE-UNION
FUNCTIONARIES: NO RIGHT TO "STRIKE"**

It is impossible for workers living within the Soviet Orbit to influence actions of their trade-unions by electing executives possessing their confidence. Everywhere the elections of trade-union executives are guided and controlled by the Party or government officials.

DOCUMENT No. 20
(ROUMANIA)

"Having regard to the fact that trade-unions are mass-organizations, it is necessary that together with communist, non-party members should be elected to committees, to wit such non-party members as support wholeheartedly the governments decisions, stand for the promulgation of progressive methods in industry and fight for labour discipline. A great number of women ought to be elected as members of the committees, if possible. It is the task of the party organizations to further

revolutionary alertness and to assist the newly elected trade-union committees. The trade-union committees ought to focus their attention on tightening labour discipline, on utilization of working hours to the full and the socialist labour law in order that every attempt by the enemy to use the trade-unions for its own purposes and to sneak into leading positions on the trade-union committees.

Source: Scanteia (Bucarest) 11 March 1954.

DOCUMENT No. 21

(POLAND)

Deposition: Appeared Janusz Jarzebski, born 21 September 1917, Polish citizen, lastly before his escape having resided in Berlin East, Thalstrasse 15, then employed by the Polish Military Mission, Berlin West, Schlüterstrasse 42, who says as follows:

"In August 1952 I was employed with the Polish Military Mission in West Berlin as head of the Legal and Passport Section of the consular division. At the time I was 'in name' a member of the United Polish Workers' Party but I was not active and the Communists considered me second-rate from the ideological point of view. On this account I did not even get a function with the Party. Since every Party member is under an obligation to indulge in political activities, I was given another assignment. Previously I had already been elected President of the Union of Polish employees, working with the Polish Military Mission. The part played by the Trade-Unions in communist countries is well known. It is their duty to transmit Party 'life' to the non-Party masses. The term of office of the old committee came to an end in August 1952 and new elections were about to take place. One day in August 1952 the head of the Polish Military Mission in Berlin, Mr. Alfred Friedmann called me in and told me he wanted me to act again as President of the Union and that the Committee should consist of such and such members. (He told me for example, that my friend, Mr. Swiatkowski, who escaped together with me should head the union education scheme. Swiatkowski was not a Party member.) It was quite clear to me that the composition of the Committee had been fixed at the Party's Executive Meeting in Berlin. After a few days the elections took place. When it came to the election of the President, the head of the Mission, Mr. Friedmann, rose and said he proposed me as President. Of course, after such a statement by the head I was unanimously elected President. There was no secret vote. When it came to electing other members, someone of the Party leaders rose and proposed one or the other. Again these persons were unanimously elected. It was a farce and to me an insult to be elected President in such a manner. Mr. Swiatkowski was also elected head of the union's education scheme of the Polish Military Mission in West Berlin. I confirm that the above deposition conforms to the truth."

Read, approved, and signed.

Similarly, the worker living within the Soviet Orbit has no opportunity of enforcing his interests by way of "strike" or to bear pressure to get his just claims granted. In no country within the Soviet Orbit, apart from the Soviet Zone of Germany, has the right to strike been mentioned in the constitution or in any Statute. The withdrawal of labour is threatened everywhere with heavy penalties (See Section IV below). Any strike is labeled in advance as a disciplinary or criminal offence. Although under Art. 14, Section 2, of the Constitution now in force in the Soviet Zone of Germany the trade-unions' right to strike has specifically been guaranteed, in practice this right is denied to the workers. This is illustrated by the case

of the former Minister of Justice, Fechner, after the people's revolt on 17 June 1953. Fechner declared in an interview with a representative of the Communist Party organ *Neues Deutschland*, dealing with the question what action should be taken against the strike leaders of 17 June, that the participants in the strike were not to be punished solely for their part in it, unless they also had committed criminal acts (compare *Neues Deutschland*, 30 June 1953). A few days later, this interview was supplemented as follows:

DOCUMENT No. 22
(SOVIET ZONE OF GERMANY)

"Correction.

Through a technical error some sentences of an interview with the Minister of Justice, Max Fechner, were omitted in part of yesterday's edition. It should read: 'Only such people ought to be punished who are guilty of a serious offence. Other persons are not to be punished. This also concerns members of the strike committee. The right to strike is guaranteed by the constitution. Members of the strike committee are no to be punished for their activities as members of the strike committee. I want to draw attention to the following. Even ringleaders may not be punished merely on suspicion or strong suspicion. If there is no evidence there is to be no punishment. Only those, and I want to repeat it, only those are to be punished who committed arson, robbery, murder, or other dangerous offences. Therefore there will be no policy of revenge against those who participated in the strike or demonstrations.'

Source: Neues Deutschland, 2 July 1953.

Shortly afterwards, Fechner was relieved from his post and taken into custody (compare *Neues Deutschland*, 17 July 1953). His successor, Dr. Hilde Benjamin, held an inaugural address before the heads of the Justice Department, wherein she said:

DOCUMENT No. 23
(SOVIET ZONE OF GERMANY)

From: "Our Courts — A Useful Instrument for Carrying Out Our New Course", speech of the Minister of Justice, Dr. Hilde Benjamin, before the heads of the Justice Department.

"... After the provocation had been thrust back, the enemies whose endeavour it had been, commissioned by foreign agents to wrest industries from our workers and the land from our farmers in order to return it to monopolistic capitalists and great land-owners. After these enemies were unmasked, it was the endeavour of the enemies of the people to create a possibility for these provokers to continue their criminal destruction so that they might create further unrest and prepare new provocation. There was also a tendency within the Ministry of Justice to give in to these enemy attempts, to spare provokers, to prevent them being brought to justice and to give them thereby an opportunity to continue their criminal actions. This was quite apparent from the well-known interview with Fechner. This interview has rightly caused unrest amongst our people and drawn protests. This interview made the fundamental mistake of trying to justify an attempted general strike and fascist putch as a strike. Consequently unrest was kindled again, causing our state considerable political and material damage."

Source: Neues Deutschland, 21 July 1953.

II. MAN-POWER DIRECTION BASED ON COMPULSION

Everyone has the right to freedom of movement and residence within the borders of each state.

**Art. 13, par. 1, United Nations
Universal Declaration of
Human Rights.**

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

**Art. 23, par. 1, United Nations
Universal Declaration of
Human Rights.**

The problem of forced labour has already occupied the attention of the United Nations Ad Hoc Committee for Forced Labour from 1951 to 1953. This Committee was set up on 19 March 1951 by the United Nations Economic and Social Council, in cooperation with the International Labour Office. The Committee differentiated between two forms of forced labour:

"The first form was forced labour for corrective purposes, in other words, in order to correct the political opinions of those who differed from the ideology of the Government of the State for the time being, those persons being sent to prison camps for varying periods in order to enable the authorities to correct their political opinions and, during detention, being obliged to perform certain services. The second form of forced labour was exemplified where persons were obliged involuntarily to work for the fulfilment of the economic plans of a State, their working being of such a nature as to lend a large degree of economic assistance to the State in the carrying out of such economic plans. Both the forms of labour were prescribed as essential either by process of law or by administrative measures on the part of Governments."

Source: Report of the Ad Hoc Committee on Forced Labour (Geneva 1953), pp. 5-6.

The problems related to the first form of forced labour are questions connected with penal law (Part B) and therefore are not dealt with in this section. The second form of forced labour however falls within the scope of labour law, for it replaces a freely-agreed labour contract with arbitrary action by the State.

Arbitrary action by the State can assume three different forms:

1. The State recruits new man-power by force from among a mass of unemployed who, in the Communist realm, are considered as a reserve of labour.
2. The State transfers workers from one concern to another and it is also possible for a transfer to take place from one locality to another for this purpose.

3. The State forbids employees to leave their place of work even by giving notice in the normal fashion.

In the Soviet realm all three forms of this compulsory labour are present.

a) RESTRICTIONS ON FREEDOM OF EMPLOYMENT

In the Soviet Union citizens of the RSFSR, with certain exceptions, can be called up for compulsory labour service by virtue of Articles 11 to 14 of the Labour Law.

DOCUMENT No. 24 (USSR)

Article 11:

In exceptional cases (fighting the elements or, in cases of shortage of labour, for carrying out important State work), all citizens of the RSFSR, with the exceptions mentioned in Articles 12-14, may be called up for work in the form of compulsory labour service (trudovoi povinnosti) in accordance with a special order of the C.P.C. (Council of People's Commissars) or of the officials authorized for this purpose by the CPC.

Article 12:

The following persons shall not be liable to be called up for compulsory labour service: (a) persons under 18 years of age, (b) men above 45 years of age and women above 40 years of age.

Article 13:

The following persons shall be exempt from call up for compulsory labour service: (a) persons temporarily incapacitated for work owing to illness or injury, during the period requisite for their recovery, (b) pregnant women during the last eight weeks after confinement, (c) nursing mothers, (d) men disabled in employment or in war, (e) women with children under eight years of age, if no one is available to take care of such children.

Article 14:

Additional exceptions and relaxations in respect of various kinds of compulsory labour service shall be specified by the Council of People's Commissars, the Council of Labour and Defence, and the Peoples Labour Commissariats, with due regard to health, family circumstances, the nature of the work and conditions of life.

Source: Basic Legislative Acts on Labour (Osnovnye Zakonodatelnye Akty o Trude) (Moscow, 1953), p. 17.

The basis for the formation of State reserves of qualified workers is a decree of the Praesidium of the Supreme Soviet of the USSR of 2 October 1940. The preamble states:

DOCUMENT No. 25 (USSR)

"The task of further developing our industry requires a continual flow of new labour into the pits, mines, transport, and factories. Without the uninterrupted replenishment of the labour force the successful growth of our industry is impossible.

"In our country unemployment is fully liquidated, poverty and waste are forever ended in the country and the city. Accordingly, there are here no people who are forced to plead for work in factories, auto-

matically forming, in this way, a constant reserve labour force in industry.

"In these circumstances the government is confronted with the task of organizing the preparation of new workers from the urban and farm youth and of creating state labour reserves for industry...."

Source: Vedomosti Verkhovnovo Soveta SSSR (Messenger of the Supreme Soviet of the USSR), No. 37, 9 October 1940.

Article 7 of the law prescribes that every year 800,000 to one million young persons are to be trained for work in industry. Articles 8 and 9 regulate mobilisation of such man-power by the heads of the collective farms and the City Soviets. Articles 2 to 6 order vocational schools to be opened, in which students will be maintained by the State during their training.

DOCUMENT No. 26
(USSR)

Article 7:

To empower the Council of People's Commissars of the USSR annually to draft (mobilize) from 800,000 and 1,000,000 persons of the urban and collective farm-youths (male) of 14 and 15 years of age for training in trade and railway schools, and of 16 and 17 years of age for industrial-training schools.

Article 8:

To obligate chairmen of collective farms to designate by drafting (mobilizing) annually two youths (male) of 14 and 15 years of age for trade and railway schools and of 16 and 17 years of age for industrial-training schools per each 100 members of the collective farm, counting men and women between the ages of 14 and 55.

Article 9:

To obligate city soviets of working people's deputies annually to designate by drafting (mobilizing) youths (male) of 14 and 15 years of age for trade and railway schools and of 16 and 17 years of age for industrial-training schools, the number being fixed annually by the Council of People's Commissars of the USSR.

Source: Ibid.

At the end of their training these young people are distributed among the various State undertakings.

DOCUMENT No. 27
(USSR)

Article 10:

To establish that all those who graduate from the trade schools, railway schools, and industrial-training schools are to be considered as mobilized and are obliged to work four years continuously in state enterprises, as directed by the Central Labour Reserves Administration under the Council of People's Commissars (now Council of Ministers - ed.) of the USSR, securing them wages at the place of work in accordance with general rates.

Source: Ibid.

Regarding this point, the Manual of Soviet Labour Law, by Aleksandrov, states:

DOCUMENT No. 28

(USSR)

"Accordingly, it is necessary to distinguish two stages in membership of the State Labour Reserve:

1. Training in a handicraft or railway school (lasting two years), or in a factory and workshop school (lasting six months).
2. Thereafter, four years' work in a State undertaking as directed by the Ministry for Labour Reserves.

"During the first stage, the young Soviet citizen is under training, during the second he is a worker under Labour Law.

"According to Art. 10 of the decree, all those who have completed their training in handicraft, railway factory and workshop schools are considered mobilised. They are under an obligation to work for four consecutive years in State undertakings as directed by the Ministry of Labour, their wages being paid in accordance with general regulations.

"The trainees are exempt from call-up in the Soviet army during this time. The sending of young trainees to the undertakings is arranged by the Ministry of Labour Reserves. When possible, undertakings in the neighbourhood of the parents' domicile should be selected.

"The position of these young workers under Labour Law is ruled by two acts of administrations:

1. By their being drafted to work (by means of a written order). This is done by the head of the local administration of labour reserves by virtue of an ordinance of the Ministry for Labour Reserves. The order shows the undertaking (name, classification and location) and the type of employment.
2. By their employment order, i.e., an order issued by the head of the undertaking after the young trainee's arrival at his place of work.

"The first of the above-mentioned administrative acts (a) obliges the young trainee to report to the undertaking to which he is allocated, and (b) authorizes the head of the undertaking to employ him according to his special skill and his qualifications as stated in his testimonial. However, a relationship under labour law between the young trainee and the undertaking to which he has been sent by a branch of the Ministry for Labour Reserves does not come into being until the first administrative act has been complemented by the second, i.e., the employment order issued by the head of the undertaking.

Source: N. G. Aleksandrov, *Sovetskoe trudovoe pravo (Soviet Labour Law)* (Moscow 1949) (German ed.), p. 129.

The Praesidium's ordinance of 19 June 1947 amended the call-up age and made it clear that young people of both sexes are subject to call-up. Boys aged from 14 to 17 and girls aged from 15 to 16 can be called upon to attend courses at vocational schools and specialist schools of the railways. Boys and girls aged 16 to 18 can be drafted for training in industrial schools, and youths aged 19 and over can be drafted for underground work in the coal and mining industries as well as for foundries, for welding and drilling in the metal and oil industries, and for metallurgical works (*Vedomosti*, 1947, No. 21).

An ordinance on registration and on compulsory labour service was issued in Poland on 8 January 1946. In accordance with this ordinance Polish citizens, men aged from 18 to 55 and women aged from 18 to 45, and other persons who are not in a position to prove that they are not of Polish nationality, must register at their local labour office. Any change of residence must be reported to the labour office. Offences against this ordinance are punished under Art. 8, par. 2. Art. 9 provides for punishment for inaccurate declarations.

The system was created in order to facilitate the direction of man-power. Thus Art. 4 states:

DOCUMENT No. 29
(POLAND)

Article 4:

An employment office may direct registered persons, according to their qualifications, to employment in any branch or type of employment for a period not exceeding two years, without reference to these persons' domicile or place of residence.

Source: Law Gazette (Dziennik Ustaw Rzeczypospolitej Polskiej), 5 February 1946, No. 3, item 24.

In this way any person may be pressed into service by the direction of man-power. Any person violating this ordinance can be punished with imprisonment up to five years. Art. 11 states:

DOCUMENT No. 30
(POLAND)

Article 11:

- (1) If any person fails to report in pursuance a direction order (Article 4) within the prescribed time limit, he shall be liable to a term of detention not exceeding five years and to a fine, or to one of the said penalties alone; and the court may in addition condemn the offender to a loss of public rights and civic rights.
- (2) Proceedings in respects of an offence under para. 1 shall be instituted on application being made therefor by an employment office.

Source: Ibid.

An ordinance of 7 March 1950 laid down that students who have completed a vocational course are obliged to work in Socialist undertakings:

DOCUMENT No. 31
(POLAND)

Law of 7 March 1950 "on the planned employment of graduates of vocational secondary and higher schools".

Article 1:

Graduates of vocational secondary schools and higher schools may be forced to do work falling within their special qualifications in a special State or local Government institution or another specified socialized enterprise. The duration of the above duties shall not exceed three years.

Article 4:

The Chairman of the State Economic Planning Commission shall prepare annually, by 1 April, a general plan for the employment of graduates, compiled on the basis of proposals made by the Ministers concerned.

Source: Ibid., 30 March 1950, No. 10, item 106.

The following document shows that this Act is still in force in Poland:

DOCUMENT No. 32

(POLAND)

Notes from the Organ of the Central Committee of Polish Youth.

"We have responded to the appeal made by the Central Committee of Polish Youth to enrol as miners for two years. We were sent to a mining school and thereafter our work commenced in the M. Thorez in Walbrzych. Two contractual years have lapsed and we still continue working in this mine.... (Further complaints are made about the Polish Youth Organizations' neglect of the workers' interests.)

"The directors too should give more concessions to these workers who have fulfilled their contractual period of labour and continue to work in this fine profession. What about it, editor, don't we deserve it?"

Miners of the Thorez Mine.

Source: Sztandar Mlodych (Warsaw), 17 February 1955.

DOCUMENT No. 33

(POLAND)

"We have completed a course at the Technical School No. 2 in Tarnow. We attended this institution for six months and acquired complete skill and knowledge of mining according to the standard set by the Party. On leaving this institution we got a contract with the North-Silesian Iron Industry in Walbrzych in the Victoria Mine, shaft Witold. When we attended school we were promised the "earth" but as soon as we entered a young miners' house in Boguszow we knew how different it was.... (Further complaints are made about not living up to contractual obligations [no clothes, washing, etc.]")

Source: Ibid., 17 February 1955.

In Czechoslovakia, Law No. 241 of 1948 lays down the regulations for the five-year-plan for the development of economy in the CSR:

DOCUMENT No. 34

(CZECHOSLOVAKIA)

Article 22:

- (1) All Czechoslovak citizens shall contribute equally to the implementation of the targets of the Five-Year Plan. The volume of man-power used in undertakings and institutions shall nowhere exceed the essential minimum, it shall be suitably distributed and working hours shall be used to the fullest extent.
- (2) To reach the production targets of the Five-Year-Plan, the volume of man-power employed by the national economy shall be increased on the average by 5.6 per cent, as compared with 1948, the number of persons employed in industry being increased by 18.5 per cent, and the number of persons employed in the building industry by 50 per cent.
- (3) New labour shall be secured, more especially:
 - a) by the planned placement of young people,
 - b) by increasing the number of women in active employment,
 - c) by placing persons not previously employed,
 - d) by encouraging re-immigration,
 - e) by placing persons with reduced working capacity,
 - f) by utilizing the man-power available in under-developed areas of the country where opportunities for work will be provided,
 - g) by utilizing redundant or otherwise superfluous labour for the tasks of the Five-Year Plan.
- (4) The training of young people shall, inter alia, be organized by new,

progressive methods; in particular, the number of specialized training centres shall be increased as one means of creating reserves of labour.

Source: *The Czechoslovak Five Year Economic Plan (in Czech) (Prague, 1948)*, p. 52.

The consequence of the above, as illustrated by Law No. 110 of 19 December 1951 on State Labour Reserves, is that the whole Czech population can be mobilized in order to fulfil the economic plans:

DOCUMENT No. 35
(CZECHOSLOVAKIA)

Article 1:

The planned development of our economy and in particular that of our industry demands that a steady flow of man-power is assured to the mines, the metallurgical works and other important branches of the economy. As unemployment and misery have disappeared from the country and it is impossible to reckon with a voluntary supply of man-power to the undertakings, it is necessary to train new man-power among the youth according to a pre-determined plan and so to form the necessary labour reserves.

Article 2:

The formation of State reserves of labour for important branches of the economy will be realized by providing the necessary number of qualified workers consisting of young people of at least 15 years of age. The training takes place in vocational schools and in works schools.

Article 3:

(Art. 3 of this law orders the establishment of vocational schools. The Minister of Labour selects the students and candidates for these schools and arranges for the employment of those who have qualified, within the scope of the economic plans.)

Article 4:

- (1) The vocational training centres and the works schools give technological and general instruction and also political, intellectual, physical and military education.
- (2) During their course the students are maintained by the State. Instruction and training in the vocational training centres and in the works schools is free of charge.
- (3) After leaving the vocational training centres and the works schools, the students are under the obligation to work in the undertakings in which they are directed by the Minister of Labour and for the period laid down by him. Usually this is for three to five years.

Source: *Sbirka Zakonu ... 1951, No. 51.*

DOCUMENT No. 36
(CZECHOSLOVAKIA)

From: *Ordinance No. 109 of the Ministry of Labour dated 20 May 1954 Regarding the Compulsory Employment of Students.*

Article 1:

- (1) It is the duty of the Ministry of Labour to employ students who come from the Schools for Labour Reserves. They shall be employed with the Government's plans.
- (2) The students are assigned to the factories or enterprises (hereinafter to be called "factories") by the directors of the schools for labour reserves: from time to time the directors shall inform the labour exchange in the district wherein the factory is situated.

- (3) The factories are not allowed to employ students who have not been assigned to them.

Article 2:

- (1) Students, whose profession required a period of study of six months to one year, are assigned to factories for a period of three years; students whose profession required a period of study of two to three years, are assigned for a period of four years.

Article 8:

- (3) During the period a student is assigned to the factory, his employment can only be terminated by the labour exchange of the district in which the factory is situated, i.e., by resolution announcing the transfer of the student of another factory, or by resolution regulating the termination of employment before the end of the student's labour-contract. This resolution shall only be made in exceptional cases and in accordance with direction by the Ministry of Labour.

Article 25:

If a student directed to work does not appear (at the factory assigned to him) within the required period, he shall be reported to the Director of the School for Labour Reserves by the manager of the factory. The former of the teacher shall find out why the student has not reported to the factory and take steps to see that he does his duty. If the student lives at a great distance from the School for Labour Reserves the director of the school shall ask the assistance of the labour exchange in the district. If the student's place of residence is unknown, the director of the School for Labour Reserves will request the relevant authorities (e.g., the police) to find him. The director of the School for Labour Reserves or the labour exchange shall also contact the student's parent and request them to use their influence to make the student report to the factory assigned to them.

Article 26:

When it appears that the student has taken up employment with another factory than the one assigned to him, the director of the School for Labour Reserves of the labour exchange shall declare the employment of this student to be illegal and shall demand the termination of his employment. This illegal employment shall at the same time be reported to the organization of the Czechoslovak Youth Organization of the student's place of residence and place of work, and to the shop committee of the factory concerned, and they will be requested to assist in demanding the student to fulfil his lawful duty. If these steps have no effect criminal proceedings will be instituted against the director of the factory by the labour exchange of the district national committee, according to the administrative criminal code, and possibly disciplinary procedure will be taken against the employee of the labour exchange, who broke the rules of finding employment for students. In serious cases the case will be reported to the district Public Prosecutor.

Source: Uredni List, 29 May 1954, No. 65.

Prime-Minister Zapotocky stated the following on this subject before the National Assembly on 1 October 1948:

DOCUMENT No. 37
(CZECHOSLOVAKIA)

"The prime task of the five-year plan consists in the most extensive mobilization of man-power and the increase of labour productivity... This does not mean punishment, force or terror, but only the free democratic right of a State that guarantees the right to work, to demand the fulfilment by every citizen of his duty to work."

Edict No. 40 of 28 April 1953 lays down that an organization is to be set up under the name of "Civil Auxiliary Labour Service", in which all inhabitants of Czechoslovakia can be called up on to serve under widely varying conditions. Persons who avoid compulsory recruitment forfeit their food and clothing cards. Thus R u d e P r a v o writes:

DOCUMENT No. 38
(CZECHOSLOVAKIA)

"Women who could take an active part in building the Republic like tens of thousands of others, but have no desire to work, do not merit the advantages of the state controlled market. If, for instance, a childless woman living in a village refuses, for a frivolous reason and against the directions of the local National Committee, to work in the local general collective (kolkhoz), or if a childless woman in a town which is short of man-power refuses to work for frivolous reasons, she can be excluded from the allocation of sugar rations or from that of the food and soap cards.... A woman who has children and lives in a place where there is a kindergarten, a day-nursery, or a similar institution, can like-wise be excluded from the allocation of ration-cards if she refuses to take part in urgent work on frivolous grounds and against the directions of the local National Committee..."

Source: 18 January 1953.

In answer to the reader's question "I am a worker and now in receipt of an old-age pension. My husband is a tinsmith and a war cripple. The local National Committee has refused me a clothing card..." "Lidova Demokracie" wrote:

DOCUMENT No. 39
(CZECHOSLOVAKIA)

"The local National Committee has acted in accordance with current instructions. Members of the household of a person engaged in private business have a claim to a clothing card only if they are employed in a public undertaking. If your husband ceased to be an independent craftsman you would then have a right to clothing cards".

Source: 17 January 1953.

Furthermore, whoever deliberately avoids work is punished under Art. 72 of the Administrative Penal Law of 12 July 1950:

DOCUMENT No. 40
(CZECHOSLOVAKIA)

Article 72 — Safeguarding of the Right to Work.

Whosoever deliberately avoids work or violates the right to work in some other way, in particular any person who makes difficulties for, or threatens, or disrupts the organization of work directed by the State within the scope of the economic plan — particularly if this is done through disruption of the planned recruitment and allocation of manpower — shall be punished with a fine of up to 100,000 crowns or with deprivation of liberty for a period up to three months.

Source: *Sbirka Zakonu* ... 1950, No. 88, item 40.

In Bulgaria the employment of graduates was carefully enacted:

DOCUMENT No. 41
(BULGARIA)

From the Decree of the Council of Ministers dated 4 November 1954,

regarding the rules for the employment and plan of distribution of university graduates :

3. d) Graduates having attended a University abroad must, immediately upon their return, report to the Ministry of Education, the Ministry of Health and Social Welfare or the Committee for Physical Culture and Sports, so that their employment can be arranged according to their education.
4. Graduates must work for at least three years for the Ministries, Offices and Councils to which they have been assigned by the Ministry of Education, the Ministry of Health and Social Welfare and the Committee for Physical Culture and Sports... If these graduates, who have been assigned by the Ministry of Education, the Ministry of Health and Social Welfare and the Committee for Physical Culture and Sports to a certain place of work, do not report there within ten days after one month's holiday, or leave their work before the expiration of the three year period, they will be called to account before the relevant Ministry, Office or Council according to Art. 268 of the Penal Code, and those who have been awarded scholarships by the Ministry of Education, the Ministry of Health and Social Welfare and the Committee for Physical Culture and Sports will be requested to repay to the State the amount received plus interest.

Source: *Izvestia*, *op. cit.*, No. 92, of 16 November 1954.

A worker who refuses to take up a post allocated to him can be punished with imprisonment of up to three years.

DOCUMENT No. 42
(BULGARIA)

Bulgarian Penal Code of 9 February 1951.

Article 268:

A person who refuses to carry out work which he is bound to perform for a certain period either under a provision of the law or under contract, or a person who abandons such service without good reason before this period has expired, is liable to imprisonment for a period up to three years, or to a sentence of "corrective labour".

In Hungary compulsory labour was introduced after the war, and was used at first in connexion with the reconstruction of the country. Later, however, was applied to the fulfilment of economic plans.

Under the five-year plan of the Hungarian People's Republic, industry is to absorb 480,000 new workers, namely 250,000 specialist workers, 92,000 skilled workers, 85,000 unskilled workers, and 53,000 intellectuals of all professions. The plan provides for the training of apprentices to be extended and for unskilled workers to be trained as specialist workers. Thus is the provision of specialist workers to be assured. Article 5, par. 3, of the 1952 Law on the Five-Year Plan states:

DOCUMENT No. 43
(HUNGARY)

Art. 5, par. 3:

In all branches of the people's economy, the number and proportions of women workers must be increased, and equal working conditions and pay must be assured to them.

Part of the seasonal agricultural working population must be diverted to industry, where they will receive steady work and pay.

Shortly afterwards, agricultural workers recently diverted to industry were re-directed to agricultural employment.

DOCUMENT No. 44

(HUNGARY)

Deposition: Appeared Alice NN ... who says as follows:

"My name is Alice ... I was born on ..., in Budapest. My last address was in Budapest. I fled from Hungary ..., 1954, and I am now residing in Vienna. In the autumn of 1954 the government decided to release a large number of workers engaged in industry to assist on the land as agriculture had been neglected. The result was that in Budapest, for example, in many factories about one half of the workers were released. Having regard to the fact that in the autumn and winter there is little demand for agricultural labour, these people found themselves virtually unemployed. By virtue of a government decree once, a monthly wage was paid to them as a sort of unemployment benefit, but having regard to high prices their money did not go very far. The result was that in Budapest there was a great increase in crime, for example, it was dangerous to walk the streets in the evenings out of fear for being attacked and having one's clothes taken away. I ascribed this to the fact that many released workers were without assistance and were forced to sustain themselves in this manner. This avalanche of notices was also used to rid the factories of politically undesirable persons whilst the 'faithful' workers kept their jobs."

Read, approved and signed.

DOCUMENT No. 45

(HUNGARY)

Compulsory Practice of a Learnt Trade.

Article 132:

- (1) Persons who have completed vocational school studies or a re-schooling course shall for the purpose of obtaining practical experience or improving their practical knowledge, be sent to an undertaking designated by the competent Minister and serve a compulsory period of apprenticeship at their trade in that undertaking. In designating so an undertaking the wishes of the person concerned shall, as far as possible, be taken into consideration.
- (2) The compulsory period of apprenticeship in a trade shall be two years in the case of workers who have attended a university, college or higher technical school;
One-and-a-half years in the case of workers who have attended a secondary technical school;
One year in the case of workers who have attended a primary technical school;
Six months in the case of workers who have completed a schooling course.
- (3) During the compulsory period of apprenticeship the workers shall be employed on work corresponding to their qualifications.
- (4) The contract of a worker serving a compulsory period of apprenticeship shall no be terminable (ss. 28-36) without the consent of the competent Minister. The Minister may delegate this power.

Source: Magyar Közlöny, 31 January 1951, Nos. 17-18, text 7.

Any offence which interferes with the policy of compulsory direction of man-power is punishable by five years' imprisonment.

DOCUMENT No. 46
(HUNGARY)

It shall be an offence prejudicial to sound man-power management and punishable with up to five years' imprisonment, for any person...

- a) to employ workers systematically and extensively if they have no work book, or
- b) to recruit workers knowingly without a placement office if they have left their previous employment without good reason or have been dismissed as a disciplinary measure, since, under existing regulations, such workers may be recruited only through a placement office.

Source: Magyar Közlöny, 1952, No. 34, item 28.

In Roumania a labour code was adopted by the National Assembly on 30 May 1950, Chapter 15 of which provides for temporary compulsory labour.

Law No. 213 of 30 January 1953 (published in the Collection of Ordinances and Instructions of the Council of Ministers, No. 8 of 30 January 1953) contains details of the recruitment and distribution of workers through the central office for labour reserves.

DOCUMENT No. 47
(ROUMANIA)

Chapter I — General Dispositions.

Article 1:

The organized recruitment and distribution of unskilled workers shall be carried out exclusively by the central office for labour reserves acting through its regional and district offices in conformity with the plan for recruitment and distribution of man-power which becomes a State plan with effect from Oct. 1, 1952.

The central office for labour reserves is in charge of organized recruitment and distribution of unqualified workers, who shall be engaged by the undertaking concerned for a period of at least 6 months (5 months for forestry workers).

The basis of compulsory engagements is provided for by written contracts concluded between the central office for labour reserves on the one hand and the Ministries or economic organizations on the other hand. The contracts come into force as soon as the central office for labour reserves has received the agreed amounts for the payment of advances of pay and of transport expenses. The central office for labour reserves must have the recruited workers available within 30 days after entry into force of the above-mentioned contract.

DOCUMENT No. 48
(ROUMANIA)

Chapter II — Organized Recruitment of Manpower.

Article 8:

The organized recruitment and distribution of man-power shall be effected on the basis of written contracts concluded between the central office for labour reserves on the one hand and the Ministry and economic

organizations on the other. The number of workers for whom recruitment contracts have been concluded will in no case exceed the total number of workers provided for in the plan for organized recruitment and distribution for the Ministry or the central economic organization concerned.

Article 9:

The contracts for organized recruitment and distribution come into force upon receipt by the regional branches of the central office for labour reserves of the amounts destined for the payment of advances of pay and of transport expenses.

The central office for labour reserves must place the recruited workers at the disposal of the undertakings concerned 30 days after the contracts come into force, at the latest.

Men between the ages of 16 and 60 and women between the ages of 16 and 55 can be compulsorily recruited.

DOCUMENT No. 49
(ROUMANIA)

Article 12:

The workers and recruits must fulfil the following conditions: men must be aged between 16 and 60, women between 16 and 55; they must be suited to the work for which they have been recruited. They must be in possession of an identity document and a labour book or a declaration that they have not yet been in a labour camp.

The employment of skilled labourers was regulated as early as 1951.

DOCUMENT No. 50
(ROUMANIA)

From: Law No. 68 of 16 May 1951 Regarding the Education and Distribution of Labour Reserves.

Article 6:

The graduates of technical schools or of educational courses in factories or undertakings are to work at least 4 years in the undertakings to which they have been assigned.

Source: Buletinul Oficial, 18 May 1951, No. 56, p. 631-632.

Whosoever refuses, without sufficient reason, to fulfil his labour obligations is punished under Art. 268¹² of the Roumanian Criminal Code in the edition of 14 May 1953.

DOCUMENT No. 51
(ROUMANIA)

Article 268¹²:

Unjustified refusal to perform temporary labour duties within the scope of work for the common interest ordered on the basis of legal orders or edicts of the Council of Ministers, shall be punished with imprisonment of a period from one to six months or with a fine from 100 to 500 lei if these decrees show expressly that their nonobservance is subject to punishment according to penal law.

The principle for forced labour in Albania is to be found in the following provision of the Albanian labour code:

DOCUMENT No. 52
(ALBANIA)

Article 7:

In exceptional cases (action in case of disasters, shortage of labour for the carrying out of works of considerable importance for the State) all citizens shall be liable to be called up for labour service by a decision of the Government, with the exception of those specified in sections 8-10 of this Code.

Source: Gazeta Zyrtare, Vol IV, 16 September 1947, No. 86, p. 1.

The basis of compulsory work in Albania is Ordinance No. 726 of 13 August 1949 on the Labour Obligations of Specialists:

DOCUMENT No. 53
(ALBANIA)

Article 1:

Engineers, technicians, physicians, dentists, chemists, veterinary surgeons, farmers, bookkeepers, teachers and skilled workers can, if they are fit for work, be recruited compulsorily for production, building or for State service.

Article 2:

The nature and duration of the labour service are determined by the Government.

Article 3:

Persons who do not obey the call-up for labour service will be punished with corrective work in the undertaking or the institution for which they had been recruited for a period of from three months to two years, and in serious cases they shall be punished with imprisonment for a period from one to five years.

Article 6:

Workers or employees who leave a state, communal or social undertaking or who go to another enterprise without permission, shall be punished with loss of liberty for a period from 3 months to 1 year.

Workers or employees in state, communal or social undertakings who stay away from work without sufficient cause shall be punished with corrective labour at their place of employment for a period of six months, with a decrease in their wages of 25% during the period of punishment.

Article 7:

The foreman or responsible person who neglects to report a worker or employee committing an offence named in the previous article will be punished with imprisonment of liberty for a period of up to three years for neglect of duty.

The same punishment will be inflicted on the foremen or persons responsible for those who have left the enterprise without permission.

Article 11:

The worker or employee who does not obey the instructions of the Ministry regarding obligatory transfer from one enterprise to another will be dealt with in the same manner as one who leaves his place of work without permission and will be punished in accordance with art. 6. sub 1 of this decree.

Source: Gazeta Zyrtare, No. 64, 31 August 1949.

DOCUMENT No. 54
(ALBANIA)

From the Decree of the Cabinet dated 30 June 1951.

- 1) Regardless of their contract, all workers and experts must stay on at their various state industrial projects after 1 July, until these projects are finished.
- 2) All functionaries and other workers aged between 16 and 55 in the towns of Tirana, Korca and Elbasa (the most important centres of industry in the country) must work at least 10 days per month on the state industrial projects and fulfil at least the lowest norms imposed upon them.

Source: Bashkini (Tirana), 30 June 1951.

In the Soviet Zone of Germany a planned direction of man-power is likewise in force. The law on the National Economic Plan for 1953 states:

DOCUMENT No. 55
(SOVIET ZONE OF GERMANY)

Article 9:

- (2) About 100,000 workers more, compared with 1952, are to be employed in the whole economy. The proportion of women employed in undertaking of the national economy and similar undertakings is to be raised by at least 37 %. The managements of nationalized concerns, particularly in the textile industry, in machine construction, in the food and luxuries industry, in trade, on the railways and in the postal services, are bound to exploit all possibilities for the employment of women.
- (3) In 1953 at least 247,000 young people are to be recruited for training, in the entire national economy. In order that this task may be accomplished, the number of places in apprentices hostels and in works vocational schools must be further increased.
The training of newly recruited apprentices is to be directed with particular reference to the highly important trades of mining, metallurgy, chemistry, shipbuilding, heavy engineering, and the building industry. The apprentices are to participate in production at an early date.

Source: Law Gazette (Gesetzblatt), 1952, p. 1319.

The legal basis for drafting to compulsory work is provided for by the ordinance of 12 July 1951 on the tasks of the labour administrations and on the management of man-power (*Law Gazette*, p. 687/51) and its first implementing directive of 1 August 1951 (*Law Gazette*, p. 753/51) in conjunction with the ordinance of 2 June 1948 on the ensuring and safeguarding of rights with respect to the recruitment of man-power (*Central Ordinance Gazette*, p. 255/48).

b) COMPULSORY TRANSFER OF SKILLED WORKERS

In the Soviet Union, specialized workers and members of the intelligentsia can be transferred, even without their consent, to another undertaking or another place of duty.

DOCUMENT No. 56

A transfer to another undertaking or another post or another locality without the consent of the person concerned can be ordered only in the cases mentioned in the decree of 19 October 1940 of the Praesidium of the

Supreme Soviet (*Messenger of the Supreme Soviet of the USSR*, 1940, No 42). Under this decree, the Ministers of the USSR can transfer engineers, architects, finance and planning experts, and qualified workers of the sixth and higher wage groups, to another undertaking (or post), without reference to the location of the undertaking (or Post). Further ordinances of the Government of the USSR gave details of the extent to which the above-mentioned decree applies to definite groups of workers in the light industries, in rail transport, in the sea-going and inland-water fleets, in telecommunications, in power stations and transformer stations.

The right to transfer qualified workers and employees on the basis of the above-mentioned decree is granted, by special Government ordinances, to the RSFSR, USSR and BSSR Ministers for Fuel Industry, to the RSFSR Minister for Local Industry, to the RSFSR Minister for Local Undertakings, to the RSFSR Minister for Motor Transport, to the RSFSR Minister for Civilian Dwelling Construction, to the Head of the Main Administration for Northern Sea Routes, and to the Chairman of the Committee for Architectural Affairs of the Council of Ministers of the USSR.

The right to order a transfer of this nature is thus held by the Ministers of the USSR, certain Ministers of the Republics of the Union, and the Heads of certain Central Offices. The heads of undertakings and of trusts and the heads of the Main Administrations, however, do not possess this right.

It should be stressed at the same time that the above-mentioned State officials do not possess a general right to effect transfers but that they may use this right only in respect of the group of persons designated in the above-mentioned edict or in the relevant Government ordinances.

Source: Sovetskoe trudovoe pravo, op. cit., pp. 135f.

The same applies to Czechoslovakia. The following statement by a witness shows that, in transfers from one undertaking to another, not even physical fitness of persons to be transferred is taken into account.

DOCUMENT No. 57
(CZECHOSLOVAKIA)

Deposition: Appeared Frantisek Novotny, aged 19, born in Prague, formerly window-dresser, latterly domiciled at Liberec I, Naisova 7, now domiciled at the aliens' camp in Berlin-Wannsee, having been reminded of his duty to tell the truth, says as follows.

"At the beginning of 1952 I broke my leg at the knee. I spent a whole month in hospital and after the bandage was removed I noticed that I was left with a limp, for my leg had become stiff at the knee.

"At that time I was attending a continuation school.

"In October 1952, when I had to choose a trade, the labour section of the district National Committee in Liberec graded me as only partly fit for work, did not insist that I start work in a factory, and agreed that I should be employed in the firm "Liberecky obchod potrebnymi pro doacnost" (Trade in Household Ware) at Liberec I, Stalinova 42, as window dresser.

"On 20 June 1953 the personnel officer of the above-mentioned firm, Vaclav Kopecky, sent for me and told me that I had been selected with two other employees of the undertaking for a one-year brigade in the firm Chemostav at Most. I told him straight away that I had been graded as only partly fit for work and that I could not do building work with a half-lame leg. (The firm Chemostav is a building concern). I also stated that in building work I should be in continuous danger of accidents since I was not agile enough. Kopecky answered that the labour section of the National Committee would make a decision as to my objections.

"I went to the labour section of the National Committee and told them my objections, whereupon I was sent to the health centre of Liberec in Lidovesady. There I was sent to a doctor in the X-ray room, whose name I do not know. After making the X-rays he said to me: Everything is all right; you go off to the brigade work. In vain I repeated my objections, which I had already told to the personnel officer. The doctor repeated: "Everything is in order", and pushed me out to the door. "I was so scared of the work on the building site that I decided to escape to Berlin."

Read, approved and signed.

DOCUMENT No. 58
(CZECHOSLOVAKIA)

District Office Zehlendorf,
Berlin.
Health Department
Ref. Ges. I a — Dr. Sch/Wo

Berlin-Zehlendorf,
15 September 1953
Potsdamer Ctr. 8
Room 32

MEDICAL CERTIFICATE

Mr. Frantisek Novotny, born on 18.8.1934, of Czechoslovak nationality, was examined today at the request of the International Commission of Jurists in order to establish his unfitness for work.

Mr. Novotny suffers, as a result of an accident sustained a year ago, from total stiffening of the left knee joint with advanced atrophy of the leg above and below the knee. This condition represents a reduction of about 40 % in fitness for work. He is therefore not suited to heavy physical work.

Stamp.
Health Department
Berlin-Zehlendorf

By order
Deputy District Medical Officer
(Signed) Dr. Schröder

In Bulgaria too a worker or employee can be assigned compulsorily to work in another undertaking if conditions of production demand it. Specialized workers can be transferred against their will from one undertaking to another, even to another locality.

DOCUMENT No. 59
(BULGARIA)

Article 1:

When the exigencies of production in the undertaking or the requirements of the administration or organization make it necessary, a worker or employee may be temporarily assigned to different work in the same or a different undertaking, administration or organization in the same locality for a period not exceeding 45 days in any single year (Article 25, section 1).

Article 2:

In the event of a stoppage of work, a worker or employee may be similarly assigned under the same conditions as in (1) for the duration of the stoppage (Article 25, section 1).

Article 3:

When unavoidable circumstances make it necessary, a worker or employee may be ordered to do different work even though such work is not suited to his skill. (Article 25, section 2).

Article 4:

Skilled workers or employees in the categories named in an Ordinance of the Council of Ministers may be transferred to other work in the

same or a different undertaking or moved to work in a different locality, even without their consent. (Article 26, section 1).

Article 5:

A worker or employee may be sent to another place of work if the exigencies of production in the undertaking or the requirements of the administration or organization make it necessary. (Article 26, section 2).

Article 6:

Subject to an appeals procedure provided for in Article 29 (i), a contract of employment may be terminated at the request of the local committee of the occupational union concerned.

Source: Bulgarian Labour Code, Izvestia, No. 91, 13 November 1951.

Transfer from one place of work to another against the worker's will is also possible in Roumania. Thus Chapter 3 of the Labour Code of 31 May 1950 states:

DOCUMENT No. 60
(ROUMANIA)

Article 16:

A wage-earner can be transferred from one undertaking to another or from one locality to another. In the latter case transport expenses will be paid to him, his family and for furniture. He will further receive compensation amounting to 14 days' wages calculated on the basis of his average earnings over the last three months.

If the wage-earner is not satisfied with the transfer, the contract of employment can be terminated by the employer at 14 days' notice.

Article 17:

In the interests of service a wage-earner can be temporarily transferred to another locality, another undertaking or another institution. Such temporary transfer may not extend beyond 60 days. If a temporary transfer extends beyond this period, it is to be considered as a permanent transfer.

The Council of Ministers decides on the rights of wage-earners regarding temporary and permanent transfers as well as regarding the duration of permanent transfers....

Article 19:

A wage-earner can, if he has valid reasons, apply for the termination of a contract concluded for an indefinite period. An employer must act on such an application within 14 days.

Source: Scanteia, 31 May 1950.

In Albania, the legal basis for transfers of workers from one undertaking to another is provided by Articles 8 and following of Law No. 726 of 18 August 1949.

DOCUMENT No. 61
(ALBANIA)

Article 8:

In accordance with the decision of the competent Minister, a worker or employee of an undertaking or institution can be compulsorily transferred to another undertaking or institution within the locality where he lives or in another locality.

Article 9:

Workers and employees who are transferred compulsorily are paid transport expenses for themselves and their families by virtue of the regulations in force.

Source: Gazeta Zyrtare, 1949, No. 64.

Although there is no legal provision that expressly allows the compulsory transfer of a worker from one undertaking to another in the Soviet Zone of Germany, in reality the following procedure is often the equivalent of a compulsory transfer: under Art. 6 of the ordinance of 12 July 1951 on the tasks of the administrations of labour and on labour management (Law Gazette, p. 687/51), the Ministry of Labour is empowered to instruct undertakings and administrations to transfer man-power to projects that are of particular importance to the national economy.

DOCUMENT No. 62
(SOVIET ZONE OF GERMANY)

Article 6:

(1). The Minister of Labour of the German Democratic Republic issues, when necessary, instructions for carrying out the man-power plans laid down by the State Planning Commission and for the recruitment of man-power for projects that are of particular importance to the national economy.

Source: *Gesetzblatt*, 1951, p. 687.

DOCUMENT No. 63
(SOVIET ZONE OF GERMANY)

To all administrative offices in the Kreis
The Council of Landkreis Wolmirstedt,
Labour Department,
Wolmirstedt

Wolmirstedt,
1 March 1952

Subject: General directive for the supply of fully employable workers for the basic materials industry in March 1952.

For the month of March 1952 the Ministry of Labour of the DDR has again issued a general directive — in accordance with para. 6 of the Ordinance of 12.7.1951 on the tasks of the administrations of labour and man-power management — for the supply of fully employable male workers for the basic materials industry.

On behalf of the Land government of Sachsen-Anhalt, we herewith forward to you the directive applicable to you for the supply of workers for the mining industry for the month of March 1952. The date laid down for the supply of these workers is 20.3.1952 and we ask you to keep strictly to this date.

The directive mentioned here has been worked out following a careful study of the structure of your undertaking and after thorough analysis. If results so far have shown that only a few undertakings were able to find man-power, the decisive reason — according to our investigations — does not lie in the structure of the undertakings but in the fact that the responsible officials are not yet fully aware of the extent of their personal responsibility. In our opinion the operative brigade of the labour department has not shown lack of leadership and the prerequisites for systematic enlightenment and recruitment were present.

We ask you once more to endeavour earnestly to attain better results in the month of March and to keep to the above date without fail.

Witness: (Signature)
Clerk

(Signed) Meissner,
Landrat.

In the autumn 1953 workers were compulsorily assigned from industry to agriculture for harvesting work.

DOCUMENT No. 64
(SOVIET ZONE OF GERMANY)

District Council of Fürstenwalde (Spree)
Office of the Chairman.

Fürstenwalde,
9 September 1953

To the Deputy Chairman, Colleague Läkamp,
and to the Head of the Labour Department.

Dear Colleague,

I am sending you herewith an extract from the decision reached by the Presidium of the Council of Ministers on 7 September 1953:

Attention is drawn emphatically once more to the significance of the decision regarding the supply of man-power for the gathering of root crop without loss.

The Presidium of the Council of Ministers has issued a decision which lays down the numbers of workers to be supplied by the central ministries and their subordinate undertakings. The Ministers and State Secretaries have the duty to work out the numbers for their undertaking. The undertakings are instructed to report their quota directly to the competent Kreis council — to the Kreis commissioner for employment of man-power in agriculture.

The employment of harvesters begins on 10 September 1953 and ends when the harvest of root crops is finished.

The results of a check on the harvest campaign in the districts of Dresden, Halle and Gera by the central administrations lead us once more to stress that insufficient attention was paid to the work of the people's representatives and of the standing commissions. The result of this was that the necessary number of voluntary helpers was not reached. In all three districts the standing commissions — with the exception of the standing commission for agriculture and farming — did not undertake any duties in connexion with the fight for the harvest.

(Signed) Pfeiffer

Chairman of the District Council.

In reality a grave muddle took place, the effects of which were very much to the disadvantage of the "recruited" workers.

DOCUMENT No. 65
(SOVIET ZONE OF GERMANY)

"On 26 September a commission visited the film-pack processing section for the purpose of recruiting us women workers for harvest work. The commission came again on the two following days and told the works management and the 12 colleagues in question that the harvest work would start on 1 October. All preparations were made by the undertaking and the work so arranged that there could be no delay in the fulfilment of contracts. At home too our colleagues made the necessary rearrangements, as there were small children to be looked after as well. Well then, everything was fine. But what turned up now? The Office for Man-power Management and it managed somewhat differently! The harvest work would start on 15 October, they said curtly but definitely. What happened next, the Man-power Management probably does not know. For now the man-power is there but no work; later there will be work but no man-power. And that happened to us twice already in the course of this year's harvest.

"There is certainly something wrong with the Office for Man-power Management, say the colleagues in the film-pack processing section.

(Signed) The Colleagues of the
Film-Pack Processing Section

"On reading this report one can assume that there really is something wrong with the Office for Man-power management. But how did this come about?

"For the second recruitment for the gathering of the rootcrop harvest our undertaking received from the Kreis Council an order for 102 workers, to be employed from 1 October to 15 November 1953 in production co-operatives as follows:

Löberitz	30
Salzfurtkapelle	8
Zschepkau	4
Löbersdorf	20
Zörbig	10
Spören	5
Schrenz	25
Total	102

"The instructors of the Labour Department were sent to the undertakings in order to recruit these 102 workers. All preparations were made by the Man-power Management for this task to be carried out satisfactorily. In order to ensure the accommodation of these workers, talks had been held once more, shortly before, with the production co-operatives, and they were told the date of arrival of the workers. All production co-operatives were very happy about this and had made reasonably good arrangements for the workers' reception, except for the production co-operatives of Löbersdorf, which declared suddenly that it could not accommodate the 20 workers. The recruiting drive by our instructors was ended and the 12 women workers of the film-pack section were included and allocated.

"Because of sudden cancellations made by the production co-operative of Löbersdorf, 20 colleagues too many had been recruited, and they in turn had to be turned down.

"As the colleagues of the film-pack section wished to be put to work together, they had been booked by us for the production co-operative of Löbersdorf. The undertaking was informed that, because of this, work could not start on 1 October 1953, and that it would start at a later date.

"This later date was 6 October 1953. The colleagues of the film-pack section will be sent to Nebra in Kreis Querfurt. We hope thus to satisfy the colleagues and the undertaking which had prepared itself for the harvest-work arrangements, and to iron out a mistake although it was not made by us."

Source: Film Funken (Film Flashes), (Works newspaper for the workers of Filmfabrik Agfa Wolfen), 16 October 1953.

c) OBLIGATION TO REMAIN IN A POST LESS AUTHORIZED TO LEAVE

In the Soviet Union it is, in principle, impossible for an employee to give notice of termination of employment. Such termination is permitted only with the agreement of the management of the undertaking. Art. 3 of the edict of 26 June 1940 states:

DOCUMENT No. 66 (USSR)

Article 3:

The voluntary departure of wage earners and salaried workers from state, co-operative, and communal enterprises and institutions, and also voluntary transfer from one enterprise or institution to another, are forbidden.

Only the director of an enterprise or the chief of an institution may permit departure from an enterprise or institution, or transfer from one enterprise or institution to another.

Article 4:

The director of an enterprise or the chief of an institution has the right and is obligated to permit the departure of a wage earner or salaried worker from an enterprise or institution in the following instances:

- (a) When the wage earner or salaried worker, according to the findings of the medical-labor expert commission, cannot fulfil his previous work because of illness or incapacity, and the administration cannot offer him other suitable work in the same enterprise or institution, or when a pensioner, to whom an old-age pension has been granted, desires to retire;
- (b) When the wage earner or salaried workers must leave his work in connection with his admission into a higher or secondary educational institution.

The leave granted to women wage earners or salaried workers because of pregnancy or confinement must conform to the legislation in force.

Source: Vedomosti Verkhovnovo Soveta SSSR, 1940, No. 20.

Aleksandrov's Manual states as follows on this subject:

DOCUMENT No. 67

(USSR)

"The Central Committee of the trade-unions judged it therefore necessary that wage-earning and salaried employees should be forbidden to leave their place of work in State, co-operative or social undertakings, or offices of their own will, or to change their employment from one undertaking or office to another of their own will.

"Upon their proposal, the Presidium of the Supreme Soviet of the USSR ordered therefore in a decree of 26 June 1940 that wage-earning and salaried employees may leave or change their place of work only with the permission of the manager of the undertaking or the head of the office."

Source: Sovetskoe trudovoe pravo, op. cit., p. 421.

In Poland too, workers employed in undertakings which are important to socialist economy are forbidden to leave their place of work without permission of their employer. The United Nations Ad Hoc Committee Report states (p. 316).

DOCUMENT No. 68

(POLAND)

- "72. Under the Act of 7 March 1950 to counteract the fluidity of labour in professions and trades particularly important for the socialized economy ("Dziennik Ustaw" No. 10, 30 March 1950), persons qualified in professions and trades particularly important for the socialized economy may be obliged to remain in their jobs or to accept other jobs corresponding to their aptitudes (Art. 1).
- "73. No worker may be compelled to remain in his employment in this way for longer than two years (Art. 3, para. 2).
- "74. The Council of Ministers is empowered to issue orders specifying the occupations, professions and types of persons covered by the Act (Art. 2). It can also prohibit all workers in certain particular occupations from leaving their employment for a maximum of two years (Art. 5).
- "75. An Order requiring a worker to remain in his employment or to take up similar employment suspends his right to terminate his contract. It does not, however, change the contract to the worker's disadvantage (Art. 4, para. 1).

- "76. Failure to obey an order is punishable with detention for a period of up to six months or a fine of up to 250,000 zloty, or both (Art. 6).
"77. Two Orders to enforce the Act were issued by the Council of Ministers on 17 April and 13 September 1950 respectively ("Dziennik Ustaw" No. 18, 26 April 1950, item 153, and No. 43, 30 September 1950, item 388)."

In Albania, Articles 4 and following of Law No. 726 of 13 August 1949 prohibit employees from giving notice except for certain reasons:

DOCUMENT No. 69
(ALBANIA)

Article 4:

Workers and employees of State, co-operative and social undertakings and institutions are forbidden to leave their work or to change over from one undertaking or institution to another without permission from the manager of the undertaking or from the person responsible for the institution.

Article 5:

The management of the undertaking and the responsible person in charge of the institution have the right and the obligation to allow a worker or employee to leave the undertaking or institution on the following grounds only:

- a) on production of a medical certificate showing that the worker or employee cannot do his present work because of sickness or weakness and if the administration cannot offer him a suitable post in the undertaking or institution concerned;
- b) if the worker or employee has claimed his right to an old-age pension and wishes to give up his job;
- c) if the worker or employee is forced to interrupt his work because he has been registered to attend a higher or intermediate educational establishment.

Article 6:

Workers and employees who leave State, co-operative or social undertaking or institution, or who work without permission in another undertaking or institution shall be punished with imprisonment for a period from three months to one year.

Workers or employees in State, co-operative and social undertakings who stay away from their work without sufficient grounds shall be punished with corrective labour for up to six months at their place of work and with a 25 % reduction of wages for the duration of their punishment.

Article 7:

The managers of undertakings or other responsible persons who do not bring workers or employees to trial for the offences mentioned in the above article shall be punished with imprisonment for a period up to three years for non-fulfilment of their duty.

The same punishment will be awarded to managers of undertakings and responsible persons in charge of institutions who engage persons who have given up their work in another undertaking or institution.

Source: *Gazeta Zyrtare*, No. 64, 31 August 1949.

III. EXPLOITATION OF WORKERS THROUGH ARBITRARILY ESTABLISHED CONDITIONS OF WORK, WORK-NORMS AND LABOR COMPETITION

Everyone who works has the right to just and favourable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

Art. 23, par. 3, United Nations Declaration of Human Rights.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Art. 24, United Nations Declaration of Human Rights.

a) WORKING CONDITIONS AND WAGES ARE DICTATED BY THE STATE

Since trade-unions in Communist-ruled countries have no authority to act independently of the state employer, the terms of employment and wages in these countries are not determined by contracts voluntarily agreed to by both sides. On the contrary, the state employer alone fixes the terms of employment and wages. With this object in view decrees are passed and so-called "collective agreements" are allowed to be made.

1) Statutory working conditions.

On this subject the Soviet labour-law manual says the following as regards the Soviet Union:

DOCUMENT No. 70

(USSR)

"The more thoroughly the principle of planning our economy was carried out, the greater was the importance attached to legal rulings on terms of employment (in laws, ordinances etc.) which precluded deviations through collective agreements or individual contracts.

"The practice became more and more general for collective agreements to assume the responsibility of explaining in varying degrees of detail the contents of the laws, ordinances etc.

"The importance of collective agreements as legally binding forces became progressively diminished."

Source: *Sovetskoe trudovoe pravo*, op. cit., p. 159.

In Czechoslovakia it is laid down in the constitution that wages are to be fixed by the State.

DOCUMENT No. 71
(CZECHOSLOVAKIA)

*From the Constitution of the Czechoslovak Republic of
9 May 1948:*

Article 27:

1. All working members of the population shall be entitled to a just remuneration for work done.
2. This right shall be secured by the wage policy of the State, pursued in concurrence with the United Trade-Union Organization and directed towards the constant raising of the standard of living of the working population.
3. In assessing the remuneration for work done the decisive factors shall be the quality and quantity of the work done as well as its benefit to the community.
4. In equal conditions of work, men and women shall be entitled to equal remuneration for equal work.

The Czechoslovak Ministry of Social Welfare has been entrusted with the task of determining the principles of wage payment.

DOCUMENT No. 72
(CZECHOSLOVAKIA)

*From the Czechoslovak Law Relating to the Wage Policy
of the State:*

Article 1:

- (1) The Ministry of Social Welfare is responsible for determining the wages policy in accordance with the principles laid down by the government within the framework of the general economic plan and in particular:
 - a) for establishing and adjusting the level of wages and other recognised remunerations granted in respect of any service or apprenticeship having a definite monetary value...
 - c) for assessing and adjusting the taxes of payment in kind,
 - d) for introducing piece work or work on a bonus basis, in general, or as required for particular purposes or institutions, and to fix or adjust the conditions pertaining thereto...

Article 2:

- (1) Employers shall submit agreements relating to performances quoted in Art. 1 (a) to (c), and signed within the freedom of contracting allowed to the parties concerned before the effective date of this law, to the Ministry of Social Welfare for legal confirmation within two months of the publication of this law, if not already previously submitted.

Article 3:

- (1) Employers shall submit agreements signed after the effective date of this law and relating to performances quoted in Art. 1 (a) to (c), to the Ministry of Social Welfare for official confirmation provided that their amount has not been fixed either by a resolution relating to salaries and passed in accordance with the present law (Art. 1), or by a resolution relating to salaries payable before the effective date of this law..., or by clauses of collective agreements then in force.

Article 6:

Agreements between parties are null and void if they contravene the provisions of this law, or the decrees issued for putting it into effect, or regulations relating to wages issued before the effective date of this law . . .

Article 8:

The directives allowing the wage earners the right to extra pay such as Christmas or New Year bonuses, annual bonuses, a thirteenth month's year, etc., become void.

Article 9:

Employers are forbidden to pay wage earners compensation for loss of work or social benefits of any kind at a level higher than that laid down in the current directives.

Article 17:

Actions or omissions which contravene the provision of Art. 2 (1), pars. 3, 6, 8, 9, 10, 11 or 12 (2) or the regulations of the law under discussion are to be punished, in such cases where they do not merit a heavier penalty, by the people's district committees, as an administrative offence with a fine up to 100,000 crowns or imprisonment up to a term of six months. In the event of the fine being irrecoverable the people's district committee will impose a penalty of imprisonment for a period of up to six months according to the severity of the offence.

Article 74:

Any person interfering with or endangering the right to adequate remuneration for work done, or the wage policy of the State, in particular by offering or promising a performance other than that stipulated or one not corresponding to the equivalent, or by directly or indirectly increasing the remuneration through granting material advantages, shall be liable to punishment by a fine up to 100,000 crowns.

Source: Sbirka Zakonu, 1950, No. 40.

In Bulgaria as well the Council of Ministers determines the wage and salary scales.

DOCUMENT No. 73

(BULGARIA)

From the Labour Constitution of the People's Democracy of Bulgaria of 9 November 1951:

Article 68:

The wage and salary scales for each branch of production are fixed by the Council of Ministers. The fixing of the rate of remuneration for work depends on the length of the working day, on the particular qualifications of the employee, on the difficulty and danger of the work and on its special significance for the national economy.

Source: Izvestia . . . , IIrd Year, 13 November 1951, No. 91.

In Hungary a government-decree (No. 4194/1949 of 5 August 1949) was issued on the establishment of a state wage-board.

DOCUMENT No. 74

(HUNGARY)

Chapter 1: National Wage-Board.

Article 1:

A National Wages Board shall be set up in conformity with the following provisions, for the purpose of the development on sound

lines of the guiding principles of wage policy and in order to centralise the administration thereof.

Article 6:

The National Wages Board shall have the following powers and duties:

- (a) to develop the guiding principles of the wage policy;
- (b) to confirm the basic collective agreements and the collective agreements for a particular branch of industry or trade and to extend the scope thereof to cover other districts or other industries or trades;
- (c) to fix the wages and other conditions of employment of workers whose contract of employment is not governed by a collective agreement and of workers who are not bound by a contract of employment (e.g., self-employed workers or casual workers) and to confirm the agreements entered into for such employment or work;
- (d) to draw up general instructions respecting the wages and salaries of officials of public administrative departments, including railway and post office officials;
- (e) to draw up and submit to the Economic Council orders governing employment relations and conditions of employment which are directly connected with wages, so far as may be necessary for the regulation of wages;
- (f) after consultation with the Ministers concerned, to lay down guiding principles for the system of wages based on output."

Source: Hungarian Law Gazette (Magyar Közlöny), 7 August 1949, No. 164, p. 1235.

Additionally, the decisive role of the state in fixing wages was also laid down by the Hungarian Labour Law of 1951.

DOCUMENT No. 75

(HUNGARY)

Fixing of wages.

Article 64:

- (1) The Council of Ministers shall by ordinance fix the wage rates (wage scale).
- (2) Wage rates shall be fixed in cash.
- (3) The Council of Ministers may, in the case of certain industries, specify payments in kind for part of the wages.

Source: Ibid., 31 January 1951, Nos. 17-18, p. 55.

In the Soviet Zone of Germany too, wages and salaries are fixed by Government ordinances, for example: for workers and non-manual employees, by Ordinances of 7 September 1950 (Law Gazette, p. 839/50), 28 June 1952 (Law Gazette, p. 501/52), 23 July 1953 (Law Gazette, p. 885/53), and 17 December 1953 (Law Gazette, p. 1330/53); for master craftsmen by the Ordinance of 28 June 1952 (Law Gazette, p. 505/52), and for scientists, engineers and technicians by the Ordinance of 28 June 1952 (Law Gazette, p. 512/52).

2) Collective Agreements by order.

In the Soviet field of domination use is also made of the phrase "collective agreements". These must not, however, be compared with agreements for the regulation of labour conditions as are

known in the free world. They are concluded between the managements of enterprises as the competent representatives of the employing State on the one hand, and the representatives of the State trade union on the other. These two parties are not free in their decisions, but depend on orders from the State party. The text of the collective agreements consists of mutual obligations of the parties, which relate primarily to the fulfilment and overfulfilment of the economic plans. In the Soviet Union collective agreements had been abolished for a long period, but were reintroduced by a decree of the Council of Ministers of the USSR on 4 February 1947, in order to formulate the duties of workers, engineers, technicians, and employees which make for the fulfilment and over-fulfilment of the plans.

DOCUMENT No. 76
(USSR)

"By virtue of the Ordinance of the Council of Ministers of the USSR dated 4 February 1947, and on the basis of the analysis of the texts of the current collective agreements, the Soviet collective agreement in the second phase of development of the Socialist State can be described as a contract — between the trade-union committees acting in the name of the workers and non-manual employees on the one hand and the management of the enterprise on the other — in which are laid down the reciprocal obligations of both parties for the fulfilment and over-fulfilment of the production plans, the improvement of the organization of work and of safety measures, as well as for the improvement of the material and cultural living conditions of workers and employees."

Source: Sovetskoe trudovoe pravo, op. cit., p. 161.

The Chairman of the Soviet Central Trade-Union Council wrote as follows immediately after the reintroduction of collective agreements was announced:

DOCUMENT No. 77
(USSR)

"Any changes in the system of remuneration for work will be brought into effect only after a decision by the Government. This ruling applies equally to the conclusion of collective agreements. It does not follow, however, that the managements of enterprises and the trade-union organizations have nothing to do with questions of wages. Their task consists in creating the conditions necessary for an increase in labour productivity and, as a result of this, for an increase in wages.

Source: Pravda, 21 February 1947.

Regarding this the organ of the Soviet trade-union observed:

DOCUMENT No. 78
(USSR)

"The foundation of contractual obligations should be an increase in the demands placed upon collective work. Without the establishment of labour discipline, without the most determined fight against those who offend against state and labour discipline, there can be no successful accomplishment of the obligations entered into at the conclusion of collective agreements."

Source: Trud, 19 February 1947.

The Labour Code of Roumania has sections dealing with collective and labour agreements similar to those in the Soviet Union.

In Roumania the labour code contains directions regarding the collective labour agreements which correspond to the arrangements in the Soviet Union:

DOCUMENT No. 79
(ROUMANIA)

From the Roumanian Labour Code of 30 May 1950:

Chapter II. Collective Labour Agreement

Article 3:

A collective agreement is an agreement entered into by the trade-union committee of the undertaking or institution as representative of the workers and officials, of the one part, and by the employer of the other part. By means of the collective agreement the parties record their commitments in relation to —

- (a) the development of the production process for the purpose of carrying out the State plan;
- (b) the improvement of the working and living conditions of the workers.

Article 5:

The terms of the collective agreement shall be binding on all the employees, whether or not they are members of the contracting union.

Article 6:

The maximum duration for which collective agreements can be made shall be prescribed by order of the Council of Ministers, with the agreement of the General Confederation of Labour.

Source: *Scanteia*, 31 May 1950.

The aim of these "agreements" is explained in the comments of a Roumanian trade-union official:

DOCUMENT No. 80
(ROUMANIA)

"Undivided Attention Must Be Paid to the Fulfilment of the Collective Agreement" by Alexander Fenisek, Chairman of the Works Committee of the *Elektromagnetica* factory:

"In our factory, as in other Socialist enterprises in this country, the collective agreement — which brings the State interests regarding the development of Socialist economy in harmony with the defence of the workers' interests and with the attention to the constant raising of their living standards — proves itself every year as an increasingly powerful factor to spur on the workers and technicians in the effort for the fulfilment of the plan and for the improvement of labour and living conditions.

"The workers and technicians of our works have given Socialist competition a terrific impetus by the obligation contained in the collective agreement concluded this year to complete within 11 months the tasks planned for 1953. Due to the progressive working methods they were able, from day to day, to achieve ever increasing successes in production. For instance, during this first half of the year the planned total production was exceeded by 15.09 %; in April, by 15.04 % and in May, by 17.82 %. During the same time the working output has noticeably increased and the prime cost decreased in comparison with the planned results."

Source: *Scanteia*, 8 July 1953.

The Hungarian Labour Code also contains similar stipulations as to collective agreements.

DOCUMENT No. 81

(HUNGARY)

Collective Agreements.

Article 7:

- (3) In the collective agreement the director of the undertaking undertakes to provide such conditions as will make it possible to fulfil or exceed the plans, improve working conditions, carry out the commitments of the undertaking in respect of welfare and safety, and raise the material and cultural level of the workers. In the collective agreement the workers assume the obligation of fulfilling or exceeding the plans...

Article 9:

- (1) The guiding principles to be followed when making collective agreements shall be laid down by the competent Minister in agreement with the trade union...
- (3) The collective agreement shall not take effect until it has received the joint approval of the competent Minister and the trade union...

Source: Hungarian Law Gazette, op. cit., 31 January 1951, Nos. 17-18, p. 55.

In the Soviet Zone of Germany, collective industrial agreements were concluded until 1952 in accordance with a so-called standard collective agreement. Since 1953, collective industrial agreements have been concluded in accordance with directives issued by the chief management and relevant trade-unions. For this purpose, a standard directive is issued by the Ministry of Labour and the Federal Executive Committee of the FDGB. Moreover, for the assistance of any branch of industry specimen of such a standard collective agreement is drawn up.

It is evident from the ordinance for 1954 that the contents of a collective agreement are not determined by the contracting "parties". Art. 5 of the ordinance states that the basis of the agreement to be concluded are the works plan — which is a part of the economic plan established by law — the directives, and the model collective agreement.

DOCUMENT No. 82

(SOVIET ZONE OF GERMANY)

From the Ordinance Concerning the Renewal of the Works Collective Agreements in the Nationalized Works and Their Equivalents for the Year 1954, dated 17 December 1953:

Article 1:

The works managements of nationalized and equivalent works are bound to conclude works collective agreements for the year 1954 with the managements of the industrial or other works trades unions by 15 April 1954, with the aim of fulfilling and over-fulfilling the plan commitments of the works and to improve the social and cultural services for the workers as well as their conditions of work and standards of living.

Article 2:

- (1) It is the responsibility of the Ministries, State Secretariats or central authorities in collaboration with the central committees of the industrial trade unions to work out a model works collective

agreement in one enterprise of their branch of industry as a pattern for all other enterprises of their branch of industry by 31 Januari 1954.

- (2) The basis for the conclusion of model works collective agreements in the various branches of the economy is the standard model of a works collective agreement sanctioned by the Central Committee of the League of Free German Trade-Unions, the Finance Ministry and Ministry of Labour.
- (3) For handicrafts the standard collective agreements applicable to the actual branches of the industry apply for the purpose of concluding collective industrial agreements.

Article 3:

- (1) It is the responsibility of the Ministries, State Secretariats or central authorities in collaboration with the central committees of the industrial or other trade unions concerned to work out directives for the conclusion and content of the works collective agreements and to issue them to all works before 15 January 1954, after they have been confirmed by the Central Committee of the League of Free German Trade-Unions and the Ministry of Labour.
- (2) The basis for the drafting of the directives for the branches of industry concerned is the model directive confirmed by the Central Committee of the League of Free German Trade-Unions and the Ministry of Labour.

Article 4:

The directives and the model works collective agreements are issued to the enterprises of the central industry by the Ministries and States Secretariats or central authorities: to the enterprises of local nationalized industries also by the Ministries, State Secretariats or central authorities through the District and Kreis councils (Departments for Local Industry and Crafts, or Municipal Economy or Transport).

Article 5:

- (1) The basis for the working out and concluding of works collective agreements is the works plan, the directives and the model works collective agreement for the branch of the economy concerned.
- (2) The works collective agreements must contain mutual commitments regarding the measures necessary in the works concerned for the application of the ordinance on the further improvement of conditions of work and of the standard of living of the workers and the rights of the trade-unions.

Article 6:

- (1) It is the responsibility of the Ministries, the State Secretariats or central authorities and the District and Kreis councils, in collaboration with the Central Committees of the industrial or other trade-unions or with the regional or district committees of the trade-unions, to report on the fulfilment of the works collective agreements for the year 1953 at the meetings of the district and Kreis councils before the beginning of the completion of works collective agreements for 1954, on 25 January 1954.
- (2) In the plants, the works managements shall report on the fulfilment of the works collective agreements for 1953 at a plant meeting or conference of delegates before the conclusion of the works collective agreements for the year 1954. This shall be followed by the reports of the works' trade-union committees. At the same time, the initial draft of the works collective agreement for 1954 shall be put before the meeting or conference of delegates.

Source: Gesetzblatt, 1953, p. 1332.

b) EXPLOITATION BY IMPOSING EXCESSIVE NORMS

Since, within the Soviet sphere of power, the conditions of work and wage rates are determined solely by the State-employer, whether it be through government ordinances or through works collective agreements, which in fact are anything but an agreement, the State-employer is a position to worsen working conditions. As a rule, this is done not simply by reducing wages, but by increasing the work norms.

The majority of wage-earners in the Soviet sphere of power are paid not on a time basis, but according to output. The basis of the payment of wages based on output is the work norm. It states what quantity one worker must produce in one unit of time (minute, hour, or shift) in order to receive his full wage. The higher the work norm, the more difficult it is for the worker to fulfil it in order to receive his full wage. If a worker remains below the norm, he receives lower wages. When the norm is increased the worker must choose between increased efforts and lower earnings.

The work norm is not determined by the average performance of all workers. The fixing of work norms in the Soviet Union is done as follows, according to the aforementioned *Manual of Soviet Labour Law*:

DOCUMENT No. 83 (USSR)

"The determination of work norms must be based on the technical data obtained by a careful study of the technological process and capacity of the plants, the exact determination of the length of time required by the various processes, and the experience of Stakhanovite workers, etc.

"Experience has shown that many enterprises, instead of using technically-based norms, depend simply on statistics gained by experience, which they obtain in the following primitive manner: they establish the average performance of the majority of workers from the various reports and determine the norm irrespective of the capacity of the plant, of the working conditions, etc. In its resolution on question of industry and transport in conjunction with the Stakhanov movement, the Plenary Session of the Central Committee of the Communist Party of the Soviet Union (Bolsheviki) in December 1935 expressed itself with vehemence against such a procedure: "The indefensibility and harmfulness of the present practice in determining the norms are demonstrated particularly clearly by a significant mass of workers through the great success of the new work norms immediately after they were fixed." ("Resolutions of the Communist Party of the Soviet Union (B)", 6th edition, 1941, Part II, p. 629).

"Stalin also, in his speech at the first Union Conference of Stakhanovites, dealt especially with the significance of technical norms for Socialist economy. "Without technical norms, a planned economy is impossible. Furthermore, technical norms are necessary in order to help the backward masses to raise themselves to the level of those who have progressed. The technical norms are a great regulating force, which organizes the broad working masses in production around the progressive elements of the working class." (Stalin: Problems of Leninism, 2nd edition, p. 502, Berlin 1950, p. 608).

"The necessity for a broader application of technically based norms guided by the latest technical developments and the increased technicality of the work, is also underlined in the law on the Five-Year Plan for the Reconstruction and for the Development of the National Economy of the USSR for the years 1946 to 1950. The law demands

that experienced engineers and technicians be brought in for the preparation of work norms. (Law on the Five-Year Plan for the Reconstruction and the Development of the National Economy of the USSR for the Years 1946 to 1950 (Moscow: State Publishing House for Political Literature, 1946), p. 51).

"The work norms must express the latest developments in technology and work organization, correspond to the average of the increases that have been achieved, and reflect the *experience of the most capable workers* as well as the increase in qualifications and the cultural and technical progress of the working class. For this reason it is necessary *to revise the work norms periodically and to replace them by higher norms when the need arises.*

"The work norms are *minimum norms*. Their fulfilment is one of the basic duties of the workers and employees as determined by Art. 10 of the Standard Labour Rules. (USSR Laws, 1941, No. 4, text 63).

"The Socialist economic system guarantees that the work norms can be not only fulfilled but over-fulfilled, particularly through fundamental improvements of the organization of work and the extensive development of Socialist competition and of its highest form, the Stakhanovite movement. Art. 10 of the Standard Labour Rules states that workers and employees shall endeavour systematically to over-fulfil the work norms.

"The fulfilment and over-fulfilment of work norms is one of the most important conditions for a further increase in the productivity of work.

"We must take care particularly that everyone accomplishes more, not only in his own interest but also in the general interest of the State", Molotov declared on 6 February 1946, in a speech at an electoral meeting.

(W.M. Molotov, Speech at An Electoral Meeting of the Molotov Constituency of the City of Moscow on 6 February 1946 (Moscow: State Publishing House for Political Literature 1946), p. 11).

"According to Art. 56 of KSoT the work norms were arranged by agreement between the administration of the enterprise or departmental office and the trade union.

"At present the revision of work norms is regulated by the Ordinance of the SNk of the USSR of 14 January 1939 (Ordinances of the USSR, 1939, No. 7, sec. 38). It states that, in agreement with the Central Council of the Trade Unions, the Minister may order a general revision of work norms in all branches within his competence. By virtue of this ordinance the head of a branch and the chairman of the central committee of the trade union concerned orders a revision of the work norm in the enterprise.

"The determination of work norms for an enterprise is effected by the director on the basis of proposals submitted by the departmental heads of the works. The norms become immediately binding and must be brought to the knowledge of the workers . . .

"In a few cases the Government itself has undertaken the determination of work norms. Thus the work norms for building workers were published in an ordinance of the Economic Council of the SNK of the USSR of March 11, 1939 (Ordinance of the USSR, 1939, No. 18, sec. 119)."

Source: *Sovetskoe trudovoe pravo*, op. cit., pp. 197-199.

As the work norms are based on the performances of the Stakhanovites and these are progressively raised, everywhere in the Soviet sphere of influence the norms show a tendency to increase, and this tendency leads to a constant lowering of working conditions. For the performances of the Stakhanovites are more or less single, all-out efforts of individuals, which are made under extremely favourable, and often prepared in advance, conditions. Such conditions, however, are usually non-existent for the great masses of workers. However, the raising

of norms is the most important means of raising labour-output, which in turn is the real basis of raising the production.

The Labour Code of Roumania of 30 May 1950, says the following about working norms:

DOCUMENT No. 84
(ROUMANIA)

Chapter V. Production Standards.

Article 27:

The various Ministries concerned shall, in agreement with the corresponding trade-union federations, lay down standard rates of work for each branch of production, type of post and specialty, fixing the amount and standard of output to be furnished or of operations to be performed by the employee in a given time under normal working conditions.

Article 28:

If an employee through his own fault fails to achieve the standard rate of work, he shall be paid for the work done in proportion to the quality and quantity of the results.

Article 29:

Where failure to achieve the standard rate of work is not due to the fault of the employee, he shall receive not less than two-thirds of the standard wage, even if he has not performed two-thirds of the standard amount of work...

From Poland a witness reported as follows:

DOCUMENT No. 85
(POLAND)

Deposition: Appeared on 28 August 1954, the miner Adamiak, Waldemar, a Polish citizen, born on 10 March 1935, previously having resided in Wroclaw, Glowna No. 37, then having resided in Berlin Wannsee, Am Sandwerder 17-19, who says as follows:

"I have attended an elementary school and after that a technical school for a year. From January 1953 to June 1953 I took a course at the miners' school in Zary near Zagarin. Subsequently I worked as a miner in the Maurice Thorez mine in Walbrzych. I earned quite well, making about 1500 zloty, taking two Sunday shifts, but the work was heavy and pressure was exacted by the authorities to fulfil and even over fulfil the norm. Additionally, often serious injuries occurred. That was because less attention was paid to safety at work than to fulfilment of the norm... Propping was done negligently. Abandoned tunnels were also worked again without the necessary preparation solely to obtain as much coal as possible. I remember that on such an occasion in the autumn of 1953 a miner was killed by falling rock. That was in the Julia shaft, section 4. A little while before, a soldier, belonging to a unit then employed for mining, was also killed in a similar pit at a neighbouring shaft. One wouldn't get to know more details as nothing is announced officially and everyone is scared to talk about it."

Read, approved, and signed.

Similarly, a report from Czechoslovakia reads as follows:

DOCUMENT No. 86

(CZECHOSLOVAKIA)

Deposition: Appeared Mr. Jan Slovynec, Brezinsky from Camp Wels, Austria, Lager 1002, who says as follows:

"I was employed as a quarryman in a quarry in the vicinity of Bratislava. Altogether about 80 persons were employed there. Most of the workers worked according to set norms. These norms were set by the National Council of the Slovakia. Any alteration in these norms according to existing conditions had never been considered. The norms were such that not a single workman could fulfil them, least of all overfulfil them. Payment was made solely according to the percentage of the set norms being fulfilled. Therefore, someone who only fulfilled 60 % of the norm received 60 % of his normal wage. There were no guaranteed rates per hour but everyone got paid according to the set norm. The management did not take any action against these high norms and everyone in the management acquiesced, although there was no possibility of any change. In the beginning of 1954 some workers got to the stage where they nearly reached their full norm. The management then raised the norm by 20 %. As far as I am aware, the order to do so came from the National Council. The workers discussed amongst themselves the fact that the norms were much too high, but they could not do anything about it as the management itself was also powerless to take a stand against these excessive norms. In 1953 we had a fatal accident and two cases of heavy injuries. I consider that these accidents were partly due to the pressure to reach a certain level of production and partly to the fact that the foremen who ought to warn us in case of danger were unskilled and afraid to lose their jobs. I am prepared to swear to the truth of this my deposition."

Read, approved, and signed.

In the Soviet Zone of Germany, the Council of Ministers' decision of 28 May 1953, ordering a general increase in norms of 10%, caused the June uprising, the decision on general increases in norms was cancelled. However, the general principles of 11 October 1952, for the establishment of technically-based work, norms remained in force. These general principles show that the establishment of norms on the basis of calculations or statistical experience is inadmissible, and gives decisive significance to the production experience of the activists.

DOCUMENT No. 87

(SOVIET ZONE OF GERMANY)

From: the Guiding Principles for the Setting Up and Introduction of Technically-Based Work Norms in the People's and Similar enterprises of the Building Industry, 11 October 1952 (Law Gazette, p. 1043/52).

...
II. Working out the technically-based norms.
...

Article 3:

The setting up of technically-based work norms must be done on the following principles:

- a) Full utilization of the available machinery and apparatus and improvement of production technology on building sites and in workshops;

- b) Full use of the activists' experience in production;
- c) Full use of factory study as a technological pre-requisite for the accurate assessment of technically-based work norms;
- d) Improvement of the organization of factory activity;
- e) Full use of the working day;
- f) Checking the workers' specialist qualifications and taking measures for their specialist training.

...

Article 6:

- (1) The setting up of the technically-based work norms according to the obsolete principles of calculation or on the basis of statistical experience and the bases and methods of calculation connected therewith (estimate by performance) is inadmissible.
- (2) For the measurement of time, use must be made of workers whose qualifications correspond to the requirements of the work, who possess the necessary experience and knowledge of production, and whose productivity is above average for the concern in question.
- (3) For isolated tasks, every effort must be made to calculate technically-based norms, starting from time-norms. In cases where this is not yet possible, a record is to be kept of the degree of productivity given by the relation of the overfulfilment of the work-norms of each worker to the average norm fulfilment on the building site or the average for the whole concern.

Source: Gesetzblatt, op. cit., 1043/52.

**c) EXPLOITATION THROUGH FORCED COMPETITION,
FORCED SELF-IMPOSED OBLIGATIONS AND FORCED
OVERTIME**

For the increase of labour productivity use is made everywhere in the Soviet sphere of competitions between the individual socialized concerns, within the concerns between different departments, between working groups ("brigades") or between individual co-workers. The competitions are often included in the text of the works collective agreements and thus the workers as a whole, individual groups of workers and individual workers assume a collective obligation to take part in the competition. In Hungary the obligation to participate in labour-competition is laid down in the Labour-Code.

DOCUMENT No. 88

(HUNGARY)

"Chapter I. General Provisions.

Basic Principles of the Code

Article 1:

- (1) Every citizen capable of working has a right and an obligation and is by honour bound to work according to his capacities.
- (2) The workers serve the cause of socialist construction by their labour, by their participation in labour competition, by increasing labour discipline and by improving methods of work."

Source: Hungarian Law Gazette, op. cit., 31 January 1951, No. 17-18, p. 55.

Criticisms are made when competition is not used to increase labour productivity, as is shown by the following example from Hungary.

DOCUMENT No. 89
(HUNGARY)

Extract from a Leading Article in Szabad Nép:

"... Between and 28 October, the open hearth furnace at Ozd fulfilled the predetermined plan by 98.4 %; the Diosgyor furnace, by 97.9 %; and the Csepel Works by only 95.9 %. The results in the production of raw iron are even worse, and the fact that our metallurgical products are often of bad quality makes the situation particularly difficult ...

"One reason for this is the fact that, in the improvement of products in quantity and quality, not enough use is made of the gigantic dynamic force that lies in labour competition by the masses ... We are forced to admit that there is not enough competition in the works ... The fight for complicity with technological instructions is not carried out — at the cost of order and cleanliness. The proposals aim almost exclusively at raising the production ... Party organizations and works committees evaluate the results of the competition only in tons and like to show off ... The regrettable fact here is that the competition is one-sided and that it is carried out only in a small circle of workers who participate in it ...

"At the beginning of the fourth quarter the workers of the Diosgyor and Ozd works renewed their double competition. In spite of this we must note that the competition is not keen enough. The cause of this inertia is that the registering of competitions exhausts itself in bureaucratic ordinances ... The competitive movements in our metallurgical works can be generally revived if the workers and technicians, the men in charge of the Martin furnaces and those of the repair workshops unite and fight with combined strength for the laurels of the competition."

Source: Szabad Nép, 31 October 1953.

Highest praise is given when, under the leadership of the Communist Party, the workers' obligations to fulfil a plan ahead of time are kept. This is shown in the following example from Bulgaria which is held up to other concerns as a model.

DOCUMENT No. 90
(BULGARIA)

"Economic Accounting in the Enterprises of the People's Republic of Bulgaria" by Atanas Dimitroff, Candidate of the Central Committee of the Communist Party of Bulgaria.

"... Boris Christoff Vileff's proposal for improvements, for instance, enabled the State industrial concern "Progress" of Plovdiv to effect savings to the amount of 66,636 Leva. For this, the rationalizer received a premium of 1,475 Leva ...

"As a result, the workers of the concern undertook to fulfil their production plans ahead of time. This obligation became the programme on which the Party organization of the concern based its future work.

"This Party organization exercises its control over the economic work of the concern in a proper manner. The Party office analyzes the progress of plan fulfilment by the whole concern, by the individual departments and brigades and even by the individual workers. Thus all questions of Party work are solved, so that any possible falling below par of the concern is prevented and the fulfilment of the State plan is assured.

"The final result was that the concern fulfilled the production plan for the first half-year then days ahead. Compared with 1952, labour pro-

ductivity increased by 12.25 %. The production norms were exceeded by more than 16 % on the average. The average wages of the workers increased by 10 %.

"The working results of the personnel of this factory show that the concerns still have many reserves that can and must be found and used."

Source: „For A Lasting Peace, For A People's Democracy" (Bucarest), No. 42 (258), 16-22 October 1953.

In Roumania, too, socialist competition is considered an essential element for the increase of labour productivity.

DOCUMENT No. 91
(ROUMANIA)

"The harvest is in full swing in the municipality of Jugesti, district of Foesani. Every day the workers make great efforts to win the patriotic competition which was launched recently in the municipality. The call to take part in the patriotic competition, made by the peasants of sectors 8 and 9 of the village, resulted in the participation of the whole community. The first to start the harvest as the worker-farmer Nicolae Croitoru, member of the party... The socialist competition becomes livelier day by day.

"Every evening the names of those who have achieved noteworthy results... are posted up on the board of honour of the people's council.

"The village was in arrears with agricultural work. In order to help, the Communists and the people's council decided to develop stronger political activity so as to spur all worker-farmers on to finish the work, and to intensify the patriotic competition during the night so as to complete the harvest as soon as possible.

"In the way of enlightenment, articles were written every hour for the village newspaper and instructions given over loudspeakers, and apart from this the example of the people's representatives and of the propagandists played a predominant role in the completion of the harvest.

"The example given by the secretary of the basic organization, Vasile Gradisteanu and by the Communists Custaete Tarau, Stan Purice and Moise Manciuera, as well as the example of the representatives Teodor Jalba and Surva Han, who worked on the harvest during the night, was a great incentive for all workers of Laeul-Savat. Within only a few days, during which they enthusiastically participated in the Socialist competition they were able to end the harvest and to bring it in."

Source: Scanteia, 12 July 1953.

Very often a voluntary pledge to do extra work without payment is demanded, as is shown by the following testimony from Czechoslovakia:

DOCUMENT No. 92
(CZECHOSLOVAKIA)

Deposition: Appeared Mr. Franz Kretschmar, engineer, born on 29 November 1926 at Cab, district of Neutra, who fled in May 1953, and who says as follows:

"In the summer of 1952 I worked as an engineer at the rubber factory of Puckow (North-Western Slovakia). About once a month we worked so-called "honour-shifts". The occasions for these were, for example, Stalin's birthday, Gottwald's birthday, the war in Korea, etc. These honour-shifts were worked on what were normally non-working days. There was no payment for work done on these occasions. The work was the same as on ordinary working days, i.e., fully normal production work. The call for these "honour-shifts" was made by the works party

committee and by the works council of the trade-union. On most occasions 60 to 70 % of the labour force came for these shifts. The workers who worked these shifts regularly had the advantage, among others, that they received coupons for their working clothes, which wore very fast because of the nature of the work and with these coupons they could buy suits at the normal price. The coupons were issued by the works' trade union group (the works council). The other workers, who did not come regularly to the "honour-shifts", had to buy their working clothes at the free market prices."

Read, approved, and signed.

22 February 1954.

The significance which is attached to labour competition in Poland is shown from the following decision of the IVth Plenum of the Central Board of the Trade Unions of 14 and 15 February 1955 regarding the further development of socialist labour competition:

DOCUMENT No. 93

(POLAND)

1. Collective industrial agreements, i.e., agreements concerning long-term obligations for the purpose of fulfilling and overfulfilling the industry's annual target and to improve the workers' condition should be the foundation of competition. With reference to the collective industrial agreements and the agreements regarding long-term obligations individual and communal monthly duties should be stimulated and developed in all working communities so as to make the fullest use of the workers' and technicians' initiative, from worker to engineer upwards. The shop steward should, together with his manager, supervise each week or every ten days, the realization of such individual and communal duties. Periodical control over the realization of such duties is also the duty of the committee attached to the sectional or industrial council or management, dealing with competition.
2. It is the task of the trade-unions to develop moral and material distinctions of every kind for the achievements of eminent workers..."

Source: *Sztandar Mlodych*, 25 February 1955.

An important means of increasing labour productivity consists in interesting materially the foreman (brigade leader) in the output of his brigade, by making his wage dependent not on his own performance but on that of his brigade.

Regarding the witness from Poland mentioned above, Waldemar Adaniak, stated also in his Deposition:

"Once I had a foreman called Palaowski, who was exceptionally strict, so that he could push up the norms in his own interests. In this way he earned through high premiums, which were paid to him on account of his activities 3—4000 Zloty, for which sum we had to work very hard."

In the Soviet Zone of Germany the foreman has long been in receipt of a progressively increasing bonus to his wages when the brigade has fulfilled or exceeded its plan. This form of remuneration of the foreman is described in an article of the official newspaper of the Soviet Zone Free German Trade-Union Federation.

DOCUMENT No. 94
(SOVIET ZONE OF GERMANY)

From: "Distribution According to Performance as a Steady Effective Factor For the Improvement of Work Organization and For the Growth of Labour Productivity", by Otto Lehmann, Secretary of the Federal Committee of the FDGB:

"The foreman's task consists in steadily raising the standard of performance of his group by responsible, qualified leadership and organization. The only foreman to perform his task properly is the one who understands how to obtain a high average result in his group by proper organization of the work and by good instruction of all members of the brigade regarding the application of progressive methods of work.

"The foreman's remuneration also corresponds to these aims. First he is paid according to the average norm fulfilment of his group, and furthermore receives a bonus, the amount of which depends on the average norm fulfilment.

"This equitable principle is laid down in the works collective agreements. A deficiency in the practical application arises from the fact that the percentages shown in the model works collective agreements or in the old general collective agreements are applied schematically in most works without consideration of the size and tasks of the brigade and of the level of the work norms. In many cases this results in the foreman's finding it more to his advantage to concentrate on a high individual performance for himself without worrying about the performances of the remaining members of his group.

"In applying the basic established principles, the effective percentages of the foreman's remuneration must be fixed for every case in such a way that they offer to him material incentive to effect a general livening up of the work and to bring the lagging workers up to the level of the more progressive ones..."

Source: Die Arbeit (Labour), 1954, p. 122.

The following extract from the model works collective agreement of the Soviet zone of Germany for 1954 shows how the obligations to take part in the competitions are included in the works collective agreements.

DOCUMENT No. 95
(SOVIET ZONE OF GERMANY)

Extract from the Model Works Collective Agreement for 1954, Result of the Collective Work of All Workers in the Nationalized Cotton Spinning and Weaving Mill at Adorf (Vogtland).

"In order to make their contribution to the Year of Great Initiative and to fulfil and exceed their planned tasks in the national economic plan for 1954, the workers of the nationalized Cotton Spinning and Weaving Mill of Adorf undertake:

- 1) to do all in their power to fulfil the factory's economic plan in all its parts by 21 December 1954, in honour of the memory of the great Stalin.
- 2) To develop the internal competition month by month in all departments, main sections and brigades from man to man, from brigade to brigade and from department to department, and to participate in the competition for the Council of Ministers' challenge trophy.
- 3) To strive in the internal competition for the production plan to be fulfilled one day ahead in every month regarding nomenclature and assortment by each brigade, each main section, each shift and each department, in order to help ensuring the good and well regulated supply of goods to the population by means of a continuous output.

- 4) To fight in internal competition for a steady reduction of the time required for the production of our goods through the broad application on innovator methods, through participation in the rationalizer's and inventors' movement and through the fullest use and improvement of production technology, because a sharp increase of labour productivity is the decisive task in the fulfilment of the new course.
- 5) To struggle in internal competition for the production of spun and woven products of the first quality because we know that under the new course the population demands goods of the highest quality and we ourselves only want to buy goods of the best quality.
- 6) To achieve in internal competition a further reduction of 0.3 % in initial cost, above all by saving power, raw materials and auxiliary materials and by opening personal accounts, because we wish the policy of price reduction to be continued consistently, and it is only through us workers, employees and engineers that the conditions for further price reductions can be created by means of steady reductions of initial costs.
- 7) To conduct a steady fight for the increase and further consolidation of labour discipline and a fight against slackers for the fullest use of working time.
- 8) To develop the highest degree of watchfulness against agents and saboteurs for the protection of the people's property in order to protect our factory and our workers' and peasants' State, and to protect, maintain and increase Socialist property by treating it with care."

Source: *Tribune*, 15 January 1954.

Not even young people are spared from this extra work. This is illustrated in the following example from the Soviet Zone of Germany:

DOCUMENT No. 96
(SOVIET ZONE OF GERMANY)

"After the signature of the works' collective agreement three delegations (from the apprentices' workshop, the administration, and briquette factory No. 5) brought cordial greetings and handed to the meeting the following obligations:

"Apprentices' workshop: The apprentices of the Brown Coal Works "Friedenswacht" undertake, on the occasion of the signing of the collective agreement, to work voluntarily another 600 hours for the construction of our capital city of Berlin. We are further prepared to participate in a special call-up for work in Berlin..."

Source: *Brücke* (works newspaper for the labour force of the brown coal works "Friedenswacht"), No. 11, 29 July 1952.

While it is generally prescribed in countries under Soviet domination that the working day may not be longer than 8 hours, the workers are often forced to work overtime because of bad work organization and because of the compulsion of plan fulfilment and over fulfilment. A Bulgarian newspaper wrote as follows on this subject on 24 December 1953:

DOCUMENT No. 96a
(BULGARIA)

"According to point 4 of the 658th ordinance of the Council of Minister of 3 October 1953, persons who have been on night duty must be granted a day's rest on the following day. This however is not complied with in the State industrial enterprise "Balkan" at Gabrovo. Workers

are on duty the whole night and in the morning they go to work again straight from night duty.

"Apart from that there is no room in the enterprise where a worker can rest after his shift. The workers' position is particularly worsened now, in the cold winter days, by the fact that they have to spend the whole night in the cold work shops and offices. The workers Ivan Georgieff, Stefan Djazaroff, Peter Stanisheff and many other who had been on duty the whole night had nevertheless to work till late in the evening on the following day.

"But all this was nothing for the trade-union committee to worry about..."

Source: *Trud (Sofia)*, 24 December 1953.

Overtime occurs particularly frequently on the railways, as is shown in the following examples from Bulgaria and the Soviet Zone of Germany:

DOCUMENT No. 96b
(BULGARIA)

Socialist Laws Are Being Violated!

"It is one of the basic principles of our Socialist laws that work is paid for according to its quantity and quality. But how is this principle applied in practice at the locomotive depot of the town of Burgas?"

"A large number of engineers, mechanics and technicians are held at work longer than prescribed. The engineer Peter Stoeff, for example, did 67 hours overtime in September of this year. The fireman Marin Marinoff worked in the same month 57 hours more than the working time laid down. The fireman Blatsho Blatshoff worked 79 hours overtime in November alone. The engine brigade of brigade-leader Russi Toutsheff was kept on duty for 24 hours without a break on 23-24 November for the sole reason that the administration did not provide a relief for them. From the beginning of the year until November the engineer Peter Stoeff worked altogether 321 hours more than the work time laid down by law.

"All this is the result of the bad work organization of the administration of the enterprise... Furthermore, the rules on payment of overtime are violated. The engineer Petko Petkov, for instance, who in May alone worked 50 hours overtime, was paid for this work only 25 % of the sum due to him. The engineer Christo Abadjeiv received only half payment for his 39 hours overtime. The engineers Stojan Kaenoff and Sabi Teneff were likewise underpaid for 20 and 34 hours respectively; and so were others. Altogether 21 locomotive workers were underpaid for 216 hours of overtime.

"These gross violations show that our Socialist laws are not respected."

Source: *Ibid.*, 30 December 1953.

IV. INCREASED RESPONSIBILITY OF WORKERS IN MATTERS OF DISCIPLINE AND UNDER PENAL AND CIVIL LAW

In countries under Soviet domination a strict labour discipline sees to it that the exploitation of workers can proceed unhampered by rebellion of the oppressed. Labour discipline is maintained under the threat of disciplinary measures and by means of punishments inflicted by the courts of justice. Disciplinary punishments are taken by those in charge of the workers and consist mostly in admonitions, reprimands, assignment to employment with lower pay, and as far as dismissal without notice. No appeal is provided for, apart from complaints to the next higher authority.

Referring to the award of disciplinary punishment, the Manual of Soviet Labour Law, to which we have often referred, states the following:

DOCUMENT No. 97

(USSR)

"The following disciplinary punishments can be awarded for offences against labour discipline: admonition, reprimand, severe reprimand, transfer to lower paid work etc... If the labour regulations are systematically violated by a worker without the disciplinary measures of any kind mentioned in the Model Labour Directive having any effect, and if further admittance of the worker to his place of work would be contrary to the interests of the undertaking, the management of the undertaking (or of the office or institution) can dismiss the person concerned under Art. 47 (d) of the KSot (see Chapter VI, para. 8) (Plenary decision of the Supreme Court of the USSR of 25 December 1941 — 'Collection of Still Valid Plenary Decisions and Directives of the Supreme Court of the USSR of the Years 1924—1944', Publishing House for Literature and Jurisprudence, 1946, p. 152).

"The award of disciplinary punishment is within the competence of the manager of the undertaking (or head of the office or institution). It is only within the competence of other persons when this is expressly provided for in a Government Ordinance or in the labour regulations of the economic division and supplementary directives. For instance, in a heavy machine-construction works power to award disciplinary punishment is also within the competence of the senior works' foreman responsible for the maintenance of labour discipline (Art. 4 & 10 of the Ordinance of 27 May 1940 of the Council of People's Commissars of the USSR and of the Central Committee of the Communist Party of the Soviet Union (b) — Ordinance of the USSR, 1940, No. 15, text 361, p. 226).

"Two basic differences distinguish responsibility based on special disciplinary regulations from the general rules of disciplinary responsibility based on labour regulations.

"First, the disciplinary regulations contain a special schedule of disciplinary punishments. Thus the disciplinary regulation for persons working on railway communications of the USSR lays down the following punishments: admonition, reprimand, severe reprimand, custody

for up to 10 days, during which time the man concerned may be kept on duty or not (in the latter case he has no claim for wages over the period involved), assignment to different work with lower wages for a duration up to three months, or transfer to a lower function, demotion of personal rank."

Source: Sovetskoe trudovoe pravo, op. cit., pp. 263, 266.

The lawful foundation of the labour discipline of civil servants, communal and public undertaking and offices is laid down in the "Standard Rules of Internal Labour Organization", issued by the Council of People's Commissars of the USSR (now Council of Ministers) on 18th January 1941:

DOCUMENT No. 98
(USSR)

V. Penalties.

19. Every violation of labour discipline shall entail either a disciplinary penalty or prosecution in court.
20. The following disciplinary penalties shall be imposed for violation of labour discipline:
 - (a) Admonition;
 - (b) Reprimand;
 - (c) Severe Reprimand;
 - (d) Transfer to other lower paid work for a period of up to three months, and demotion to lower post.
21. A salaried or wage earning employee who comes late to work without a justifiable reason, goes out for lunch ahead of time, is late in returning from lunch, leaves work in an establishment (office) ahead of time, or loiters on the job during working hours, shall be penalized by the administration by the following means: admonition, reprimand, severe reprimand, transfer to lower paid work for a period of up to three months, or demotion to a lower post.
22. A penalty shall be imposed by the administration of the establishment (office) as soon as it becomes aware of the violation...

Source: USSR Laws, 1941, text 63.

In Hungary the labour discipline is laid down in the Labour Code:

DOCUMENT No. 99
(HUNGARY)

Article 112:

A worker shall be guilty of a breach of discipline if he —

- (1) commits an offence in the performance of his work or commits a serious offence in other circumstances;
- (2) behaves in a way which reveals hostility to the national and social order of the People's Democracy;
- (3) infringes the rules of labour discipline, the economic planning regulations or socialist labour morality; or
- (4) leads a scandalous or immoral life or otherwise behaves in such a manner as to be unworthy of being entrusted with work.

Disciplinary Penalties.

Article 113:

- (1) When a disciplinary penalty is imposed, the educational effect of the penalty shall be the primary consideration.
- (2) The disciplinary penalties shall be the following:

- (1) verbal reprimand;
- (2) censure in writing;
- (3) fine;
- (4) withdrawal of privileges;
- (5) down-grading;
- (6) instant dismissal.

Source: *Magyar Közlöny*, 31 January 1951, Nos. 17-18.

There are various further stipulations to supplement this regulation:

DOCUMENT No. 100
(HUNGARY)

From Decree No. 37/1952 of the Council of Ministers:

Article 1:

Any person who in violation of an agricultural labor contract with a State farm, experimental farm, model farm of a machine station, fails to report for or abandons his work without good cause is, — so far as his act does not constitute a severe crime, especially those provided for by Edict No. 4 of 1950 on criminal protection of the planned economy — shall commit a misdemeanour and shall be punished by a fine not exceeding 3,000 forints.

Source: *Magyar Közlöny*, 4 May 1952, No. 42.

DOCUMENT No. 101
(HUNGARY)

From the Resolution of the Council of Ministers No.2,000/1950, MTH (office of labour reserves):

Workers who leave State-owned factories without good cause and the permission of the management shall, for two years, receive only six days' annual leave with pay at their new workplace and, for one year, shall have their social security benefits reduced by 50 percent, on the principle that he who shows no concern for the interests of production and the people's economy shall not share in the social benefits extended to workers active in socialist construction.

It was superseded in 1953 by the following provision:

"Mt.V. Art. 51 (1) The employee who left his employment arbitrarily or had been dismissed by disciplinary action and also whose employment had been terminated by judicial decree (Art. 48) shall in the first and second calendar year of the new employment receive only one half of the annual leave to which he was otherwise entitled; additional leave may be granted to him only for work detrimental to his health or as a juvenile."

Source: *Munka Törvénykönyvének Vegrehajtásáról*, 1953, Decree No. 53 (28 Nov.).

DOCUMENT No. 102
(HUNGARY)

From the Labour Code :

Article 36:

- (1) If the worker terminates his employment relationship for no reason recognized in law, or in circumstances not conforming to the law, he shall be considered as having abandoned his work.
- (2) The penalties for abandonment of work shall be prescribed by special regulations.

Source: *Magyar Közlöny*, 31 January 1951, No. 17-18.

Stricter labour discipline is also demanded in Hungary.

DOCUMENT No. 103

(HUNGARY)

From: "An Important Means for the Realization of the Government's Programme: the Strengthening of Labour Discipline"

"We must lead the movement for strengthening labour discipline energetically and on a large scale, and we must fight back against all sabotage attempts by the class enemy and nip them in the bud.

"We must make the masses understand that the workers who show lack of discipline are injuring themselves. Lajos Zsamboki, for instance, works in gallery No. VI of Tatabanya. In the course of this year he stayed away from work four times without adequate excuse. The second time he missed a shift he already forfeited his claim to free allocation of working clothes; in other words, he lost 1,000 forints. The four days he missed are reckoned against his paid leave, and furthermore he forfeits also his coal allocation, to which only reliable workers are entitled . . .

"Many economic officials imposed fines at their own discretion and thus upset the workers' sense of justice. But even after the abolition of fines there is a possibility to spoil any intriguer the pleasure he may get from lack of discipline. Such a man can be moved to another, less advantageous, place of work, he can be deprived of certain privileges, or, if necessary, removed from the undertaking.

"Heads of production must use their rights fearlessly and boldly and with absolute consistency. They must know that not only the Party and the Government, but also the disciplined and class-conscious workers are behind them and support them with all their power."

Source: Szabad Nep (Budapest), 22 August 1953.

In Poland, the "Law on the Consolidation of Socialist Labour Discipline" was passed on 19 April 1950.

DOCUMENT No. 104

(POLAND)

Article 1:

Every manual or intellectual worker, irrespective of his position and of the kind of work on which he is engaged, employed in a socialized place of work, institution or office shall, under the provisions of this law, be prosecuted for a breach of discipline in the nature of an unjustified absence from work.

Article 2:

Workers who distinguish themselves by irreproachable work discipline for a period of three successive years are to be presented by the Board or management of the place of work, institution or office, to the authorities, for the award to them of State distinctions and prizes established every year for model work discipline by the Council of Ministers.

Article 3:

The Council of Ministers will define the instances in which absence from work is justified, and also the conditions and manner in which such absence may be justified.

Article 4:

(1) Bij absence from a day's work is meant the unjustified absence of the worker from his work on day when he was obliged to put in an appearance for work in his place of work, institution or office.

- (2) To miss such part of a working day as exceeds the limits defined by the Council of Ministers, is tantamount to missing a whole day's work.

Article 5:

- (1) The penalties for breaking work discipline are:
- 1) reprimand and warning;
 - 2) deduction from salary, for each day of unjustified absence from work, of a sum equivalent to the average remuneration due for one or two working days;
 - 3) transfer to lower salaried work for a period not exceeding one month;
- (2) The punishment awarded is to be entered on the personal records of the worker.

Article 6:

- (1) Effect to penalties for infringement of regulations is to be given as follows:
- 1) For an unjustified absence from work for one day of the calendar year, the worker is liable to reprimand and warning, or to deduction from the remuneration due to him, of his average earnings for a day's work.
 - 2) For an unjustified absence from work covering one or two successive days in the same calendar year, the worker is liable for each day of work missed, to deduction from the remuneration due to him, of a sum equivalent to his average earnings for one day's work.
 - 3) For unjustified absence from work on a third day in the same calendar year, or for three successive days, the worker is liable, for every day of work missed, to deduction from the remuneration due to him, of a sum equivalent to his average earnings for two working days, or to being relegated to a position carrying a lower salary.
- (2) The average daily earnings are to be estimated in accordance with the principles established for calculating the amounts due for days of vacation.
- (3) A worker receiving a fixed salary (lump sum, monthly), loses moreover, in each case of unjustified absence from work, such part of his remuneration as would otherwise be due for the days of his absence.

Source: *Dziennik Ustaw*, 5 May 1950, No. 20, item 168.

Disciplinary punishments are awarded by the head of the enterprise or administration. A worker who has been punished cannot appeal against his punishment to a higher authority or to a labour court. If a worker or employee is punished with demotion to a lower graded position, he is forbidden to end his contract of employment or service by giving notice. A typical example is given of a decision regarding regular punishment.

DOCUMENT No. 105
(POLAND)

Article 9:

The right of a worker to dissolve his work agreement or his public-legal service relations, is suspended for the period of any award against him ordering to perform lower salaried work (Art. 5 sub par. 3) or for the period covered by a judgment of a court ordering him to perform the same work for a reduced salary (Art. 8).

Article 10:

- (1) The manager of the place of work, institution or office is invested with powers of designating absence as justified or unjustified, of

applying penalties for infringement of regulations and of submitting motions to the Court of Common Pleas with a request that the case be examined; the manager, after having heard the explanations of the worker and after having taken the opinion of the factory council (delegate), or a representative of the Board of the factory Trade-Union organization, will pass a decision.

- (2) The decision defined in par. 1. must be issued in writing not later than seven days from the first day of absence of the worker; the copy of the decision concerning the award of penalty for infringement of regulations or regarding prosecution is to be brought to the knowledge of the workers in such a manner as may be decided in the individual place of work.

DOCUMENT No. 106
(POLAND)

Extract from a Circular From the Chairman of the Council of Ministers, dated 5 May 1950, for the Implementation of the Provisions of the Law on Socialist Discipline.

Article 3:

A manual or an intellectual worker undergoing simple punishment in the form of demotion to a lower graded position or punishment by a court in the form of carrying out the same work with deduction of part of his earnings, may only be dismissed by the management of the undertaking whilst undergoing such punishment if concrete labour conditions in the undertaking (e.g., inability further to employ the worker or employee) render his dismissal necessary.

Art. 9 on the Law on Socialist Labour Discipline makes it impossible for the worker, to terminate during this period a contract of employment or service by giving notice.

4. Against the decision of a factory manager to impose simple punishment, a worker cannot appeal to a higher authority or to a labour court. The immediately superior authority, however, must quash such a decision on its own initiative or at the request of the public prosecutor — exercising general supervision — if the factory manager overstepped or disregarded the provisions of the law on Socialist labour discipline, and in particular if the provisions dealing with the amount and nature of the punishment and the mode of procedure have not been observed.
6. When making decisions bases on the provisions of the Law on Socialist labour discipline, factory managers shall exclusively use the printed forms which are to be drawn up in each undertaking within its own sphere from the specimens attached to the circular.

EXAMPLE No. 2

Place Name of the undertaking, institution
Date or office

DECISION

By virtue of art. 1, 5 (sec. 1, par. 3,) 6 and 10 of the Law of 19 April 1950 on ensuring Socialist Labour Discipline (*Dziennik Ustaw*, No. 20, item 168), after hearing the evidence of Citizen

..... and after obtaining a written opinion, attached hereto, from the works council (delegate) — from a representative of the committee of the works trade-union organization*),

Citizen —'s absence from work — for part of the working day — for a period of minutes — *) on (date), is considered to have been without excuse. In view of the circumstance that the above-named — left his place of work — missed part of the part of the working day —*) also on the following days, he is sentenced to the following simple

punishment: 1
2

This punishment will be recorded in the employee's personal file.

A copy of this decision should be handed to Citizen
and should be brought to the notice of the members of the undertaking
by making same public in the following manner:

*) Delete if inapplicable.

Signature of the head of the under-
taking, institution or office.

Source: *Monitor Polski*, No. A-51, item 584/50.

DOCUMENT No. 107
(BULGARIA)

Bulgarian Labour Law of 9 November 1951

LABOUR DISCIPLINE

Article 123:

Every undertaking, establishment and organization shall have a set of working rules governing its internal working arrangements, which must not conflict with the provisions of this Code or the ordinances and regulations made thereunder.

Article 124:

The working rules shall give full and precise particulars of the general and specific obligations of the wage and salary earners and of the management of the undertaking, establishment or organization, of the limits and forms of responsibility and of the penalty for breaches.

The purpose of the working rules shall be to ensure the proper running of the undertaking, establishment or organization, the strengthening of labour discipline and socialist competition, the efficient utilisation of the working day, the raising of labour productivity, quality of output, etc.

The general working rules submitted by the Central Council of the General Trade-Union of Workers, applying to all undertakings, establishments and organizations, shall be approved by the Council of Ministers. The particular rules for the different industries shall be approved by the Ministries concerned.

Article 129:

The offences against labour discipline are:

- a) arriving late at work;
- b) leaving work early, before the end of the working day;
- c) inadequate utilization of working time;
- d) absence;
- e) refusal, without sufficient grounds, to carry out specific orders in accordance with articles 25 and 26;
- f) offences against orders concerning the organization of work within the undertaking.

The offences against labour discipline mentioned at points a) and b) will be amplified in the orders concerning the organization of work within the undertaking.

Article 130:

The disciplinary punishments are:

- a) admonition;
- b) reprimand;
- c) severe reprimand;
- d) temporary assignment to other work in the same undertaking, the same office or the same organization, or to work carrying lower pay, for a period of up to three months.

- e) transfer within the same undertaking, of to another undertaking, with assignment to work carrying lower pay;
- f) dismissal.

These punishments will be imposed except where otherwise provided, by the director of the undertaking, of the administration, or of the organization.

Source: *Izvestia*, 13 November 1951, No. 91.

The "Offences" which can be punished with immediate dismissal will be found in the following section from the Labour Code:

DOCUMENT No. 108
(BULGARIA)

Article 33:

The undertaking, establishment or organization shall be entitled to dismiss a wage or salary earner without notice if he:

- e) refuses to comply with an order transferring him to another establishment or organisation or to another locality (article 26, first paragraph);
- f) is absent from work without good reasons for more than half a working day, or is over half an hour late more than twice in any one month;
- g) reports for work in a manifestly drunken condition;
- h) receives a disciplinary punishment under article 130 (f).

In Albania too, workers can be subjected to disciplinary punishment. Managers of undertakings who do not organize work satisfactorily can also be punished.

DOCUMENT No. 109
(ALBANIA)

From: *Decree No. 726 of the Praesidium of People's Assembly, dated 13 August 1949.*

Article 4:

Workers and employees of State and co-operative enterprises and institutions are forbidden to leave their work or to move from one undertaking or institution to another, without the permission of the manager of the undertaking or from the person in charge.

Article 6:

Workers and employees who abandon state undertakings, co-operatives or other social undertakings or institutions or who work without permission in another undertaking or institution shall be punished with imprisonment from three months to one year.

Workers or employees in State, co-operatives and social undertakings, who abstain from work without sufficient grounds shall be punished with corrective labour for not more than six months at their place of work and with a 25 percent reduction of wages for the duration of their punishment.

Article 7:

The managers of undertakings or other persons in charge who do not bring workers or employees before the court for offences mentioned in the above articles shall be punished with imprisonment for not more than three years for failure to discharge their duties.

The same punishment shall be imposed upon managers of undertakings and persons in charge of institutions who engage personnel having given up their work in another undertaking or institution.

Source: *Gazeta Zyrtare*, 31 August 1949, No. 64.

DOCUMENT No. 110
(ALBANIA)

Article 5:

Arriving late or leaving work before the end of working time, up to 20 minutes in either case, is not punished as absence under penal law but is an offence against labour discipline punishable by administrative measures, i.e. with disciplinary punishment, except if such absence occurs three times within one month or four times within two consecutive months, when it shall become an offence of absence from work under penal law.

Thus late arrival at work, even by only two minutes, is a disciplinary offence. Unjustified idling during working hour is also a disciplinary offence. Thus the worker who has the necessary materials at his disposal but lounges about or chatters with others instead of working renders himself liable to a disciplinary sentence.

The above offence entails disciplinary punishment corresponding to the measures set out in Art. 12.

Article 6:

Disciplinary offences under Art. 15 include not only violation of duty under Art. 17, but any unjustified violation of duty and in particular violation of discipline not considered a penal offence.

A worker or employee violates his duty if, in his work, he contravenes the statutes, the ordinances or orders of higher authorities or of the administration of the undertaking or institution, and in particular if he fails to observe the rules of working discipline laid down in the provisions for internal systematization of work, in Articles 5, 6, 12 and 13.

Thus, for example, the worker or employee who does not obey the orders of the administration, or fails to fulfil the work norms without good reason, or does not observe precautions against fire, violates the duties that fall on him under Art. 6, points b), d), c) and H), of the provisions, is liable to punishment by disciplinary measures.

The works manager, for example, who has not organized the work properly, or is slack in his work discipline, violates the duties that fall on him under Art. 5, points a) and d), of the provisions, and should be given a disciplinary punishment.

No violation of work discipline should remain unpunished, even when it appears trivial at first sight.

Disciplinary punishments for various labour offences are quoted in Art. 16 of the provisions.

Apart from the disciplinary punishments quoted in the provisions, no other punishment is to be awarded..., such as fines, which are forbidden by Art. 37 of the Labour Code.

Source: Ibid.

In the Soviet Zone of Germany the Deutsche Reichsbahn (Railways) has its own disciplinary code, Art. 9 of which lists the punishments that can be awarded.

DOCUMENT No. 111
(SOVIET ZONE OF GERMANY)

From: Disciplinary Code of the Deutsche Reichsbahn (1952 edition)

Article 9: Disciplinary punishments

1) An offence against labour discipline that does not entail punishment by the courts, is considered an offence against the service.

Offences against the services entail disciplinary punishment.

2) Disciplinary punishments are:

- a) admonition,
- b) reprimand,

- c) severe reprimand,
 - d) exclusion from promotion to a more highly paid post (for one year at the most),
 - e) demotion to a lower-paid post (for one year at the most),
 - f) dismissal.
- 3) Admonition entails the forfeiture of additional remuneration for half a year; the disciplinary punishments listed under 2 c) to e) entail such forfeitings for one year. The end of these periods does not indicate the termination of the punishment.
- 4) Other punishments or measures are not authorized.

Article 12: Assessment of the punishment

1. Disciplinary punishment is decided by the disciplinary superior officer.

Article 15:

- 1) Complaints against disciplinary punishments are allowed. A complaint must be submitted to the disciplinary superior, in writing accompanied by reasons, within seven days of the punishment being made.
- 2) The disciplinary superior forwards the complaint without delay to the next higher disciplinary superior. The latter must examine the complaint and give his decisions within seven days of receipt of the complaint.
- 3) Objection can be raised against increase of punishment.
- 4) The lodging of a complaint has no dilatory effect.

Source: Disciplinary Rules of the German State Railways (in German), Ordinance of the Ministry of Transport, SM/HA 645.52 of 15 September 1952.

Disciplinary measure against alleged slackers are often linked with the award of bonuses to other workers who have exceeded their quota. A typical example of this is shown in the following document from the Soviet Zone of Germany.

DOCUMENT No. 112
(SOVIET ZONE OF GERMANY)

Railway service teletype message of Reichbahn direktion Erfurt Pr. (B.—1) Ozt 1 Be.

To all services and railway offices of the district, for the information of...

The Director General has announced the following in teletype message No. 16 of 1 December 1952:

The present situation in the development of the service demands that all railway workers are fully mustered for the fulfilment of our extraordinarily important tasks. The success in the building of Socialism will be influenced by our performance. It is therefore necessary that all time wasted shall be rapidly made good by exemplary performance of work and good discipline in the Deutsche Reichsbahn.

Special emergencies call for special measures. Good example in the performance of work is to be rewarded with bonuses. Neglect and irregularity are to be punished immediately and most severely. I therefore order that:

1. The young brigade Philipp Müller of the Magdeburg-Buckau railway station shall be given a bonus.
On 30 November 1952 from 6 a.m. to 6 p.m., although short of two men and in spite of difficult weather conditions, the brigade put up a marshalling performance of 13 trains with 1,068 cars. It created thereby a record performance for the station.
2. The marshalling-yard workers of Halle goods station receive a bonus in addition to the bonus awarded by the district committee: in the

night from 30 November to 1 December 1952 they increased the marshalling performance on the Nordberg from 750 to 884 trucks and on the Nordberg from 880 to 909 trucks.

3. The manager of Magdeburg-Buckau workshop will be punished with an admonition because, on 30 November 1952 he had badly planned the manning of his locomotive. Because of this the service was short of one engine for six hours and of another for three hours, causing delay to the trains.
4. The group leader B & V of Reichsbahndirektion Halle is punished with an admonition because he failed to carry out an instruction of the operational staff of the General Direction and, on his own initiative, allowed train No. 8157 from Magdeburg to Rosslau to run through to Bitterfeld. Through this, Bitterfeld found itself in a difficult position and the capacity of the tracks was reduced.
5. The traffic superintendent of Welfensleben station and the foreman of the section concerned are punished with an admonition because they failed to couple the 77-axle train Dg 6302, which was stranded in Welfensleben, with the 44-axle train Dg 6308. Running difficulties arose on the line. Because of this: irreplaceable idling of trucks, and the return of an engine to fetch the Dg 6302, coupling in Elseleben, occurred.

This order is to be made known immediately to all railwayworkers. They must be urged to use all their strength for the fulfilment of our plans. Cases of outstanding performance must be reported to me for the award of bonuses.

Source: Railway Teletype message from the management of the State Railways, Erfurt, Pr (B-1) Ozl 1 Be.

Very often, however, disciplinary measures are not sufficient for the enforcement of labour discipline to the extent desired by the Communists. The "culprits" are then handed over to penal courts for judgment.

DOCUMENT No. 113

(USSR)

"Responsibility for offenses against labour discipline is judged by the standards of penal law and not under labour law . . .

"In answer to a request submitted by the Central Council of the trade-unions, the Presidium of the Supreme Soviet of the USSR issued the decree of 26 June 1940 (Vedomosti, 1940, No. 20). Under the decree workers and employees of State, co-operative and social undertakings guilty of leaving their place of work on their own accord are punished with prison from two to four months, whereas absence from work without valid reason, is punished with corrective work at the place of employment up to six months and possible stoppage of wages up to 25 %.

"A number of further provisions have more closely defined the meaning of punishable absence from work and of the punishable leaving of one's place of work on one's own initiative.

"Late arrival at work or after the mid-day break, leaving work before the end of working hours or before the mid-day break, provided that these offences against labour discipline result in a loss of working time of more than 20 minutes shall also be reckoned as absence. Three late arrivals of this kind, or less than twenty minutes within one month, or four late arrivals of this kind within two consecutive months shall also be reckoned as absence. A worker or employee who arrives at work intoxicated, will also be considered an absentee (Art. 26 of the Standard Labour Regulations of the SNK of the USSR of 18 January 1941 — Laws of the USSR, 1941, No. 4, item 63).

"The Supreme Court of the USSR has given a closer definition of the "valid reasons" which render absence nonpunishable. The points of view advanced by the Supreme Court must naturally also be con-

sidered by the administration of an undertaking or office if it wants to award disciplinary punishment for absence of less than 20 minutes. Thus, according to the opinion of the Supreme Court of the USSR, a worker cannot be punished for late arrival at work if this was caused by transport not running according to the time table. (Decision of the Judicial College for Penal Matters of the Supreme Court of the USSR of October 1940 — "Collection of Plenary Decisions and Decisions of the Colleges of the Supreme Court of the USSR in the Year 1940", Publishing House for Jurisprudential Literature, 1941, p. 45).

"Under "leaving one's place of work of one's own accord", is also understood the following:

- a) non-compliance with an order of transfer to another undertaking or another office, issued by a minister by virtue of the edict of 19 October 1949 of the Presidium of the Supreme Soviet (Art. 5 of this edict — *Vedomosti*, 1940, No. 42);
- b) violation of labour discipline with the object of being dismissed (Plenary decision of the Supreme Court of the USSR of 25 Sept. 1941 — Collection of the Still Valid Plenary Decisions and Directives of the Supreme Court of the USSR from 1924 to 1944 — Publishing House for Jurisprudential Literature);
- c) absence on three occasions without valid reason whilst undergoing punishment for previous absence from work. (Plenary decision of the Supreme Court of the USSR of 7 July 1941 — "Collection of the Still Valid Plenary Decisions and Directives of the Supreme Court of the USSR from 1924 to 1944" — Publishing House for Jurisprudential Literature, 1946, p. 36).

"Any specialist, who, after graduating from a university or intermediate technical school or after being accepted as a candidate, refuses to comply with an assignment from a ministry or other competent authority, particularly if he takes up other employment of his own accord and does not report to the place of work assigned to him, renders himself liable to punishment under the Decree of 26 June 1946 of the Presidium of the Supreme Court of the USSR (Cf. the Decree of the USSR Minister for Higher Education of 4 June 1948, No. 795 and of 10 June 1948, No. 834 — "Bulletin of the USSR Ministry for Higher Education", 1948, No. 7—8); and such a person will be punished as if he had left his place of work of his own accord or as if he had been guilty of another form of absence from work without valid reasons.

"Evidence relating to cases of absence from work without valid reasons or of arbitrarily leaving the place of work must be handed over immediately by the heads of undertakings or offices to the people's court under whose jurisdiction the undertaking or office falls. This must be done, at the latest, on the day following the discovery of the offence. At the same time the conclusions reached by the undertaking or office as to the violation of labour discipline in question as well as data on previous disciplinary punishment and the address of the accused should be sent to the court (Ordinance of 21 August 1940 of the SNK of the USSR — *Laws of the USSR*, 1940, No. 22 item 543).

"If the head of an undertaking or office neglects to hand over such evidence to the court, he renders himself liable to punishment. The same applies if he employs a worker who wants to escape punishment for having arbitrarily left his place of work. (Art. 6 of the edict of the Presidium of the Supreme Soviet of 26 June 1940)."

Source: Sovetskoe trudovoe pravo, op. cit., pp. 269-271.

The legal basis for judicial punishment of workers for violations of labour discipline is provided for in Articles 58 (14), 59 (1), 59 (3) and 61 of the Penal Code of the RSFSR.

DOCUMENT No. 114

(USSR)

Penal Code of the RSFSR of 22 November 1926 (Edition of 1 October 1953).

Article 58¹⁴:

Counter-revolutionary sabotage, i.e., deliberate non-fulfilment of definite duties or inadequate fulfilment thereof with the special aim of weakening the power of the government and the functioning of the machinery of State, is punishable by —

deprivation of liberty for not less than one year, with total or partial confiscation of property;

when particularly aggravating circumstances are present:

increase of the penalty to the maximum for the protection of society — death by shooting, with confiscation of property (6 June 1927; USSR Laws, No. 49, text 330).

Article 59:

(1) It shall be an offence against the governmental order to commit an act which, although not directly aimed at the overthrow of Soviet power and the Workers-Peasants Government leads nevertheless to the disruption of the orderly functioning of the administrative machinery or of the national economy and is coupled with resistance against the organs of authority and the prevention of their functioning, with disobedience of the laws, or with other acts which weaken the power and authority of the State.

Any crime committed against the good order of the Administration even without counterrevolutionary aims, which shake the foundations of the State administration, the economic power of the USSR and of the Republic of the Union, shall be considered as particularly dangerous to the USSR.

Article 59:

(3) Violations of labour discipline (violations of traffic regulations, unsatisfactory repair of rolling stock and of the track, etc.) by persons working on communications — if such violation has resulted or could have resulted in damage to, or destruction of, the rolling stock, the permanent ways or structures, in accidents to persons, in delays to the departure of trains or ships, in the accumulation of empty space at unloading places, or in the immobilization of waggons and ships — and other actions which result in the defeat (nonfulfilment) of the Government's transport plans or threaten the regularity and security of transport, are punished with:

Imprisonment up to ten years.

If these criminal acts bear an obviously malicious character, the severest measures (death by shooting) for Socialist protection should be taken, together with confiscation of property.

Article 61:

For refusal to carry out public duties and general State duties or to carry out work of general State interest:

a fine of up to five times the value of the tasks shall be imposed by the competent department of the State;

for a repetition of the offence:

imprisonment or corrective labour up to one year.

If the same acts are committed by elements from Kulak circles (rich farmers), even for the first time, or by other persons under aggravated circumstances such as the prearranged meeting of several people or active resistance against the organs of State in the exercise of their duty, tasks or work:

imprisonment up to two years with total or partial confiscation of property with or without deportation.

Source: Ugolovnyi Kodeks RSFSR (Criminal Code of the RSFSR) (1 October 1953 edition; Moscow 1954).

Late arrival at work is punished by the court, by decree of the People's Commissariat for Justice and the Public Prosecutor, dated 22 July 1940, when the time in question exceeds 20 minutes.

DOCUMENT No. 114a

(USSR)

Order of the USSR People's Commissariat for Justice and the Public Prosecutor, dated 22 July 1940, No. 84/133.

To regulate the application of penal measures against workers and employees who come to their place of work more than twenty minutes after the mid-day break without valid reasons, or who deliberately leave their place of work more than twenty minutes before the mid-day break or before the end of the working day, it is ordered:

Workers and employees who resume work more than 20 minutes late after the mid-day break or who deliberately leave their place of work more than 20 minutes before the mid-day break or before the end of the working day without valid reasons shall be tried before a court for absence from work under part. 2, art. 5 of the Decree of the Presidium of the Supreme Soviet of 26 June 1940.

The standing orders of the internal labour organization for employees of the public administration of the USSR contain the following section on punishment:

DOCUMENT No. 114b

(USSR)

Standing Orders of the Internal Labour Organization for Employees of Government, Co-operative and Public Institutions and Offices, issued by the Council of People's Commissars of the USSR on 18 January 1941.

V. Punishments

Article 19:

Every violation of labour discipline shall entail either a disciplinary penalty or prosecution in court.

Article 20:

The following disciplinary penalties shall be imposed for violation of labour discipline:

- (a) Admonition;
- (b) Reprimand;
- (c) Severe reprimand;
- (d) Transfer to other lower paid work for a period of up to three months, and demotion to a lower post.

Article 21:

A salaried or wage earning employee who comes late to work without a justifiable reason, goes out for lunch ahead of time, is late returning from lunch, leaves work in an establishment (office) ahead of time, or loiters on the job during working hours, shall be penalized by the administration by the following means: admonition, reprimand, severe reprimand, transfer to lower paid work for a period of up to three months, or demotion to a lower post.

Article 22:

A penalty shall be imposed by the administration of the establishment (office) as soon as it becomes aware of the violation.

Before the penalty is imposed, the violator of labour discipline shall be requested to give an explanation.

No penalty may be imposed by the administration of the establish-

ment (office) after the expiration of one month from the date on which the violation is ascertained.

Article 23:

Each penalty shall be cited in a general order and communicated to the salaried or wage earning employee, who must sign the receipt of communication.

Article 24:

If, within one year of the date of imposition of the penalty of admonition, reprimand, or severe reprimand, the salaried employee or wage earner does not commit another violation of labour discipline, the director of the establishment (head of the office) shall remove the penalty.

If the salaried or wage earning employee has not committed another violation of labour discipline and has in addition proved himself a good and conscientious worker, the director of the establishment (head of the office) may remove the penalty imposed by him before the expiration of one year.

Article 25:

A salaried or wage earning employee who leaves the establishment (office) without permission shall be prosecuted in court under the Edict of the Presidium of 26 June 1940.

Article 26:

For absenteeism without a justifiable reason, salaried or wage earning employees shall be prosecuted in court under the Edict of the Presidium of 26 June 1940.

One who is late to work or from lunch, who leaves work before working hours are over, or who leaves before lunch time, shall be considered an absentee, provided such violation of labour discipline causes the loss of more than twenty minutes of working time.

The above-mentioned violations causing the loss of less than twenty minutes of working time shall be considered equal to absenteeism if they occur thrice within one month or four times within two consecutive months.

Likewise, a salaried or wage earning employee who appears at work in a state of intoxication shall be considered an absentee.

Article 27:

Theft of materials, products, instruments or equipment committed by wage-earners or salaried employees at the place of work (or office) where they are employed, shall be prosecuted under the Presidium's Decree of 10 August 1940 and in accordance with the Penal Code.

Article 28:

Acts of theft committed by wage-earners or salaried employees at the place of work (or office) where they are employed shall be subject to compensation.

Source: USSR Laws, 1941, text 63.

Leading employees can be punished with imprisonment from five to eight years if the undertakings for which they are responsible deliver industrial goods of bad quality or other imperfect products.

DOCUMENT No. 115
(USSR)

Article 128-a:

For the output of defective or incomplete industrial production and for the output of products in violation of the standards set by law, directors, chief engineers, and chiefs of the department for technical

inspection of industrial enterprises shall be punished as having committed a crime against the state of equal importance with wrecking, and shall be imprisoned for terms from five to eight years.

Mass or systematic issuance of underquality goods from commercial enterprises entails deprivation of freedom for terms up to five years, or correction work at one's place of work for a term up to one year.

Comments on Article 128-a:

1. The delivery of measuring apparatus by the manufacturers without the standard mark of the administration for weights and measures, as well as the manufacture thereof without compliance with the norms laid down, will be punished in accordance with the Decree of 10 July 1940 (Art. 128-a of the Penal Code of the RSFSR and the corresponding article of the penal codes of the other Republics of the Union.)
2. Articles 109, III and other articles of the Penal Code of the RSFSR and the corresponding articles in the penal codes of the other Republics of the Union do not apply in the case of acts committed by persons in authority mentioned in the decree of 10 July 1940 — directors, leading engineers and heads of the technical control departments — as well as by other persons who in fact carry out the duties of the above-mentioned persons, in so far as these persons render themselves guilty of the delivery of industrial products of bad quality, of imperfect industrial products, or of products that vary from the prescribed norm. The above-mentioned crimes by these persons must be judged by Art. 128 a par. 1) of the Penal Code of the RSFSR, and the corresponding articles in the Penal Codes or the other Republics of the Union, and, in the Azerbaijan, Turkmen, and Uzbek Soviet Socialist Republics — in whose penal codes the corresponding articles are missing — in accordance with the Decree of 10 July 1940.
3. The courts are reminded that "delivery of products" does not only mean delivery to the customer who has placed the order, but also includes the case where products have passed the technical control department and have been approved for final delivery.
4. The following courts and tribunals are competent to deal with offences regarding the delivery of industrial products of bad quality and of products that do not comply with the prescribed norm: the district, provincial and territorial courts, the Supreme Courts of the autonomous republics, the Supreme Courts of the Republics of the Union without territorial divisions, as well as the district and equivalent military tribunals, the district courts of the railways, and the appropriate courts of the inland waterways. (Plenary decision of the Supreme Court of the USSR of 30 September 1949, No. 13/9/U).

Source: Ugolovnyi Kodeks RSFSR (1 October 1953 edition; Moscow 1954).

On the subject of the punishment of leading employees, "Pravda" wrote as follows:

DOCUMENT No. 116

(USSR)

"From the Prosecution Authority of the USSR".

"The Prosecutors Department has lately investigated a number of acts which prove how irresponsibly heads of industrial concerns behave as regards the quality of goods produced in their undertakings.

"A number of prosecutions were undertaken by the prosecutors department against the heads of a few industrial concerns belonging to various branches of industry and to the co-operative industry, in accordance with the Decree of 10 July 1940 of the Praesidium of the

Supreme Soviet of the USSR, which laid down the penalties for the production of goods of poor quality of imperfect goods or of goods which do not correspond to the standard norms.

"The chief engineer of the Grodno factory of the Ministry of Local Industry, J. K. Vychoto, was tried for systematic production of poor quality bicycles. For the crime committed, Vychoto was condemned to imprisonment for five years.

"In the territory of Irkutsk, the following were sentenced in accordance with inferior-quality coal and for the violation of the conditions laid down: — Komissartchuk, head of the technical control department of the Chramtsovsk pit of the "Kirrovgol" Trust of the Ministry of Local Coal Industries of the USSR, to imprisonment for six years; Sukomal, head of the dispatching section, and his deputy, Cholpov, each to imprisonment for five years.

"In Leningrad, Machnovski, chief engineer of the felt-boot factory of the local industry, was sentenced to imprisonment for two years for producing poor-quality felt boots.

"In the territory of Tahkalov, Skolenov, manager of the Totski bakery, was sentenced to imprisonment for 5 years for systematically allowing the production of inferior-quality bread.

"The following were also tried: Jashunin, director of a clothing factory in Moscow, Smirnova, technical head, and Nikitin, head of the technical control department of the factory, both accused of producing inferior-quality clothes; and a number of workers from other undertakings.

"The Prosecutor General of the USSR, Savonof, instructed all departments of the public prosecution to adhere rigidly to the decree of 10 July 1940 of the Praesidium of the Supreme Soviet of the USSR, and to prosecute heads of industrial undertakings for production on unsatisfactory goods."

Source: Pravda, No. 106 (10847), 15 April 1948.

In November 1953 a Moscow newspaper reported as follows on punishment for refusal to take up work as directed.

DOCUMENT No. 117

(USSR)

"Under the Heading "Disloyal Men", we published a report in our issue No. 80 on the refusal by a number of graduates of pedagogical institutes, and principally of the "Potemkin" Institute in Moscow, to take up the teaching posts assigned to them by the Ministry of Education of the Russian Federal Republic. Comrade Abrossin, deputy director of the "V.P. Potemkin" Institute and Comrade Stroganov, secretary of the party office, have informed us, that the case of the graduates Kalygin, Mirtova, Krenkel, Kaufmann and Futer, who had refused to go to their destinations, was passed on to the people's court by the management of the institute. Kalygin, Krenkel and Futer have already been dealt with. All three were sent to a corrective labour camp for six months."

Source: Uchitelskaya Gazeta (Moscow), 14 November 1953.

In Poland, Article 39 of the Penal Code is the legal basis for the punishment of allegedly negligent workers.

DOCUMENT No. 118

(POLAND)

Section III — Offences Against the Economic Interests of the State.

Article 39:

A prison sentence will be imposed on any person employed in State concerns or self-administered concerns, or in concerns which work

with financial assistance from the State or under State control or under their own control or which are directed by State or self-controlled undertakings or by institutions under public law or co-operatives, who —

1. lowers the level of production and damages the interests of society by decreasing the quality of products or the productivity of his own work or that of his subordinate personnel;
2. worsens to a considerable degree the condition of the technical installations of a concern or wastes raw materials or products by neglecting his duty to take all necessary care of the concern's technical installations and draw materials.

Source: *Kodeks Karny (Penal Code) (Warsaw, 1952)*.

In Poland, workers can be punished for violations of labour discipline under Art. 7 of the Law for the Consolidation of Socialist Labour Discipline of 19 April 1950.

DOCUMENT No. 119

(POLAND)

Article 7:

In cases of persistent and malicious violation of work discipline, namely:

- 1) Unjustified absence, despite the punishments awarded, for four or more days during one year, or
- 2) unjustified absence from work for four or more successive days, the offender shall be prosecuted before a Court.

Article 8:

- 1 The judicial punishment involves the obligation to remain on the same post for a period not exceeding three months, with a simultaneous reduction of from 10 % to 25 % of salary.
2. The Courts of Common Pleas are of competent jurisdiction in such matters.

Source: *Dziennik Ustaw, 5 May 1950, item 168*.

DOCUMENT No. 120

(POLAND)

Article 12:

Any manager of an enterprise who deliberately reports false circumstances:

- 1) concerning the fact that a worker's absence is justified, or
- 2) by failing, in dereliction of his duty, to award a punishment for infringement of regulations, or by failing to institute court proceedings, failing a motion or hearing the case — is liable to the penalty of detention for a period not exceeding three months or a fine not exceeding 150,000 zloty or to both of those penalties jointly.
2. Equivalent penalties are to be imposed in the case of persons who deliberately certify false depositions concerning circumstances justifying absence from work.

DOCUMENT No. 121

(POLAND)

Article 15:

In matters examined by a court:

- 1) the application of the manager of a place of work, institution or office may be accepted in lieu of an act of indictment;
- 2) the matter is to be heard by the Court of Common Pleas not more than one week after the date of receipt of the application;

- 3) the judgment, including substantiation of the sentence, should be immediately drawn up in writing;
- 4) an appeal against an award must be lodged within three days of the date on which the judgement was drawn up and must be accompanied by a statement in writing of the grounds for the appeal;
- 5) the Court of Appeal is required to review the matter within two weeks of the date of promulgation of the judgement of the Court of Common Pleas.

The application submitted by the head of the undertaking, which replaces the indictment, must be drawn up as follows:

DOCUMENT No. 122
(POLAND)

Example

Application to the Court

Name or designation of the undertaking, institution or department	Place
	Date

Application

By virtue of Articles 7 and 10 of the Law of 19 April 1950 on the Consolidation of Socialist Labour Discipline (Law Gazette of the People's Republic of Poland, No. 20, item 168), I hereby apply for a prosecution against Citizen, a worker employed as, domiciled at, son (daughter) of

He (she) has maliciously and obstinately violated labour discipline by leaving work without excuse — missing part of the working day — times on the following dates:

By virtue of Art. 8 (2) and Art. 15 (a) of the above-mentioned law this matter must be dealt with by the court. This application takes the place of an indictment.

Evidence:

Drunkenness at the place of work is considered equivalent to absence.

DOCUMENT No. 123
(POLAND)

Decision of the Council of Ministers of 5 May 1950.

Article 6:

4. If an employee is incapable of doing his work as required because of his intoxicated condition, his offence will be considered one day's *) absence from the place of work.

*) unauthorized

Source: *Przepisy Prawa Pracy (Labour Law Regulations), (Second edition; Warsaw, 1952). Vol. I.*

Certain employees are made responsible for the quality of production.

DOCUMENT No. 124
(POLAND)

Decision of the Economic Committee of the Council of Ministers in the Matter of Quality of Production of 12 May 1950.

E. — Responsibility of employees of the technical control service and of the production departments.

Article 11:

- 1) The employees of the technical control department in an undertaking are responsible for carrying out the technical control duties allotted to them under Art. 5.
- 2) Responsibility for inadequate control of the quality or perfection of production and for the extent of deficiencies which arise is borne above all by the personnel of the production departments.
- 3) If an undertaking produces goods which do not comply with specifications as to quality and perfection, the responsibility for this is borne by the director of the undertaking and his first deputy (the chief engineer) as well as by the head of the technical control department.

F. — Punishments.

Article 12:

In the cases mentioned in Art. 11, those responsible must bear the consequences and, if their acts amount to a crime, an information must be laid before the competent public prosecutor or the "Special Commission for the Fight Against Misuses of and Damage to the Economy" (now abolished — ed.), so that the culprits may be punished in accordance with law.

Source: Monitor Polski, No. A-65, item 765.

As regards the imposition of reductions in wages by the public prosecutor in Poland, a witness states the following:

DOCUMENT No. 125

(POLAND)

Deposition: Appeared, born in 1912 in a village in Galicia, lived until 1940 in Western Ukraine (formerly Austria), fled in 1940, returned to Western Ukraine in 1941, went back to Germany in 1943, worked for farmers until 1946, repatriated to Poland in 1948, with false papers, lived in Poland from 1949 to 1953, fled to West Germany in 1953 via Czechoslovakia and Austria, who says as follows:

"I worked in the Polish Western Territories, in the neighbourhood of Zielona Gora, as forestry worker. Things were like this with us: if, for instance, one of the factory workers arrived late for three times, about one-third of his wages were deducted for three months. This happened on the basis of a report of the factory manager to the public prosecutor, who then ordered the deduction of wages. This, however, only applied to factory workers paid on a time basis."

Read, approved, and signed.

Another witness makes the following statement on the consolidation of Socialist labour discipline:

DOCUMENT No. 126

(POLAND)

Deposition: Appeared Edward Agacki, born on 15 September 1917 at Lodz, latterly domiciled in Poland from whence he fled on 26 August 1953, who says as follows:

"In our factory the chief of personnel was responsible for maintaining labour discipline. If an employee or worker was several times more than five minutes late, the chief of personnel could straight away deduct half his monthly wages. Although there existed a possibility to complain against this decision to the national council of the town, such complaint was pointless. In reality the chief of personnel's decision

was final. He could hardly read and write but was naturally a Communist and therefore suitable for the post.

"If tardiness occurred more than four or five times, the chief of personnel passed the matter on to the court and the lightest sentence was then three months' imprisonment. If in such cases the public prosecutor based his accusation on sabotage, which was always possible, the punishment was imprisonment from five to ten years. The working population lived in constant fear of such heavy penalties, all the more so as tardiness or failure of the tramway service were not recognized as a valid excuse.

"The director of the Sovkhoz Zalunski, a man by the name of Chamski, was sentenced to six years imprisonment for sabotage in 1948. He had gone to town on duty one day but could not return the same day and only arrived back at his Sovkhoz at noon on the following day. Unfortunately a control commission arrived that day. A report was made because the director was late. The matter went to the public prosecutor. The director was arrested immediately and then condemned to six years' imprisonment.

"During the time when I was back at my former place of work i.e., from January 1953 until my flight in August 1953, three women at my place of work suffered deductions of half a month's wages because of lateness."

Read, approved, and signed.

17 March 1954.

DOCUMENT No. 127

(POLAND)

Deposition: Appeared on 30th August 1954 the shepherd Jan Pluta, Polish citizen, born on 15 November 1926, formerly having resided in Pecisko, Wojewodstoo Szczecin, since then residing at Lager Am Sandwerder, Berlin-Wannsee, who says as follows:

"I come from Zavoja near Cracow. Since 1950 I worked as a shepherd in Pecisko, Wojewodstwo Szczecin. I was last working on the state farm Pecisko. The state farm comprises seven villages in the vicinity; the director lives near Pyritz. Before I left I had a 1000 sheep.

"On 3 August 1954 I fled from there. During the last winter about 100 of my sheep died. This was because the animals had to find their own feeding-stuff in the open air until December or until it started to snow, and did not get any additional feeding stuff in the stalls. In April the sheep had to go out again, sometimes even in March, according to whenever the feeding stuff had ran out. The food the sheep received in the stall was insufficient. The animals, the ewes included, got only 200 grams of shredded sugar-beet every day. They seldom got oats, occasionally straw (barley-, oats and wheat-straw). As a result the animals were quite undernourished. The last year they were not shorn until November, which is much too late. There is only one electric sheering machine in the whole district. In the draughty leaking stalls, many of the animals caught a cold. I was taken into custody for a week at the UB in Pyritz, was released, but the investigations were not yet finished. Protocols were made by the police and I was afraid that I was going to be treated like other shepherds who had been sentenced for similar offences. For example in the autumn of 1953 the shepherd Wietsek, Stanislaus from Sitno, Mesliboz, was, according to other shepherds, sentenced to a term of two years imprisonment. I also know of other cases, but I do not remember the names of the persons concerned."

Read, approved, and signed.

In Hungary less serious offences against labour discipline are prosecuted by the police, who have received legal functions for these cases.

DOCUMENT No. 128
(HUNGARY)

Decree No. 37 of 1952.

Article 1:

Any persons who, in violation of a contract concluded with a State undertaking, an experimental farm, a model farm, or a machine station, deliberately fails to report to work on time or leaves work without valid reason, commits an offence and shall be punished with a maximum fine of 3,000 forints, unless the offence is liable to more severe punishment as indicated in particular in the provisions of Ordinance No. 4 of 1950 on penal measures for the protection of planned economy.

Article 2:

Penal proceedings to be taken in the case of an offence under Art. 1 fall within the competence of the police, which acts in this case as a penal court.

Source: Magyar Közlöny, 4 May 1952. No. 42.

An offence against labour discipline in Hungary can, however, be punished with a prison sentence of up to two years.

DOCUMENT No. 129
(HUNGARY)

Decision of the Supreme Court.

"Any person who leaves his work without permission or stays away from it permanently can be sent to prison for a maximum period of two years. Such an offence against labour discipline is a crime ... and is considered a serious crime under the provisions of Law No. 4/1950 (on the protection of planned economy) ... A person, who violates labour discipline without having the intention of committing sabotage shall be sentenced to penal servitude."

Source: Nepszava, Budapest, 3 January 1952.

DOCUMENTS No. 130
(HUNGARY)

"The Supreme Court sentenced the tractor-drivers Antal Domjan and Ferenc Hajdu to two years' imprisonment ... because of repeated absence without leave from their work and because they arbitrarily left their place of work on various occasions.

"Motive: Such a shameless violation of labour discipline represents a criminal action according to Decree No. 4 of 1950 which deals with the penal defence of the systematized economy."

Source: Nepszava, 3 January 1952.

DOCUMENT No. 131
(HUNGARY)

"On 9 January the Budapest prosecuting authority brought an action before the Central District Court of Budapest against four defendants. Among the defendants was Istvan Kelemen, apprentice at the Chemical Machine and Radiator Factory, who in June 1955 had arbitrarily left the automobile repair works no. 5 after it had been temporarily stationed in Stalinstadt, from where he also departed without permission. The court sentenced Istvan Kelemen to five months' corrective labour

with a deduction from his wages of 25 per cent. Mihaly Nagy, also an unskilled worker from the Chemical Machine and Radiator Factory did not account for his staying away for 10 days since 2 November. The court sentenced Mihaly Nagy to four months' corrective labour with a deduction from his wages of 20 per cent. Ambrus Makka, who worked as an unskilled worker in the cement factory was away from work without leave for six days during the last two months. Laszlo Marton, another unskilled worker of the cement factory had been away from work altogether 11 days since 26 November. The court sentenced the above named persons to four month's corrective labour and decreased the wages of Laszlo Marton by 25 per cent and of Ambrus Makka by 20 per cent for the duration of their punishments.

"According to the law, the court can change the rest of the punishment into imprisonment at the instigation of the Public Prosecutor if the person sentenced to corrective labour continues to violate discipline."

Source: Nepszava, 10 January 1952.

Factory managers who omit to hand over workers for prosecution in the courts for violations of labour discipline have been sharply criticized by the Deputy Prime Minister Matyas Rakosi in an address to the National Council of Activist of the Hungarian Workers' Party (Radio Budapest, 12 January 1952):

"Lack of labour discipline is the stumbling block of our healthy development. Many complaints have been made to me on this subject, but when I ask for concrete proof most of the comrades become evasive... If I had always relied on them, the decision of the Supreme Court (absence to be punished), with which they now agree, would never have been made... although it gives them the power to apply legal measures against those who violate labour discipline.

"Nearly all correspondence of the Szabad Nep complains of the liberal attitude of factory managers. There are certain enemy elements everywhere, on whom simple agitation or persuasion acts like holy water... I will ask the managers to deal with this question more definitely."

In Czechoslovakia the penal code contains provisions for the punishment of offences against labor discipline.

DOCUMENT No. 132

(CZECHOSLOVAKIA)

J u d g m e n t

Czechoslovakia, 30 September 1952.

In the Name of the Republic:

The district Court of Karvina, third division, has given the following judgment:

The accused:

1. Pavel Beres, born on 8 May 1922 at Rabary, district of Zvolen, member of a brigade in the mines, address: Orlowa I, No. 477.
2. Pavel Benedik, born on 28 Oct. 1926 at Rybary, district of Zvolen, member of a brigade in the mines, address: Orlowa I, No. 477.
3. Stefan Korgo, born on 6 Sept. 1933 at Babindol, district of Vrable, member of a brigade in the mines, address: Orlowa III, Norub No. 134.
4.

5. Zdenek Urbanec, born on 24 Jan. 1932 at Chalcicova-Lhota, district of Rolesvov, miner, address: Orlowa II, Lazy, No. 810.
6. Oldrich Trochta, born on 2 May 1932 at Luzna, district of Vaetin, miner, address: Orlowa II, Lazy, No. 810.

who are at present in the custody of the public prosecutor of the district of Karvin, have been found guilty.

Particulars:

A. As members of the brigade in the mines, i.e., as qualified miners, they violated their duty without valid excuse.

Pavel Beres with 39 entries since 16 Nov. 1951,

Pavel Benedik with 36 entries since 15 Nov. 1951,

Stefan Korgo with 24 entries since 15 Sept. 1951

for violation of their duty in the Zofie mine in Gorlowa III-Porub up to the time of their arrest on 19 March 1952;

Olderich Trochta, with 82 entries for violation of duty in the Antonin Zapotocky mine at Orlowa II-Lazy from 28 May to 29 March 1952;

Zdenek rbanec with 59 entries.

B. They are sentenced as follows:

1. Pavel Benes, by virtue of para 135 (1) of the penal code to imprisonment for 4 months;
2. Pavel Benedik, by virtue of para 135 (1) of the penal code to imprisonment for 4 months;
3. Stefan Korgo, by virtue of para 135 (1) of the penal code, to imprisonment for 6 months.
4.
5. Zdenek Urbanec, by virtue of para 135 (1) of the penal code, to imprisonment for 6 months;
6. Oldrich Trochta, by virtue of para 135 (1) of the penal code, to imprisonment for 8 months.

By virtue of para 48 (1) of the penal code the court desisted from imposing a fine on the accused. Para 54 of the penal code provides for the publication of the exact wording of the judgement at the expense of the prisoners in the newspapers Nova Svoboda and Prace. In accordance with Para 23 of the penal code, the time spent in custody is included in the sentence in the case of all prisoners as follows: Zdenek rbanec and Oldrich Trochta, from 20 March 1952, 2 p.m. to 4 April 1952 11 a.m.; Pavel Beres, Pavel Benedik and Stefan Korgo from 19 March 1952 4.30 p.m. to 4 April 1952, 11 a.m.

The sentence will be carried out without delay.

Source: *Nova Svoboda*, 7 August 1952.

DOCUMENT No. 133

(CZECHOSLOVAKIA)

In the Name of the Republic:

The people's court at Ostrau, division 2, has made the following decision after the trial of 14 October 1953 in arrangement with the principles of Socialist justice:

The accused:

1. Jaroslav Janeczek, born on 22 February 1933 at Horni Danojovice, district of Znojmo, skilled miner, domiciled at Dolenice No. 65,
 2. Jan Belan, born on 9 July 1934 at Ochotnice, district of Kysucke Nove Mesto, member of a mining brigade, domiciled at Ochotnice No. 273,
 3. Josef Grysa, born on 6 May 1934 at Ochotnice, district of Kysucke Nove Mesto, member of the mining brigade, domiciled at Ochotnice No. 209,
 4. Jiri Horak, born on 20 April 1932, Borice, district of Chrudim, a member of the mining brigade, domiciled at Borice No. 41,
- all at present in the custody of the public prosecutor at Ostrau, are guilty of having, whilst employed by the Trojice mine at Ostrau VIII, missed altogether 120 shifts without any excuse whatsoever, after 4 May 1953, i.e., after the day of publication of the amnesty of the

President of the Republic. The accused Janecek missed altogether 22 shifts from 4 May 1953 to 10 September 1953; Jan Belan, 40 shifts from 4 May to 18 September 1953; Josef Grysa, 32 shifts from 25 May 1953 to 18 September 1953; and Jiri Horak, altogether 26 shifts from 1 July 1953 to 19 September 1953. They are therefore all guilty of having through negligence caused difficulties to the running of a national undertaking by violating the duties of their trade.

Under the promise that he would work for one year in the undertaking as a member of a brigade, the accused Grysa obtained from the administration of the works in Silesia Ostrava the sum of 2,400 crowns for the purchase of clothing, that is he stole national property in that he enriched himself to the detriment of such property.

By their acts all the accused committed the offence of threatening the unified economic plan within the meaning of para 135/1 of the penal code, and the accused Grysa committed the offence of theft of national property within the meaning of para 245/1 (c) of the penal code, and they are sentenced:

The accused Jaroslav Janecek, Jan Beran and Jiri Horak, under para 135/1 of the penal code, to imprisonment: Jaroslav Janecek for 4 months, Jan Beran for 2 months and a half, and Jiri Horak for 8 months; the accused Josef Grysa, under para 145/1 of the penal code with reference to para 22 of the penal code, to a total of 4 months' imprisonment.

Under the provisions of paras 48 and 49 of the penal code, all accused are sentenced to a secondary punishment:

The accused Jaroslav Janecek, to a fine of 1,000 crowns, in default whereof to one month imprisonment; the accused Jan Belan, to a fine of 600 crowns, in default whereof 21 days imprisonment; the accused Grysa to a fine of 1,000 crowns, in default whereof to one month imprisonment; and the accused Jiri Horak, to a fine of 2,000 crowns in default whereof to two months imprisonment.

All accused are further condemned to the penalty of publication of this judgment under para 54 of the penal code.

Under para 63/1 of the rules criminal procedure the accused are obliged to share equally in the costs of this trial.

The accused Grysa must further under para 164 of the rules of criminal procedure repay to the national undertaking of the Trojice mine the damage he caused to the amount of 2,400 crowns.

This judgment is unconditional.

Source: *Nova Svoboda*, 14 January 1954.

DOCUMENT No. 134

(CZECHOSLOVAKIA)

Judgement

In the Name of the Republic

Department 3 of the Criminal Division of the district Ostrava pronounces the following sentence on 2.5.1952:

The accused Jan Ramik, born on 7.5.1905 in Slezska-Ostrava, miner, last address: Ostrava, VIII, Jakubska Osada No. 566/13, at present in custody by order of the Public Prosecutor of Ostrava,

has been found guilty,

as a miner of the shaft ZARUBEK in Slezska-Ostrava, of 91 times not carrying out his duty as a worker in 1951 and 6 times in 1952 without reasonable excuse and of having absented himself despite peremptory admonitions from his place of work, thereby through his neglect impairing the plan for collective economy according to art. 135, section 1 and impeding the national industry.

The sentence of the court therefore is that the accused shall go to prison for four months and pay 1000 Kronen and in default of payment there will be an additional term of imprisonment of ten days. The sentence will be made public in accordance with par. 54 of the Penal Code. There will be no postponement of sentence.

Source: *Nova Svoboda*, 29 August 1952.

In Roumania, a State employee who neglects his professional duty and thereby causes difficulties to the fulfilment of the economic plan or to the progress of the work of the undertaking or collective installations is punished with corrective labour.

DOCUMENT No. 135

(ROUMANIA)

Ordinance No. 202 amending the Penal Code of the People's Republic of Roumania:

4. Article 242 is given the following wording:

Article 242:

Any official who impedes, makes more difficult, or delays the work of fulfilling the State plan or the execution of the tasks resulting therefrom, by carrying out his duties in a rash, careless or neglectful way, or failing to carry them out through rashness, carelessness or negligence, by upsetting the smooth running of collective units or associations or by damaging the collective economy or the citizens' legal interests, shall be guilty of neglect of duty and shall be punished with imprisonment from 3 months to 4 years and a fine from 500 to 1,000 lei.

The overturning and derailment of a train which results in damage is considered a railway accident. For neglect of duty, the authorities can also order the dismissal of the official concerned.

5. Art. 245 is given the following wording:

Article 245:

Any official who violates his official duties by misusing or exceeding his authority by violating or failing to observe his duties, thus impeding or delaying or rendering more difficult the work of fulfilling the State plan or the execution of the tasks resulting therefrom, or by upsetting the running of the collective units and associations, or by damaging the collective economy or the citizens' legal interests, renders himself guilty of abuse of office and shall be punished with imprisonment from 2 to 10 years and with a fine of from 100 to 2000 lei, in so far as his act does not constitute a service offence punishable by that law.

Source: Buletinul Oficial, 14 May 1953, No. 15.

Any person, who, through negligence, reduces the service-ability of tractors or agricultural machines of the machine depots or kolkhozes, is punished similarly. The same applies to any person who deals carelessly with the animals of the kolkhozes.

DOCUMENT No. 136

(ROUMANIA)

Ordinance No. 202 amending the Penal Code of the Roumanian People's Republic.

Article 268⁵:

Any person who, by rashness, carelessness or negligence, damages tractors or agricultural machines belonging to machines or tractor depots, State farms or other collective units, shall be punished with imprisonment from one month to one year.

If the action is committed several times or has had serious consequences, the prison sentence is increased from one year to three years.

Article 268⁶:

Rash, careless or irresponsible behaviour when handling animals, which belong to State farms or collective farms shall, if it results in

the loss of the animals or incapacity to work, be punished with imprisonment from one month to one year.

Source: Buletinul Oficial, 14 May 1953, No. 15.

In Albania, leaving work without permission is considered a penal offence.

DOCUMENT No. 137

(ALBANIA)

Law No. 1470 of 23 May 1952, effective 1 September 1952.

Article 267:

Any worker or employee of an undertaking, state or social institution who is absent from work without justification, shall be punished with public reprimand or corrective labour for not more than six months.

Article 268:

Violation of an order transferring a worker or employee from one enterprise or social or state institution to another, as provided for by the provisions in force, shall be punished with corrective labour of not more than six months and, in more serious cases, with imprisonment of not more than four months.

Article 269:

Defiance of an order calling up for work on either a temporary or permanent basis for the fulfilment of the plans of production and construction, in accordance with the instances provided for by the provisions in force, shall be punished with corrective labour and in more serious cases with imprisonment of not more than two years.

Source: Gazeta Zyrtare, No. 15, 1 August 1952.

In Bulgaria, violation of labour discipline also incurs heavy penalties.

DOCUMENT No. 138

(BULGARIA)

Bulgarian Penal Code of 9 February 1951.

Article 257:

An official who refuses to carry out his duties or to complete his official work when he is transferred or discharged is liable to imprisonment for up to one year.

Absence from duty without justification or deliberately leaving work in an undertaking or installation is punishable with corrective labour up to six months or with a fine up to 20,000 leva.

Source: Izvestia, No. 13, 13 February 1951.

In the Soviet Zone of Germany, Order No. 160 of the Soviet Military Administration became the basis for punishment by the courts of offences against labour discipline.

DOCUMENT No. 139

(SOVIET ZONE OF GERMANY)

In order to check the criminal activities of individuals aimed at thwarting the work of economic construction carried out by the German departments of administration, I order:

1. Persons found guilty of offences aimed at thwarting the economic measures of the German administrations, shall be sentenced to imprisonment up to 15 years, and, in particularly serious cases, to death.

2. The same sentences will be pronounced against persons committing acts of sabotage to paralyze the activities of undertakings or to damage or destroy same...

Source: *Verordnungsblatt für die Provinz Sachsen (Gazette of the Province of Saxony)*, 27 December 1945, No. 8.

How this order is applied in practice is shown by the case of Richter and Ungnade.

DOCUMENT No. 140
(SOWJETZONE OF GERMANY)

Deposition: Appeared Paul Olbrich, who says as follows:

"Richter and Ungnade, departmental heads of the technical department of the general management of the Reichsbahn in Berlin, Vosstrasse 33, were arrested at the beginning of April 1952.

"I was an employee of the general management at the time and know well the circumstances leading to their arrest.

"A 'Direction for carrying out the Salvage of Scrap' was issued by Deputy Prime Minister Ulbricht on 10 March 1950. It bore the references LV-A 0157/50 of the Ministry for Industry. Apart from Ulbricht's signature, this document, which was printed, was also signed by Selbmann.

Section I, para 5 (5) states:

For disposal as scrap: all unserviceable locomotives and railway waggons and parts thereof if their repair and return to service cannot be expected soon.

Para 11 of this order states:

Offences against this ordinance shall be economic offences in serious cases, economic crimes, and will be punished as such under the economic penal ordinance of 23 September 1948, Bulletin of Central Ordinance p. 439).

Section II, para 7 (1) states:

In all undertakings, all machines parts of machines, works' installations or parts thereof, which are incomplete or cannot be repaired within one year or are excluded from further use for technical reasons, are to be declared as scrap and reported and sent to the scrap collecting undertakings.

"On the basis of this order and under pressure from the Minister Selbmann's official in charge of scrap, the Director General of the Deutsche Reichsbahn, Kramer, had given the departmental heads Richter and Ungnade, through his deputy and group leader for vehicles, Hetz, the order to scrap 100 locomotives. At the decisive meeting they both refused to carry out the dismantling. They pointed out that the engines in the damaged engines' yard were the only source of spare parts for the engines in service. They were nevertheless given the express order to start the dismantling forthwith. At this meeting there were present: the deputy director-general Hetz, departmental head Richter, deputy departmental head Ungnade, departmental head for materials Haas and departmental head Wagner.

"The writing off and scrapping of the locomotives was carried out in 1951 and 1952. For each locomotive earmarked for scrapping, write-off certificates were prepared by the official Sieszlack. Director General Kramer and his deputy Hetz signed these certificates.

"After the engines had been scrapped, it turned out that the predictions of Richter and Ungnade were correct: there was a lack of spare parts for locomotives. Richter and Ungnade were arrested. Apart from them, the scrap officials of the general management of the Reichsbahn were also arrested: they were Kakuschka and Bratsch, who had previously been paid a bonus for the fulfilment of the scrap programme.

"I further know that all documents used in connection with their arrest, such as write-off certificates, minutes of meetings, and files,

were collected by the political department. All material, that showed that Herr Kramer or Herr Hetz had ordered the scrapping was burned by Stern, formerly Kramer's assistant and now departmental head, who is said to be an agent of the SSD (State Security Service)."

Read, approved, and signed.

Kakuschka and Bratsch were accused at the same time as Richter und Ungnade. Proceedings were opened before Penal Senate 1 b of the East Berlin City Court.

DOCUMENT No. 141
(SOWJETZONE OF GERMANY)

City Court of Berlin
Penal Senate 1 b
(101 b) I c ARs 4.52 (3.53)

Decision

1. Richard Kakuschke, born on 28 June 1899 at Landsberg, engineer, married, of German nationality, domiciled at Berlin-Pankow, Berliner Str. 114, at present in custody.
2. Rudolf Richter, born on 1 May 1900 in Dresden, mechanic by profession, married, of German nationality, domiciled at Berlin-Niederschönhausen, Grabbe-Allee 50, at present in custody.
3. Kurt Ungnade, born on 13 May 1890 in Berlin, engineer by profession, of German nationality, domiciled in Berlin-Lichtenberg, Skandinavische Str. II, at present in custody.
4. Otto Bratsch, born on 17 March 1900 in Berlin, mechanic by profession, married, of German Nationality, domiciled in Berlin O. 112, Proskauer Str. 34, at present in custody.

are accused: of having neglected their duties of supervision and control as responsible employees of the general management of the Reichsbahn and by their advice having caused the scrapping of locomotives suitable for rebuilding and of valuable usable bridging materials, thereby jeopardizing the transport plans of the German Railways and causing serious damage to the national economy.

There is prima facie evidence of offences aimed at thwarting the economic measures of the German administration.

Crime under SMA Order 160 of 3 Dec. 1945.

There is sufficient evidence to commit them for trial on these charges.

At the request of the public prosecutor, proceedings are therefore opened against them before the City Court, Penal Senate 1 b in Berlin.

For the above reasons they are remanded in custody

Berlin C 2, 10 Jan. 1953
City Court, Penal Senate 1 b
Signed:

The trial took place on 22-23-Jan. 1953. The accused were given severe sentences of penal servitude.

The Kostka case is another typical example of condemnation for violation of labour discipline under SMA Order No. 160.

DOCUMENT No. 142
(SOWJETZONE OF GERMANY)

Ref.: 2 Ds 27/53
III 8/53

In the Name of the People:
Penal Case Against

Heinz Karl Robert Kostka, former registrat, born on 18 Febr. 1924 at Lychen, Kreis Templin, domiciled at Rovenow, Kreis Templin, mar-

ried, of German nationality, without previous convictions, in custody since 2 Jan. 1953.

for a crime under SMA Order No. 160.

The penal decision of the Kreis Court at Pasewalk, at the session of 24 April 1953 at which were present:...

gives judgment as follows:

The accused is sentenced for sabotage under SMAD Order 160/45 to penal servitude for two years and six months.

The time spent in custody since 8.1.1953 is included in the sentence.

The accused shall bear the costs of the trial.

Reasons:

The accused is 29 years old... His participation in the life of our society amounts to nothing. He adopted a passive attitude during political training lectures within the institution.

Since 8.10.1952 the accused has been employed as registrar, at the public prosecutor's office at Pasewalk. His duties included, amongst others, the keeping of the files on penal matters involving fines and sentences of imprisonment and confiscation of property. As the Kreis Pasewalk had been newly formed in the course of the further democratization of the State administration, the office of the public prosecutor also had to be reorganized. The accused remained in Prenzlau until October 1952 in order to familiarize himself with the work there in his new task as registrar of the public prosecutor's office. The accused was ordered to carry out the handing over of the guardianship department to the Kreis Council during the morning in October 1952. During the afternoons the accused was to have worked at the public prosecutor's office where a place had been prepared for him. In October 1952, however, the accused did not bother about his work at the office of the public prosecutor but concentrated on other work and the witness Vogel, registrar at the public prosecutor's office at Prenzlau, says that the accused did not come to him to become acquainted with the work. He was often told by the witness Vogel to do his work at the public prosecutor's office.

On 1.11.1952 the public prosecutor's office of Pasewalk moved out of Prenzlau. The accused remained in Prenzlau until 5.11.1952 to be instructed by the witness Vogel. During this time, however, as he admits himself, he did not work in the public prosecutor's office, but in other departments of the Kreis court. Certain files the accused wanted to work on had remained in Prenzlau. But these were not even looked at by him. After 5.11.1952 the accused came to Pasewalk but no work was received from him until 11.11.1952. Even though accommodation in the prosecutor's office at Pasewalk at the time was limited, it remained his duty to commence work immediately.

The accused was again in Prenzlau from 12 to 16 November 1952, in order to hand over files to the State notary's office. For this he used four days although the work could very well have been done in two days. As the hand-over lasted until the end of the week, the accused failed again on the Monday to report for duty and said that he still had something to discuss with the registrar Vogel, on the subject of the execution of judgments.

He used several days simply for the opening of an account with the German Notenbank and for the installation of a telephone and allegedly could not do any other work during this time. It is also characteristic of the defendant's attitude that, when the public prosecutor's department moved into a second office on 15.11.1952, he did nothing to help but stayed in a room where general political instruction took place on that day. As excuse, he said he had forgotten about the move. This shows already that he did not take his work seriously at all.

On 17.11.1952 there was an inspection by the registrar Reeck from Neubrandenburg. It was then found that the accused had not worked on any documents at all. From 20 Nov. to 10 Dec., the accused was again in Pasewalk but during this time he hardly did any work on the documents, and missed his train several times so that by this alone much work was lost.

In the course of a further inspection by the registrar Reeck the accused undertook to complete all outstanding work by 15.12.1952. He fell ill, however, on 11.12.1952 and only reappeared in Prenzlau on 16 or 17 Dec. 1952. On that day the registrar Vogel and the accused brought about 40 to 50 files from Pasewalk to Prenzlau in order to work on them. While the registrar finished half the files as extra work, the accused did practically nothing. The accused was often told by public prosecutor Butzke, public prosecutor Zinke, registrars Reeck and Vogel, to get the tasks entrusted to him finished and to show some sense of responsibility. The accused was registered as sick until 5.1.1953. As the only means of transport from his domicile at Rosenow had allegedly been suspended, he telephoned the public prosecutor's office at Prenzlau, which sent a car to fetch him on 6.1.1953. Now instead of going to Pasewalk and resuming his work, the accused went and enjoyed himself on the evening of 6.1.1953. Neither did the accused go to Pasewalk on 7.1.1953. On that day he also neglected to take part in international political instruction but claims to have been helping in the State notary's office.

The accused did all sort of other work except that for which he was responsible. The witness Koch also confirms that he helped him in his work. But the accused was not employed for these tasks, but as registrar at the public prosecutor's office at Pasewalk...

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