

of food and other goods, or in the pursuance of any other measures of force against the population of Yugoslavia.

7. Any person who organised armed revolt or took part in this, or organised armed bands or their illegal entry to the territory of the state for the purpose of effecting acts outlined in Article 2 of this Law, or any person who abandoned his place of residence and joined any armed and organised group for the commission of such acts.

8. Any person who in the country or outside organised any association having fascist aims, for the execution of any act outlined in Article 2 of this Law.

9. Any citizen of Yugoslavia who incites a foreign state to war against his Fatherland, or to armed intervention, to economic warfare, to seizure of any property of Democratic Federal Yugoslavia, or of its subjects, to the rupture of diplomatic relations, the cancellation of international treaties, or to any interference in the internal affairs of his Fatherland, or who in any way whatsoever assists any foreign state at war with Yugoslavia.

10. Any person who carries out espionage, i.e. who either hands over or steals or collects data and documents which by their content constitute any particularly guarded state or military secret for the purpose of handing such information to any foreign state, or any fascist or enemy organisation, or any unknown person.

11. Any person who during the war undertook any action aimed at any defensive objects or positions or any means for waging war or other war needs passing to enemy hands or being destroyed or put out of service, or the use of these being frustrated, or action resulting in the Yugoslav Army or the armies of any allied lands or any individual soldiers falling into enemy hands, or in any military enterprise or measure being hindered or endangered.

12. Any person who kills any military person or representative or person in the service of the people's authorities either when these are carrying out their official duties or because of these, or commits such act against any person of an allied or friendly state.

13. Any person who for the purposes outlined in Article 2 destroys or damages by arson or any other means any transport, building or other material, any water supply system, public warehouse or any public property.

Article 4.

Acts outlined in Article 3 and Article 2 paragraph 2 are punishable by deprivation of liberty with forced labour of at least three years, confiscation of property and loss of political and civil rights or if there are particularly aggravating circumstances, by the death penalty.

2. If the acts in question were committed during the war or the period of danger of war, the punishment of deprivation of liberty with forced labour cannot be less than five years.

3. All acts under Article 1 involve the provisional imprisonment of the person indicted.

Article 5.

If any person committing a criminal act under Article 3 has fled the country with the enemy, or is working to accomplish the same criminal acts abroad, he shall be punished by loss of citizenship.

Article 6.

1. Participants and members of organisations formed for the commission of crimes under Article 2, shall be punishable, if there are mitigating circumstances, by deprivation of liberty with forced labour of at least one year.

2. Any member of an organisation under Article 3, paragraphs 7 and 8, who voluntarily surrenders to the authorities and discloses such organisation or communicates important facts concerning this before he or the organisation have committed any act under this Law, shall be relieved of criminal responsibility. If any act has been committed, he shall be liable to the lowest punishment prescribed for the act in question.

Article 7.

In a case of serious wounding of any persons, as under Article 3, paragraph 12, committed under the same conditions outlined concerning murder, any person guilty shall be liable to loss of liberty with forced labour for at least one year.

Article 8.

1. Any person who knew of the preparation or execution of any criminal act under Article 2 and failed to inform the authorities of this, shall be liable to forced labour of at least one year.

2. Any military person who was informed of the preparation or execution of any act of treachery or espionage (Article 3, paragraphs 1, 2 and 10) and failed to inform the authorities of this, shall be liable to deprivation of liberty with forced labour of at least two years.

Article 9.

1. Any propaganda or agitation which includes a call to the forced overthrow of the existing state system, shall be punishable by deprivation of liberty with forced labour of at least one year.

2. If the act has been committed by press or radio, this shall constitute an aggravating circumstance.

3. If any act, as under paragraphs 1 and 2 of this Article cause serious results, or are committed in time of war or in any place under military administration, they shall be punishable as criminal acts under Article 2 of this Law.

4. Proprietors of printing presses or persons responsible for these, who print any writings or other material containing propaganda or agitation in the circumstances outlined in paragraph 1 of this Article, shall be liable to deprivation of liberty, or if the act was committed by negligence, to a monetary fine.

Article 10.

Any person who in time of war collaborated in the economic field with the enemy or with the occupying forces, i.e. who placed their industrial, commercial, transport or other enterprise, or their expert

training at the service of the enemy for the purpose of production, or who themselves produced any articles which increased the economic strength and military resources of the enemy, or if their collaboration with the enemy introduced any particularly serious forms of exploitation or pressure on the workers effected with the assistance of the occupying authorities, shall be liable to deprivation of liberty with forced labour of up to ten years and confiscation of property.

Article 11.

Any person who in any way assists armed bands or similar organisations, or gives their active members shelter or who supplies, conceals or transports arms, food or other material or money, or who serves the maintenance of communication, or affords any other service, or who hinders the authorities in the discovery of such acts and also the persons concerned, shall be liable to deprivation of liberty with forced labour of at least one year.

Article 12.

Any person who undertakes the supply, theft, or collection of economic data which by its content does not constitute particularly preserved secrets, but either by explicit prohibition of the law or any order of leading economic organs shall not be published, and who does this in order to give such information for reward or without reward to any foreign state, enemy or fascist organisation or unknown person, shall be liable to deprivation of liberty of from three months to three years.

Article 13.

1. Any attempt to commit acts outlined in this Law shall be punishable as a complete criminal act.
2. For criminal acts under this law, besides the principal punishments, there are additional punishments under the Law concerning types of punishment which may be applied even when this is not precisely provided for.

Article 14.

1. Criminal acts under this Law are tried in the first instance by the People's County Courts, or in the case of military persons, by military courts.
2. In particularly important cases, criminal cases under Article 2 of this Law are to be tried by the Supreme Courts of the federative units, or if the act is of general state significance by the Military Bench of the Supreme Federal Court, or otherwise, by the Supreme Federal Court.
3. In each case, the findings of these courts is absolute.

Article 15.

1. The cross-examination of an accused person in preliminary procedure and the presence of the accused person at the principal trial concerning criminal acts under this Law, are obligatory.
2. Trial may be held without the presence of the accused person only: (a) if the accused person declared that he consents to this; (b) if it is established that the accused person is concealing himself from the authorities, or has fled the country, or is working abroad for the accomplishment of criminal acts outlined in this Law.

3. The Court will appoint defending counsel for any absent accused person starting from the preparatory procedure.

Article 16.

Appeal against the finding of any court of first instance may be made to a superior court, the finding of which is absolute.

Article 17.

Procedure concerning acts under this Law is urgent.

Article 18.

1. Acts committed before the coming into force of this Law which have not yet been tried, shall be punishable under this Law if its provisions are milder than those of earlier Laws.

2. Any cases for military courts on which first instance findings have not been brought before the coming into force of this Law, shall be transferred for further hearing to the courts made competent for such cases by this Law.

Article 19.

The Federal Minister of Justice will prescribe the necessary instructions for the administration of this Law.

Article 20.

With the coming into force of this Law any legal provision at variance with these provisions is annulled.

Article 21.

This Law comes into force when published in the Official Gazette of Democratic Federal Yugoslavia.

Belgrade, 25 August, 1945.

For the Presidium of the Provisional Parliament of
Democratic Federal Yugoslavia.

Dr. I. Ribar,	President,
M. Perunicic,	Secretary.

UNITED NATIONS WAR CRIMES COMMISSION
PROGRESS REPORT OF WAR CRIMES TRIALS FROM DATA AVAILABLE ON DECEMBER 1ST, 1946.

MISC. 61

	<u>Cases tried</u>	<u>Accused involved</u>	<u>Death</u>	<u>Imprison- ment.</u>	<u>Acquittal</u>	<u>Remarks</u>
<u>EUROPE:</u>						
<u>UNITED STATES:</u>						
U.S.F.E.T. }	109	477	202	227	48	as at 15.11.1946
U.S.M.T. }						
<u>BRITISH:</u>						
E.A.O.R.)	179	597	130	288	179	as at 1.12.1946
G.M.F.)						
<u>FRANCE:</u>	Not given	182	94	82	6	as at 16.11.1946
<u>GREECE:</u>	1	2	-	2	-	
<u>NORWAY:</u>	-	16	11	5	-	as at 16.10.1946
<u>POLAND:</u>	2	2	2	-	-	as at 1.12.1946: Major War Criminals only; for gross figures, including collaborators, see Doc. A.27
(A) Total reported for Europe:	271	1276	439	604	233	
<u>FAR EAST:</u>						
<u>UNITED STATES:</u>	160*	295	128	148	19	as at 15.11.1946. *Number of cases for India were not given in previous months.
<u>BRITISH:</u>	153	553	208	277	68	
<u>AUSTRALIA:</u>	200	620	121	310	189	
(B) Total - Far East:	513	1468	457	735	276	
GRAND TOTAL (A + B):	809	2744	896	1339	509	

Misc. No. 62
12th December, 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

Military Tribunals in the
United States Zone of Germany.

MILITARY GOVERNMENT - GERMANY.

ORDNANCE No. 7.

ORGANISATION AND POWERS OF
CERTAIN MILITARY TRIBUNALS.

Article I.

The purpose of this Ordinance is to provide for the establishment of military tribunals which shall have power to try and punish persons charged with offences recognized as crimes in Article II of Control Council Law No. 10, including conspiracies to commit any such crimes. Nothing herein shall prejudice the jurisdiction or the powers of other courts established or which may be established for the trial of any such offences.

Article II.

(a) Pursuant to the powers of the Military Governor for the United States Zone of Occupation within Germany and further pursuant to the powers conferred upon the Zone Commander by Control Council Law No. 10 and Articles 10 and 11 of the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945 certain tribunals to be known as "Military Tribunals" shall be established hereunder.

(b) Each such tribunal shall consist of three or more members to be designated by the Military Governor. One alternate member may be designated to any tribunal if deemed advisable by the Military Governor. Except as provided in subsection (c) of this Article, all members and alternates shall be lawyers who have been admitted to practice, for at least five years, in the highest courts of one of the United States or its territories or of the District of Columbia, or who have been admitted to practice in the United States Supreme Court.

(c) The Military Governor may in his discretion enter into an agreement with one or more other zone commanders of the member nations of the Allied Control Authority providing for the joint trial of any case or cases. In such cases the tribunals shall consist of three or more members as may be provided in the agreement. In such cases the tribunals may include properly qualified lawyers designated by the other member nations.

(d) The Military Governor shall designate one of the members of the Tribunal to serve as the presiding Judge.

(e) Neither the tribunals nor the members of the tribunals or the alternates may be challenged by the prosecution or by the defendants or their counsel.

(f) In case of illness of any member of a tribunal or his incapacity for some other reason, the alternate, if one has been designated, shall take his place as a member in the pending trial. Members may be replaced for reasons of health or for other good reasons, except that no replacement of a member may take place, during a trial, other than by the alternate. If no alternate has been designated, the trial shall be continued to conclusion by the remaining members.

(g) The presence of three members of the tribunal or of two members when authorized pursuant to subsection (f) supra shall be necessary to constitute a quorum. In the case of tribunals designated under (c) above the agreement shall determine the requirements for a quorum.

(h) Decisions and judgments, including convictions and sentences, shall be by majority vote of the members. If the votes of the members are equally divided, the presiding member shall declare a mistrial.

Article III.

(a) Charges against persons to be tried in the tribunals established hereunder shall originate in the Office of the Chief of Counsel for War Crimes, appointed by the Military Governor pursuant to paragraph 3 of Executive Order Numbered 9679 of the President of the United States dated 16 January 1946. The Chief of Counsel for War Crimes shall determine the persons to be tried by the tribunals and he or his designated representative shall file the indictments with the Secretary General of the tribunals (See Article XIV, infra) and shall conduct the prosecution.

(b) The Chief of Counsel for War Crimes, when in his judgment it is advisable, may invite one or more United Nations to designate representatives to participate in the prosecution of any case.

Article IV.

In order to ensure fair trial for the defendants, the following procedure shall be followed:

(a) A defendant shall be furnished, at a reasonable time before his trial, a copy of the indictment, and of all documents lodged with the indictment, translated into a language which he understands. The indictment shall state the charges plainly, concisely and with sufficient particulars to inform defendant of the offences charged.

(b) The trial shall be conducted in, or translated into, a language which the defendant understands.

(c) A defendant shall have the right to be represented by counsel of his own selection, provided such counsel shall be a person qualified under existing regulations to conduct cases before the courts of defendant's country, or any other person who may be specially authorized by the tribunal. The tribunal shall appoint qualified counsel to represent a defendant who is not represented by counsel of his own selection.

(d) Every defendant shall be entitled to be present at his trial except that a defendant may be proceeded against during temporary absences if in the opinion of the tribunal defendant's interests will not thereby be impaired, and except further as provided in Article VI(c).

The tribunal may also proceed in the absence of any defendant who has applied for and has been granted permission to be absent.

(e) A defendant shall have the right through his counsel to present evidence at the trial in support of his defence, and to cross examine any witness called by the prosecution.

(f) A defendant may apply in writing to the tribunal for the production of witnesses or of documents. The application shall state where the witness or document is thought to be located and shall also state the facts to be proved by the witness or the document and the relevancy of such facts to the defence. If the tribunal grants the application, the defendant shall be given such aid in obtaining production of evidence as the tribunal may order.

Article V.

The tribunals shall have the power

(a) to summon witnesses to the trial, to require their attendance and testimony and to put questions to them;

(b) to interrogate any defendant who takes the stand to testify in his own behalf, or who is called to testify regarding another defendant;

(c) to require the production of documents and other evidentiary material;

(d) to administer oaths;

(e) to appoint officers for the carrying out of any task designated by the tribunals including the taking of evidence on commission;

(f) to adopt rules of procedure not inconsistent with this Ordinance. Such rules shall be adopted, and from time to time as necessary, revised by the members of the tribunals or by the committee of presiding judges as provided in Article XIII.

Article VI.

The tribunal shall

(a) confine the trial strictly to an expeditious hearing of the issues raised by the charges;

(b) take strict measures to prevent any action which will cause unreasonable delay, and rule out irrelevant issues and statements of any kind whatsoever;

(c) deal summarily with any contumacy, imposing appropriate punishment, including the exclusion of any defendant or his counsel from some or all further proceedings, but without prejudice to the determination of the charges.

Article VII.

The tribunals shall not be bound by technical rules of evidence. They shall adopt and apply to the greatest possible extent expeditious and non-technical procedure, and shall admit any evidence which they deem to have probative value. Without limiting the foregoing general rules, the following shall be deemed admissible if they appear to the tribunal to contain information of probative value relating to the charges:

affidavits, depositions, interrogations, and other statements, diaries, letters, the records, findings, statements and judgments of the military tribunals and the reviewing and confirming authorities of any of the United Nations, and copies of any document or other secondary evidence of the contents of any document, if the original is not readily available or cannot be produced without delay. The tribunal shall afford the opposing party such opportunity to question the authenticity or probative value of such evidence as in the opinion of the tribunal the ends of justice require.

Article VIII.

The tribunals may require that they be informed of the nature of any evidence before it is offered so that they may rule upon the relevance thereof.

Article IX.

The tribunals shall not require proof of facts of common knowledge but shall take judicial notice thereof. They shall also take judicial notice of official governmental documents and reports of any of the United Nations, including the acts and documents of the committees set up in the various allied countries for the investigation of war crimes, and the records and findings of military or other tribunals of any of the United Nations.

Article X.

The determinations of the International Military Tribunal in the judgments in Case No. 1 that invasions, aggressive acts, aggressive wars, crimes, atrocities or inhumane acts were planned or occurred, shall be binding on the tribunals established hereunder and shall not be questioned except insofar as the participation therein or knowledge thereof by any particular person may be concerned. Statements of the International Military Tribunal in the judgment of Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary.

Article XI.

The proceedings at the trial shall take the following course:

- (a) The tribunal shall inquire of each defendant whether he has received and had an opportunity to read the indictment against him and whether he pleads "guilty" or "not guilty".
- (b) The prosecution may make an opening statement.
- (c) The prosecution shall produce its evidence subject to the cross examination of its witnesses.
- (d) The defence may make an opening statement.
- (e) The defence shall produce its evidence subject to the cross examination of its witnesses.
- (f) Such rebutting evidence as may be held by the tribunal to be material may be produced by either the prosecution or the defence.
- (g) The defence shall address the court.
- (h) The prosecution shall address the court.

- (i) Each defendant may make a statement to the tribunal.
- (j) The tribunal shall deliver judgment and pronounce sentence.

Article XII.

A Central Secretariat to assist the tribunals to be appointed hereunder shall be established as soon as practicable. The main office of the Secretariat shall be located in Nurnberg. The Secretariat shall consist of a Secretary General and such assistant secretaries, military officers, clerks, interpreters and other personnel as may be necessary.

Article XIII.

The Secretary General shall be appointed by the Military Governor and shall organise and direct the work of the Secretariat. He shall be subject to the supervision of the members of the tribunals, except that when at least three tribunals shall be functioning, the presiding judges of the several tribunals may form the supervisory committee.

Article XIV.

The Secretariat shall:

- (a) Be responsible for the administrative and supply needs of the Secretariat and of the several tribunals.
- (b) Receive all documents addressed to tribunals.
- (c) Prepare and recommend uniform rules of procedure, not inconsistent with the provisions of this Ordinance.
- (d) Secure such information for the tribunals as may be needed for the approval or appointment of defence counsel.
- (e) Serve as liaison between the prosecution and defence counsel.
- (f) Arrange for aid to be given defendants and the prosecution in obtaining production of witnesses or evidence as authorised by the tribunals.
- (g) Be responsible for the preparation of the records of the proceedings before the tribunals.
- (h) Provide the necessary clerical, reporting and interpretative services to the tribunals and its members, and perform such other duties as may be required for the efficient conduct of the proceedings before the tribunals, or as may be requested by any of the tribunals.

Article XV.

The Judgments of the tribunals as to the guilt or the innocence of any defendant shall give the reasons on which they are based and shall be final and not subject to review. The sentences imposed may be subject to review as provided in Article XVII, infra.

Article XVI.

The tribunal shall have the right to impose upon the defendant, upon conviction, such punishment as shall be determined by the tribunal to be just, which may consist of one or more of the penalties provided in Article II, Section 3 of Control Council Law No.10.

Article XVII.

(a) Except as provided in (b) infra, the record of each case shall be forwarded to the Military Governor who shall have the power to mitigate, reduce or otherwise alter the sentence imposed by the tribunal, but may not increase the severity thereof.

(b) In cases tried before tribunals authorised by Article II (c), the sentence shall be reviewed jointly by the Zone Commanders of the nations involved, who may mitigate, reduce or otherwise alter the sentence by majority vote, but may not increase the severity thereof. If only two nations are represented, the sentence may be altered only by the consent of both zone commanders.

Article XVIII.

No sentence of death shall be carried into execution unless and until confirmed in writing by the Military Governor. In accordance with Article III, Section 5 of Law No.10, execution of the death sentence may be deferred by not to exceed one month after such confirmation if there is reason to believe that the testimony of the convicted person may be of value in the investigation and trial of other crimes.

Article XIX.

Upon the pronouncement of a death sentence by a tribunal established thereunder and pending confirmation thereof, the condemned will be remanded to the prison or place where he was confined and there be segregated from the other inmates, or be transferred to a more appropriate place of confinement.

Article XX.

Upon the confirmation of a sentence of death the Military Governor will issue the necessary orders for carrying out the execution.

Article XXI.

Where sentence of confinement for a term of years has been imposed the condemned shall be confined in the manner directed by the tribunal imposing sentence. The place of confinement may be changed from time to time by the Military Governor.

Article XXII.

Any property declared to be forfeited or the restitution of which is ordered by a tribunal shall be delivered to the Military Governor, for disposal in accordance with Control Council Law No.10, Article II(3).

Article XXIII.

Any of the duties and functions of the Military Governor provided for herein may be delegated to the Deputy Military Governor. Any of the duties and functions of the Zone Commander provided for herein may be exercised by and in the name of the Military Governor and may be delegated to the Deputy Military Governor.

This Ordinance becomes effective 18 October 1946.

BY ORDER OF MILITARY GOVERNMENT.

Article XVII.

(a) Except as provided in (b) infra, the record of each case shall be forwarded to the Military Governor who shall have the power to mitigate, reduce or otherwise alter the sentence imposed by the tribunal, but may not increase the severity thereof.

(b) In cases tried before tribunals authorized by Article II (c), the sentence shall be reviewed jointly by the Zone Commanders of the nations involved, who may mitigate, reduce or otherwise alter the sentence by majority vote, but may not increase the severity thereof. If only two nations are represented, the sentence may be altered only by the consent of both zone commanders.

Article XVIII.

No sentence of death shall be carried into execution unless and until confirmed in writing by the Military Governor. In accordance with Article III, Section 5 of Law No.10, execution of the death sentence may be deferred by not to exceed one month after such confirmation if there is reason to believe that the testimony of the convicted person may be of value in the investigation and trial of other crimes.

Article XIX.

Upon the pronouncement of a death sentence by a tribunal established thereunder and pending confirmation thereof, the condemned will be remanded to the prison or place where he was confined and there be segregated from the other inmates, or be transferred to a more appropriate place of confinement.

Article XX.

Upon the confirmation of a sentence of death the Military Governor will issue the necessary orders for carrying out the execution.

Article XXI.

Where sentence of confinement for a term of years has been imposed the condemned shall be confined in the manner directed by the tribunal imposing sentence. The place of confinement may be changed from time to time by the Military Governor.

Article XXII.

Any property declared to be forfeited or the restitution of which is ordered by a tribunal shall be delivered to the Military Governor, for disposal in accordance with Control Council Law No.10, Article II(3).

Article XXIII.

Any of the duties and functions of the Military Governor provided for herein may be delegated to the Deputy Military Governor. Any of the duties and functions of the Zone Commander provided for herein may be exercised by and in the name of the Military Governor and may be delegated to the Deputy Military Governor.

This Ordinance becomes effective 18 October 1946.

BY ORDER OF MILITARY GOVERNMENT.

Misc. No. 63.
17th December, 1946.

UNITED NATIONS WAR CRIMES COMMISSION.

Investigation, Prosecution and Trial of
War Crimes in the French Zone of Germany.

(Translations of Instructions
issued by the
French Supreme Command in Germany.)

FRENCH SUPREME COMMAND IN GERMANY.

General Directorate of Justice.

War Crimes.

August 28th, 1946.

INSTRUCTIONS FOR THE INVESTIGATION, PROSECUTION AND
TRIAL OF WAR CRIMES.

I. Definition of War Crimes.

A. GENERAL PRINCIPLES.

A definition of the offences coming under the general description "War Crimes" was given in Article 2 of Law No.10 of the Control Council dated December 20th, 1945, which was published in the Official Gazette of the French Supreme Command in Germany, (Journal Officiel du Commandement en Chef Français en Allemagne) No.12, of January 11th, 1946.

The above-mentioned law makes a distinction between crimes against peace, war crimes properly so called, crimes against humanity and membership in certain criminal groups or organisations.

1. Crimes against peace are the initiation of invasions of other countries, wars of aggression, in violation of international law and treaties(*) the crimes in question having been committed by members of the Government, Party leaders and high Nazi officials.

(*) The French original reads: "...l'invasion d'autres pays et le déclenchement de guerres, d'agressions, ou violation du droit et des traités internationaux". The French text of Law No.10 (Official Gazette of the Control Council for Germany, No.3., p.22) however, reads: "Déclenchement d'invasions d'autres pays et de guerres d'agression, en violation du droit et des traités internationaux..." It appears, therefore, that the French text of the leaflet contains misprints as far as it says "agressions" instead of "agression" and "ou" instead of "en".

Should the perpetrator of any such crimes have been identified, the Delegate for the Investigation of War Crimes should be at once informed, regard being had to the gravity of the offence and to its international effects.

2. War Crimes, properly so called, are offences against persons or against the property of foreign nationals in one of the Axis countries, or violations of the laws and customs of war, as described below in paragraph B.

3. Crimes against humanity are crimes committed against any civilian population, of whatever nationality, including persecutions on political, racial or religious grounds.

Where such crimes have been committed by nationals of Axis countries, the prosecution and punishment of the offenders may involve considerations affecting the general policy of the Allies; investigations in regard to such matters should therefore only be undertaken in pursuance of instructions from the Delegate for the Investigation of War Crimes, who should be informed at once of any cases that are being dealt with.

4. Membership of groups or organisations which may be declared criminal shall not be the subject of prosecutions until the International Military Tribunal at Nuremberg shall have given judgment on that point.

As soon as that judgment has been pronounced instructions will be issued as to the procedure for prosecutions in such cases.

B. WAR CRIMES PROPERLY SO CALLED.

It is desirable to specify the war crimes, properly so called, which, in the majority of cases form the subject of investigations. The principles laid down in Law No.10 of the Control Council, in the Ordinance dated November 25th, 1945, by the French C.I.C. in Germany, and the Ordinance, dated August 28th, 1944, (Journal Officiel of August 30th 1944) by the Provisional Government of the French Republic enable the following to be classed as war crimes:

1. All acts specified as crimes or offences by French criminal law or by the criminal law of the countries of which the offenders are nationals;
2. if committed after September 2nd, 1939, and before the end of the period of active hostilities;
3. by nationals of the Axis Powers, or by persons other than French nationals in the service of those Powers;
4. in connection with the war, and contrary to the laws of war.

In no case can French nationals be regarded as war criminals by the French authorities. Any crimes committed during the hostilities by such persons constitute acts of treason or collaboration, and fall exclusively within the jurisdiction of the French courts in France (Courts of Justice, Military Tribunals or Chambre Civile).

The principal war crimes are:

- (a) Offences against persons, in particular:
assassinations, murders, atrocities, deportations of civilian inhabitants of occupied territories, or of hostages, and all acts of violence committed against

civilian inhabitants in those territories or against nationals of countries at war with the Axis;
- Assassinations and murders of prisoners of war, subjecting prisoners of war to violence or ill-treatment;
- Rape, or indecent assault, committed against persons in occupied territory.
- Sequestration, arbitrary arrests, unjust judgments or judgments pronounced in compliance with orders, in occupied territory.

- (b) Violations of the Laws of War, in particular:
- Attacks on undefended dwellings;
 - Destruction of towns, villages or dwelling-houses, and devastations where such acts are not justified by military necessity;
 - bombardment of hospitals, or other protected buildings;
 - employment for warlike purposes of protected buildings;
 - poisoning wells or water courses;
 - improper use of the Red Cross or of other distinctive emblems, contrary to the Geneva Convention.
- (c) Offences against property, in particular:
- pillage, theft, arson, embezzlement, fraud, etc., to the prejudice of individuals or bodies.

In the preceding category are included offences coming under the term "economic war crimes", viz., abuses of authority by nationals of the Axis countries, resulting in the acquisition, for the benefit of the said Powers or of one of their nationals, of the whole or part of property belonging to States at war with Germany or her Allies or to nationals of the said States.

Although it is beyond doubt that acts of pillage committed by the Germans in the occupied territories constitute war crimes it is, on the other hand, very difficult to judge how far the issue of financial and economic instructions by the military chiefs, members of the Government or administrative officials, or the acquisition of businesses, shares, holdings or purchases of goods and other assets is of such a nature as to constitute a war crime.

Heads of War Crimes Investigation Brigades may not open enquiries into economic war crimes without referring to the head of the War Crimes Investigation Service; the latter will apply for instructions to the Delegate for the Investigation of War Crimes, in order to avoid the recurrence of errors which have led to unjustified enquiries and searches in connection with such matters.

II. POWERS AND JURISDICTION.

All police services and gendarmerie services are competent to undertake investigations in regard to war crimes.

War Crimes Investigation Brigades (formerly BERCG)^(*) are specially conversant with these questions, and are only qualified to undertake enquiries and investigations in regard to war crimes.

(*) R.C.G. - Recherche des crimes de guerre.

When the head of a Brigade, in the course of investigations undertaken by his Brigade becomes cognisant of an offence which does not fall under the war crimes legislation, he should inform the competent authority and furnish the latter with all the information which he has been able to acquire concerning the case. If he has already begun an enquiry, he should forward the file to the above mentioned authority. If he has detained the offender he must immediately inform the Public Prosecutor attached to the Intermediate Tribunal of his province, who will take over the case, prepare it, and give such instructions as he thinks fit to the police or gendarmerie authorities designated by him.

In no case may the War Crimes Investigation Brigade pursue an enquiry into offences not falling within their purview without special and precise instructions from the Public Prosecutor or the Delegate for the Investigation of War Crimes.

In particular, they may not carry out investigations or undertake prosecutions in regard to French traitors or collaborators accused of offences against Articles 75 et seq. of the (French) Penal Code.

The permanent Military Tribunals of the French Military Districts have jurisdiction to try war crimes committed in French territory or in a territory which was under the authority of France at the time when the said crimes were committed, i.e., in colonies, protectorates or mandated territories.

Other war crimes fall within the jurisdiction of the Military Government Tribunals in the French Zone of Occupation.

III. INVESTIGATIONS, SEARCHES AND SEIZURES.

Gendarmerie brigades, police services and, in particular, War Crimes Investigation Brigades may undertake enquiries, as in cases of ordinary law, either on their own initiative or on a complaint being laid, or, again, in pursuance of instructions from the Delegate for the Investigation of War Crimes or from a Public Prosecutor.

Investigations are carried out by taking depositions from the accused persons and witnesses. These depositions must be drawn up in the form prescribed in the specimen forms attached hereto in Annexes 1 and 2(*) It is essential that the date and place of the deposition, the name and description (identity and address) of the interrogator, the surname, first name and the exact status of the person interrogated, and the surname and first name of the interpreter, if any, should be set out very distinctly at the head of the deposition.

If the person interrogated - though a foreigner - can speak and understand French sufficiently, the deposition should be drawn up in French. Otherwise it must be drawn up in the language spoken by the person in question; in such cases it is desirable that, when possible, a French translation should be attached.

The form to be used in gendarmerie interrogation reports is governed by the regulations of that force.

The original copy of the deposition must be signed by the person interrogated, the interrogator, and the interpreter, if any.

The interrogator may also detain accused persons in custody and keep them under observation until the Public Prosecutor attached to the Intermediate Tribunal of his province, who must be informed within three days after the arrest, has given his decision, if necessary, by telephone when no other way is possible. In such cases, the decision must be confirmed in writing within eight days.

(*) Not attached.

Searches. Searches may only be carried out in the presence of the party concerned or of his authorized representative, or, if that is not possible, of two witnesses specially obtained for that purpose. A record must be drawn up and signed by the investigator, the accused or his representatives, and by the witnesses.

Seizures. Seizures may only be effected in regard to articles constituting evidence which is essential for the establishment of the facts. A record must be made of the seizure, and as in the case of records of requisitions, must be signed by the investigator, the accused or his representatives, and by the witnesses where the seizure has been effected during a search. The articles seized must be placed under seal, open or closed, according to the dimensions and nature of the article, and must be forwarded together with the file to the clerk of the Intermediate Tribunal.

At the outset of the investigation a list must be drawn up in the name of the accused person and forwarded, in a form to be subsequently laid down by a regulation, to the Department for the Control of Assets in the General Directorate of National Economy and Finance of the Military Government.

IV. TRANSMISSION OF FILES.

War Crimes cases must be prepared with all possible despatch and must be given priority:

(A) When a suspected person has been arrested the file must be forwarded within three days after the arrest to the Public Prosecutor attached to the Intermediate Tribunal of the Province in which the police or gendarmerie brigade is stationed. The file must include the interrogation report of the person arrested, the depositions of witnesses if any, the record of the search and of seizures, if they have been effected, and a report by the head of the brigade showing the reasons for the arrest and the charges which are pending against the accused person.

As regards cases prepared by brigades situated elsewhere than at the seat of the Intermediate Tribunal, the Public Prosecutor may delegate his powers to a law officer of the Summary Tribunal of the district in which the brigade is stationed.

(B) If it has not been possible to arrest the suspected person, the police or gendarmerie brigade will compile a file of the case, as full as possible, and will transmit it, as soon as it is complete, to the Public Prosecutor attached to the said Intermediate Tribunal.

The head of the Brigade will, as in the preceding case, attach a report describing the case concisely, but clearly, and indicating any further investigations which have still to be undertaken and the reasons which have prevented him from undertaking them himself.

It is desirable that, when a suspected person has been identified, the file should be forwarded as early as possible to the law officer in order that the latter may send out a wanted note. (Note de recherche).

Files forwarded to the Public Prosecutor must contain the original documents, not copies of them, since the Tribunal can only found its judgment on the original documents. Only copies or duplicates may be retained in the archives of the Brigades or of the Central War Crimes Investigation Office.

As soon as the file has been transmitted to the Public Prosecutor, the case enters upon the judicial stage, and the law officer to whom it has been submitted must take a decision upon it at once.

V. THE ROLE OF THE PUBLIC PROSECUTOR.

If the suspected person has been detained, the Public Prosecutor must consider whether it is desirable to retain him in custody; if he considers this necessary he must issue a detention warrant (mandat de prise de corps) against the accused. He may take this action even if the accused person has been allowed to remain at liberty during the investigation.

The law officer must specify in the detention warrant the nature of the offences with which the accused person is charged.

If the Public Prosecutor considers that the file is complete, it is his duty to submit the case either to the Summary Tribunal which is competent ratione loci, or to the Intermediate Tribunal, where the penalty incurred in the case should not, in his opinion, exceed 10 years' imprisonment or a fine of 5,000,000 frs.

If he considers that heavier penalties have been incurred, he should forward the file to the Public Prosecutor attached to the General Tribunal at Rastatt.

If the Public Prosecutor considers that the file is incomplete, he will act as follows:

- (a) if the case appears to fall within the jurisdiction of the General Tribunal he will forward the file to the Public Prosecutor attached to that Tribunal, who will consider what further steps he should take to complete it.
- (b) if it does not so fall, he will at once order additional enquiries; he may either undertake them himself or he may issue special and precise instructions or authorizations to take evidence on commission to the different police organisations; or again he may furnish general instructions or authorizations to take evidence on commission to whichever of the police services he regards as most competent in the case; this will, in most cases, be the War Crimes Investigation Brigade which opened the investigation.

During this stage of the proceedings, the case will remain under the direction of the principal law officer, who may at any time require the investigators to report to him on the progress of the enquiries.

VI. FUNCTIONS OF THE DELEGATE FOR THE INVESTIGATION OF WAR CRIMES.

The investigation of war crimes is conducted under the authority of the Director General of Justice, who is personally delegated for this investigation of war crimes in Germany by the Keeper of the Seals, (the Minister of Justice) and must be kept informed of any investigations in progress and of any difficulties that may arise.

He alone is competent, in virtue of the powers delegated to him, jointly, by the Keeper of the Seals and the General Commanding-in-Chief, to authorise the surrender of a person suspected of a war crime to the authorities of another country. Similarly, he alone is competent to apply to a foreign authority for the surrender of a war criminal.

Neither the law officers of the Military Government Tribunal nor the Police Services and Gendarmerie are entitled, save in cases of manifest urgency, to correspond with foreign authorities or with the French authorities, in particular with the Ministry of Justice at Paris (Directorate of the Investigation of Enemy War Crimes), or with the French war crimes liaison officers in the American and British zones, otherwise than through the intermediary of the Delegate.

In cases of manifest urgency direct communication is permissible, provided that the Delegate for the Investigation of War Crimes is at once apprised and that he is furnished with copies of the correspondence.

Should the authorities of another country ask a Public Prosecutor or a Brigade of the War Crimes Investigation Service (R.C.G.) to apprehend or surrender a war criminal, the law officer, or the Head of the said Brigade, may comply with the request if the matter is urgent. But in such cases, he must at once inform the General Directorate of Justice (Delegation for the Investigation of War Crimes) by telephone and confirm the report by letter.

It is essential that the Delegate for the Investigation of War Crimes should be kept informed of everything connected with cases of this sort, seeing that it is his duty to report to the Keeper of the Seals on the Progress of the work, to keep in touch with the Directorate at Paris, to co-ordinate the investigations and prosecutions and to keep up to date the returns and the lists of war criminals who are wanted or have been detained.

Any disregard of these imperative instructions will be treated as a grave dereliction of duty.

(signed) E. LAFFON.

Administrator-General.

(Translation by Colonel H.H.Wade, Research Officer.)

UNITED NATIONS WAR CRIMES COMMISSION

FINNISH WAR CRIMES LEGISLATION.

The United Kingdom Foreign Office have placed at the disposal of the Secretariat copies of the Finnish War Crimes Legislation in Finnish and Swedish, together with a general explanation of the position and an English translation of the "Law relating to the Punishment of the War Guilty" No. 890, of 12th September, 1945. The general explanation is reproduced in this paper under (I) the text of the enactment under (II).

I

- (i) Crimes committed against the international law of war have been treated as ordinary crimes and prosecuted according to the Finnish general criminal law and military criminal law.
- (ii) By virtue of the law of September 23rd, 1944 regarding the enforcement of the Armistice Agreement concluded on September 19th 1944 between Finland on the one hand and the United Kingdom and Soviet Union on the other, a decree was enacted on December 7th 1944 authorising the apprehension of such persons as were suspected to have committed crimes coming under Article 13 of the Armistice Agreement.
- (iii) On July 5th 1945 a further decree was enacted dealing with the prosecution for acts which might be considered as war crimes in the terms of Article 13 of the Armistice Agreement. This decree ensures that provisions which had been in force for the exemption from prosecution or punishment by lapse of time will not apply to the prosecution of war criminals.
- (iv) A law was enacted on September 12th of that year for "the punishment of the war guilty". I enclose herewith an extra copy of the translation of this law for easy reference.
- (v) There has been no legislation on the question of compensating victims of war crimes but in the supplementary budget for 1945 provision was made "for the payment of compensation to persons arrested or prosecuted for political reasons or persons kept in protective custody," and a sum of 75 million Finnmarks was put aside for this purpose.

II

Law relating to the Punishment of the War Guilty
No. 890. Given in Helsinki, September 12th, 1945.

In accordance with the resolution of the Diet made in the manner prescribed by Section 67 of the Diet's Statutes, the following is enacted for the purpose of fulfilling the stipulations of Article 13 of the Armistice Agreement concluded on September 19th, 1944 between the representative of Finland and the Union of Soviet Socialist Republics and with the United Kingdom of Great Britain and Northern Ireland.

Section I.

Whosoever, in a decisive manner, contributed to Finland incurring war in the year 1941 against the Union of Soviet Socialist Republics or the United Kingdom of Great Britain and Northern Ireland, or during the continuation of the war prevented the attainment of peace, shall, on the charge of abuse of his official position to the detriment of the

country, be sentenced to imprisonment not in excess of eight years, or where there are aggravating circumstances, to penal servitude for a stipulated period or for life.

What is enacted in Section 47 of the Constitution and in paragraph 7 of the Law of November 25th, 1922 relating to the right of the Diet to examine into the illegality of the official acts of members of the State Council or of the Chancellor of Justice, shall constitute no obstacle to the trial and punishment of any person who has been President of the Republic or member of the State Council for such acts as are referred to in this Section.

Section II.

Proceedings under the present Law shall take place before a special War Guilt Court.

To the War Guilt Court shall belong in the capacity of Chairman, the President of the Supreme Court, and in the capacity of members, the President of the Supreme Court of Administration, one member of the legal faculty of the University of Helsinki, elected together with his deputy by the said faculty from among its members, as well as twelve other members who, together with their necessary deputies, shall be elected by the electors of the Diet in proportionate elections. If the President of the Supreme Court or the President of the Supreme Court of Administration shall be ineligible or prevented from acting, the senior member of the same Court shall replace him. The place of the Chairman shall, if necessary, be taken by the President of the Supreme Court of Administration.

Whoever is elected to membership of the War Guilt Court shall be obliged to act.

Section III.

The State Council shall order proceedings to commence before the War Guilt Court after having heard the report of the Chancellor of Justice in the matter.

Section IV.

Prosecutions before the War Guilt Court shall be conducted by the Chancellor of Justice or anybody by him appointed for the purpose.

Section V.

The right to commence proceedings for crimes envisaged in this law shall expire if the State Council does not order the commencement of proceedings within the year 1945.

Section VI.

No proceedings shall be commenced for acts connected with Finland's incurring war in the year 1941 or for preventing the attainment of peace other than those mentioned in Section I.

Section VII.

Unless otherwise provided in this Law, enactments relating to the activities of the State Court and of its Chairman shall, as far as applicable, apply to the War Guilt Court.

As regards publicity of the Court procedure, the Law of February 5th, 1926 regarding the publicity of procedure, shall apply in all cases the passing of decision or sentence shall always be public.

country, be sentenced to imprisonment not in excess of eight years, or where there are aggravating circumstances, to penal servitude for a stipulated period or for life.

What is enacted in Section 47 of the Constitution and in paragraph 7 of the Law of November 25th, 1922 relating to the right of the Diet to examine into the illegality of the official acts of members of the State Council or of the Chancellor of Justice, shall constitute no obstacle to the trial and punishment of any person who has been President of the Republic or member of the State Council for such acts as are referred to in this Section.

Section II.

Proceedings under the present Law shall take place before a special War Guilt Court.

To the War Guilt Court shall belong in the capacity of Chairman, the President of the Supreme Court, and in the capacity of members, the President of the Supreme Court of Administration, one member of the legal faculty of the University of Helsinki, elected together with his deputy by the said faculty from among its members, as well as twelve other members who, together with their necessary deputies, shall be elected by the electors of the Diet in proportionate elections. If the President of the Supreme Court or the President of the Supreme Court of Administration shall be ineligible or prevented from acting, the senior member of the same Court shall replace him. The place of the Chairman shall, if necessary, be taken by the President of the Supreme Court of Administration.

Whoever is elected to membership of the War Guilt Court shall be obliged to act.

Section III.

The State Council shall order proceedings to commence before the War Guilt Court after having heard the report of the Chancellor of Justice in the matter.

Section IV.

Prosecutions before the War Guilt Court shall be conducted by the Chancellor of Justice or anybody by him appointed for the purpose.

Section V.

The right to commence proceedings for crimes envisaged in this law shall expire if the State Council does not order the commencement of proceedings within the year 1945.

Section VI.

No proceedings shall be commenced for acts connected with Finland's incurring war in the year 1941 or for preventing the attainment of peace other than those mentioned in Section I.

Section VII.

Unless otherwise provided in this Law, enactments relating to the activities of the State Court and of its Chairman shall, as far as applicable, apply to the War Guilt Court.

As regards publicity of the Court procedure, the Law of February 5th, 1926 regarding the publicity of procedure, shall apply in all cases the passing of decision or sentence shall always be public.

Section VIII.

In the punishment of persons sentenced by the War Guilt Court the enactments shall apply which refer to persons sentenced for crimes under Chapter 11 of the Criminal Law.

As regards amnesty of the persons sentenced, what in general is enacted in the Constitution regarding the right of the President to grant amnesty shall apply.

Section VIII.

In the punishment of persons sentenced by the War Guilt Court the enactments shall apply which refer to persons sentenced for crimes under Chapter 11 of the Criminal Law.

As regards amnesty of the persons sentenced, what in general is enacted in the Constitution regarding the right of the President to grant amnesty shall apply.

UNITED NATIONS WAR CRIMES COMMISSION

AUSTRIA

PROVISIONS REGARDING WAR CRIMINALS
IN THE FOUR POWER AGREEMENTS CONCERNING
CONTROL MACHINERY AND ZONES
OF OCCUPATION IN AUSTRIA AND
THE ADMINISTRATION OF THE CITY OF VIENNA
(Cmd. 6958)

(Compiled by E. Schwelb, Legal
Officer)

(1) The Four Power Agreement on Control Machinery in Austria, dated London, 4th July, 1945, prepared and unanimously adopted by the European Advisory Commission, provides in Article 8(a) that one of the primary tasks of the Allied Commission for Austria will be "to ensure the enforcement in Austria of the provisions of the Declaration regarding the defeat of Germany signed at Berlin on the 5th June, 1945. (Cmd. 6648) Article 11 of the Berlin Declaration applies therefore, also to Austria. It reads as follows:

Article 11:

(a) The Principal Nazi leaders as specified by the Allied Representatives, and all persons from time to time named or designated by rank, office or employment by the Allied Representatives as being suspected of having committed, ordered or abetted war crimes or analogous offences, will be apprehended and surrendered to the Allied Representatives.

(b) The same will apply in the case of any national of any of the United Nations who is alleged to have committed an offence against his national law, and who may at any time be named or designated by rank, office or employment by the Allied Representatives.

(c) The German authorities and people will comply with any instructions given by the Allied Representatives for the apprehension and surrender of such persons.

(2) The Four Power Agreement, redefining the nature and extent of the authority of the Austrian Government and of the functions of the Allied organisation and forces in Austria, dated Vienna, 28th June, 1946, contains, in Article 5, a list of matters in regard to which the Allied Commission may act directly. It provides, under (vii)(a) and (b) as follows:

(vii) (a) The tracing, arrest and handing-over of any person wanted by one of the Four Powers or by the International Court for War Crimes and Crimes against Humanity.

(b) The tracing, arrest and handing-over of any person wanted by other United Nations for the crimes specified in the preceding paragraph and included in the lists of the United Nations Commission for War Crimes.

The Austrian Government will remain competent to try any other person accused of such crimes and coming within its jurisdiction, subject to the Allied Council's right of control over prosecution and punishment for such crimes.

Note on the above provision.

(1) The Four Power Agreement of 28th June, 1946, is, to this writer's knowledge, the only quadripartite document in which reference is made to the United Nations War Crimes Commission, although the Soviet Union is not a member of the Commission.

(2) According to this provision, listing by the Commission is a condition for the tracing, arrest and handing-over of a criminal, wanted by any Power other than the Four Great Powers.

(3) Section (vii) (b) speaks of persons wanted for "the crimes specified in the preceding paragraph". These crimes are "War Crimes and Crimes against Humanity". The provision implies that the United Nations War Crimes Commission lists not only persons alleged to have committed war crimes in the narrower sense, but also persons charged with crimes against humanity which are not violations of the laws and customs of war. The Agreement is, therefore, a confirmation of the interpretation of the Commission's terms of reference adopted in the Commission meeting held on 30th January, 1946, (M.93, p.4).

Affirmation of the Principles of
International Law embodied
in the Charter of the International
Military Tribunal by the United
Nations Assembly.

A copy of the Report by the Sixth Committee of the United Nations Assembly (Doc. A/236, dated 10th December, 1946), which is reproduced in this paper, has been received by the Legal Officer from Dr. KERN, Assistant Secretary-General of the United Nations, who is in charge of the Legal Department of the Secretariat. The Resolution, proposed by the Sixth Committee, para 3 of the report, has been adopted by the General Assembly in December, 1946.

PROGRESSIVE DEVELOPMENT OF INTERNATIONAL LAW
AND ITS CODIFICATION.

AFFIRMATION OF THE PRINCIPLES OF INTERNATIONAL
LAW RECOGNIZED BY THE CHARTER OF THE NUREMBERG
TRIBUNAL

REPORT OF THE SIXTH COMMITTEE

Rapporteur: Professor K. H. BAILEY (AUSTRALIA)

1. The General Assembly, at its forty-sixth plenary meeting on 31 October 1946 referred to the Sixth Committee the question of the implementation by the General Assembly of its obligation "to initiate studies and make recommendations for the purpose of encouraging the progressive development of international law." The Sixth Committee referred the matter to a Sub-Committee, which had also before it, a resolution proposed by the delegation of the United States relating to the principles of international law recognized by the Charter of the Nuremberg Tribunal (document A/O.6/69).
2. The majority of the Sub-Committee agreed, not only that a Committee should be appointed to consider the proper methods of implementing the obligation of the General Assembly under Article 13, paragraph 1, sub-paragraph a of the Charter, but that that Committee should give priority to plans for the formulation of the principles of the Charter of the Nuremberg Tribunal, and of the judgment of that Tribunal, in the context of a general codification of offences against the peace and security of mankind or of an International Criminal Code. The Sub-Committee felt that this view was strengthened by the fact that similar principles had been adopted in respect of the trials of the major war criminals in the Far East.
3. The Sub-Committee's report (document A/O.6/116) presented by its Rapporteur, Mr. E. R. Hopkins (Canada), was adopted by the Sixth Committee which therefore recommends to the General Assembly the adoption of the following resolution:

AFFIRMATION OF THE PRINCIPLES OF INTERNATIONAL LAW
RECOGNIZED BY THE CHARTER OF THE
NUREMBERG TRIBUNAL

THE GENERAL ASSEMBLY,

RECOGNIZES the obligation laid upon it by Article 13,

paragraph 1, sub-paragraph a. of the Charter, to initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification; and

TAKES NOTE of the Agreement for the establishment of an International Military Tribunal for the prosecution and punishment of the major war criminals of the European Axis signed in London on August 8th, 1945, and of the Charter annexed thereto, and of the fact that similar principles have been adopted in the Charter of the International Military Tribunal for the trial of the major war criminals in the Far East, proclaimed at Tokyo on 19 January 1946.

THEREFORE

AFFIRMS the principles of international law recognized by the Charter of the Nuremberg Tribunal and the judgment of the Tribunal;

DIRECTS the Committee on the codification of international law established by the resolution of the General Assembly of December 1946, to treat as a matter of primary importance plans for the formulation, in the context of a general codification of offences against the peace and security of mankind, or of an International Criminal Code, of the principles recognized in the Charter of the Nuremberg Tribunal and in the judgment of the Tribunal.

PROGRESS REPORT OF WAR CRIMES TRIALS FROM DATA AVAILABLE ON JANUARY 1st, 1947

Misc. 67
January 8, 1947

EUROPE: Countries whose reports comprise War Criminals only.		Cases Tried	Accused Involved	Death	Imprisonment	Acquittal	Remarks
United States:	USFET } USMT }	127	569	207	296	66	as at 6. 12. 46
British:	BAOR } CMF }	180	598	130	289	179	as at 1. 1. 47
France		not given	182	94	82	6	as at 16.11. 46
Greece		1	2	-	2	-	as at 31.10. 46
Norway		-	16	11	5	-	as at 16.10. 46
Total:		308	1367	442	674	251	
EUROPE: Countries whose reports show War Criminals & Collaborators combined.							
Czechoslovakia		-	18496	362	13969	4165	as at 31.10. 46
Poland		-	4593	631	1840	2122	as at 1. 7. 46
Total:		-	23089	993	15809	6287	
FAR EAST:							
United States		-	309	131	159	19	as at 6.12. 46
British		179	594	218	306	70	as at 1. 1. 47
Australian		215	674	123	340	211	
Total:		394	1577	472	805	300	as at 22.11.46

Misc. No. 68.
8th January, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

THE NUREMBERG TRIAL.

Report from the United States Member of the
International Military Tribunal
to the President of the United States,
and reply by the President to Mr. Biddle.

The following documents, printed in the
Department of State Bulletin of 24th November,
1946, p.954, were, at the request of the
Secretariat, made available to the Commission
by the United States Representative, Colonel
Robert M. Springer.

They were released to the press by the
White House on 12th November, 1946.

Text of letter sent by the President on November 12 to Francis
Biddle, United States Member of the International Military Tribunal:

Dear Judge Biddle:

I am profoundly impressed by your report, which I have studied
with careful attention.

When the Nurnberg Tribunal was set up, all thoughtful persons
realized that we were taking a step that marked a departure from the
past. That departure is emphasized in the verdict and the execution
of the Nazi war criminals and in your recommendations for the guidance
of nations in dealing with like problems in the future. An undisputed
gain coming out of Nurnberg is the formal recognition that there are
crimes against humanity.

Your report is an historic document. It is encouraging to know
that the dissent of the USSR was not on the fundamental principle of
international law but over the inferences which should be drawn from
conflicting evidence.

I am impressed by the change in point of view of the defendants
and their lawyers from indifference and skepticism at the outset to
a determination to fight for their lives. The fact that you and your
colleagues could bring about this change in attitude is in itself a
tribute to the judicial spirit and objectivity of the Tribunal.

I am satisfied that the defendants received a fair trial. I
hope that we have established for all time the proposition that
aggressive war is criminal and will be so treated. I believe with
you that the judgment of Nurnberg adds another factor tending toward
peace.

That tendency will be fostered if the nations can establish a
code of international criminal law to deal with all who wage aggressive

war. The setting up of such a code as that which you recommend is indeed an enormous undertaking, but it deserves to be studied and weighed by the best legal minds the world over. It is a fitting task to be undertaken by the governments of the United Nations. I hope that the United Nations, in line with your proposal, will reaffirm the principles of the Nürnberg Charter in the context of a general codification of offenses against the peace and security of mankind. All of these recommendations bring into special prominence the importance of the decisions which lie in the future.

Since your work is completed I accept as of to-day your resignation as United States Member of the International Military Tribunal. You have been part of a judicial proceeding which has blazed a new trail in international jurisprudence and may change the course of history.

To your work you brought experience, great learning, a judicial temperament and a prodigious capacity for work. You have earned my thanks and the thanks of the Nation for this great service.

Very sincerely yours,

HARRY S. TRUMAN.

Text of Judge Biddle's report to the President:

Washington, D.C.,
November 9, 1946.

Dear Mr. President:

You will remember that when I conferred with you after my return from Nürnberg you asked me to make a report to you on The International Military Tribunal for the punishment of the major Nazi war criminals, and to make recommendations for further action. This report and these recommendations I now have the honor to submit to you.

When you appointed me, a little over a year ago, as the American Member of the Tribunal, you expressed your abiding interest in this, the first serious attempt to try those leaders of Germany who had been responsible for launching the war and who were the prime cause of the appalling atrocities which followed in the wake of that war.

You were particularly anxious, I remember, that no disagreement should arise among the four great nations who on August 7, 1945, had signed the London Agreement and Charter providing for the trial, formulating the law and establishing the practice, a disagreement which might prevent or obstruct this significant experiment in the field of international justice. It was your hope that Nürnberg might serve as a working example for the world of how four nations could achieve results in a specific field of endeavor. You recalled the failures in trying war criminals after the first World War, and were fully aware of the difficulties that would be encountered. There were four different systems of law and practice to be reconciled, with their varying points of view and procedures. International law - the law and practice of nations - was indeed a base and a background, but had in its practical application become somewhat sterile and academic. Language difficulties were presented, the whole thing was in a tentative and uncertain state.

It is not, of course, for me to say whether justice was done by the Judgment of Nürnberg. That Judgment is now being discussed by the informed public opinion of the United States and of the world. But I think I can say that the unity of action that you hoped for

among the four nations a year ago has been well realized. The fundamental principles of international law enunciated by the Judgment of Nurnberg were stated unanimously in the opinion of the Tribunal by the four member nations, the United States, United Kingdom, Republic of France, and the U.S.S.R.

This unity resulted from a willingness by all four nations to compromise on inevitable and desirable differences in points of view. This give and take, the essence of the democratic process, could not have been accomplished over night. Many weeks went by before mutual confidence between the members, an essential condition to prompt and effective work, was established. We were not interrupted by other engagements. We did not adjourn. We stayed in Nurnberg for a year, until finally the job was done. And this stability, this day-to-day relationship, made easier the development of a habit of cooperation. The Tribunal, for instance, sat in public session for six hours every day.

Parenthetically I should like to add a word about the dissent of the U.S.S.R. The comments I have made about the unanimity at Nurnberg are not affected by the dissent on certain individual defendants, as indeed, the judges of the U.S.S.R. were careful to point out. The dissent did not express any disagreement with the fundamental principles of international law, in which General Nikitchenko fully joined; in fact it was on those principles that he based the reasoning for his dissent. The dissent in a word was over the inferences which should be drawn from conflicting evidence. I personally believe that this difference - on the facts and not on the law - was extremely healthy.

At the beginning we established a rule that no member of the Tribunal should talk to the press or give interviews. This was rigidly adhered to. Any announcements were made through the General Secretary, and were announcements of the Tribunal, not of any individual member. Very soon we found that less constraint existed if our conferences were not minutely recorded. We therefore kept only a brief record in our minutes of the decisions. On rare occasions a member would record his disagreement, giving the reasons. These private sessions were held two or three times a week so as to deal currently with the constant flow of motions and applications.

When I use the word "members" I mean to include the alternates. Except in the actual voting in decisions, which was the responsibility of the members under the Charter, the alternates took as active a part at the private sessions. And I should like here to express my gratitude to my associates - the fairness and courtesy of the British; the patience and cooperation of the representatives of the U.S.S.R.; the French sense of logic coupled with a warm feeling for human justice. The long judicial experience and sound common sense of my alternate, Judge Parker, were of the greatest assistance to me, and, indeed, to all of us.

It was interesting to feel - what all of us so keenly felt - the change in the point of view of the defendants and their lawyers as the trial progressed. At first they were indifferent, skeptical, hostile. But very soon, as the Tribunal ruled on the merits of the motions that arose, frequently against the prosecution, and went to great pains to obtain witnesses and documents even remotely relevant to the defendants' case, this attitude changed; the defendants began to fight for their lives. And what had threatened to be a sounding board for propaganda or a stage for martyrdom, turned into a searching analysis of the years that felt Hitler's rise to power and his ultimate destruction - the objective reading of this terrible chapter of History. This change was in itself an instinctive tribute to our concept of Justice.

What, basically, did Nurnberg accomplish? Within a year and a half after the war ended the major war criminals were tried and punished. Although the judges were selected from the victorious allies, the trial was fair. This has been universally recognised. But of greater importance for a world that longs for peace is this: the Judgment has formulated, judicially for the first time, the proposition that aggressive war is criminal, and will be so treated. I do not mean that because of this interpretation men with lust for conquest will abandon war simply because the theory of sovereign immunity cannot be invoked to protect them when they gamble and lose; or that men will ever be discouraged from enlisting in armies and fighting for their country, because military orders no longer can justify violations of established international law. Such a conclusion would be naive. But the Judgment of Nurnberg does add another factor to those which tend towards peace. War is not outlawed by such pronouncements, but men learn a little better to detest it when as here, its horrors are told day after day, and its aggressive savagery is thus branded as criminal. Aggressive war was once romantic; now it is criminal. For nations have come to realise that it means the death not only of individual human beings, but of whole nations, not only with defeat but in the slow degradation and decay of civilized life that follows that defeat.

The conclusions of Nurnberg may be ephemeral or may be significant. That depends on whether we now take the next step. It is not enough to set one great precedent that brands as criminal aggressive wars between nations. Clearer definition is needed. That this accepted law was not spelled out in legislation did not preclude its existence or prevent its application, as we pointed out in some detail in the Judgment. But now that it has been so clearly recognized and largely accepted, the time has come to make its scope and incidence more precise. Thus in 1907 the Rules of Land Warfare adopted by the Hague Convention did not so much create new law as formulate for more effective application a definition of those practices which had been already outlawed for many generations by most civilized nations. These practices were not specifically termed criminal by the Convention. But thereafter they have always been punished as crimes.

In short, I suggest that the time has now come to set about drafting a code of international criminal law. To what extent aggressive war should be defined, further methods of waging war outlawed, penalties fixed, procedure established for the punishment of offenders, I do not here consider. Much thought would have to be given to such matters. But certain salutary principles have been set forth in the Charter, executed by four great powers, and adhered to, in accordance with Article 5 of the Agreement by 19 other governments of the United Nations. Aggressive war is made a crime - "planning, preparation, initiation or waging of a war of aggression". The official position of defendants in their governments is barred as a defense. And orders of the government or of a superior do not free men from responsibility, though they may be considered in mitigation.

For, as we pointed out in the Judgment, criminal acts are committed by individuals, not by those fictitious bodies known as nations, and law, to be effective, must be applied to individuals.

I suggest therefore that immediate consideration be given to drafting such a code, to be adopted, after the most careful study and consideration, by the governments of the United Nations.

The Charter of the United Nations provides in Article 13 that "the General Assembly shall initiate studies and make recommendations for the purpose of . . . encouraging the progressive development of international law and its codification". Pursuant to this Article the United States has already taken the initiative in placing upon the Agenda of the General Assembly meeting in New York the question of appropriate action. The time is therefore opportune for advancing the

proposal that the United Nations as a whole re-affirm the principles of the Nürnberg Charter in the context of a general codification of offences against the peace and security of mankind. Such action would perpetuate the vital principle that war of aggression is the supreme crime. It would, in addition, afford an opportunity to strengthen the sanctions against lesser violations of international law and to utilize the experience of Nürnberg in the development of those permanent procedures and institutions upon which the effective enforcement of international law ultimately depends.

I am taking this opportunity to resign as the United States member of the International Military Tribunal and am asking that you make my resignation immediately effective. I want to thank you for the honor of being appointed, for the admirable and intelligent help given us by the United States Army of Occupation in Germany which your orders made immediately available.

With warm personal regards, believe me,

Respectfully yours,

FRANCIS BIDDLE.

Misc. No. 69.
17th January, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

Recent activities of the United Nations
bearing on the work of the
United Nations War Crimes Commission.

In connection with the discussion of the problem of crimes against humanity in the Commission meeting held on 18th December 1946 (M.120), the Legal Officer gave a short report on the discussions of the General Assembly of the United Nations and its Legal Commission respecting the crime of "Genocide" (see also Committee III Minutes No.28/46).

In Doc. Misc.No.66, the Resolution adopted by the General Assembly relating to the affirmation of the principles of international law embodied in the Charter of the International Military Tribunal has been circulated. This Resolution was passed on the initiative of the United States Delegation in accordance with the correspondence between President Truman and Mr. Justice Biddle, which has been circulated as Doc.Misc.No.68.

The Secretariat of the United Nations War Crimes Commission has not yet received all the preparatory papers and minutes preceding the decisions of the General Assembly. The following preliminary report is based on the "Weekly Bulletin" of the United Nations, Vol.1, Nos. 20 and 21, of 17th and 24th December, 1946.

I. Resolution on Genocide.

The Resolution was adopted on 11th December 1946 and reads as follows:

- "1. Whereas, genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings, and such denial of the right of existence shocks the conscience of mankind, results in great losses to humanity in the form of cultural and other contributions represented by these human groups, and is contrary to moral law and to the spirit and aims of the United Nations;
2. Whereas, many instances of such crimes of genocide have occurred when racial, religious, political and other groups have been destroyed, entirely or in part;
3. And whereas, the punishment of the crime of genocide is a matter of international concern;

The General Assembly

Affirms that genocide is a crime under international law which the civilized world condemns, and for the commission of which principals and accomplices, whether private individuals, public officials or statesmen, and whether the crime is committed on religious, racial, political or any other grounds, are punishable;

Invites the Member states to enact the necessary legislation for the prevention and punishment of this crime;

Recommends that international co-operation be organized between states with a view to facilitating the speedy prevention and punishment of the crime of genocide, and

To this end, the General Assembly requests the Economic and Social Council to undertake the necessary studies, with the view of drawing up a draft convention on the crime of genocide to be submitted to the next ordinary session of the General Assembly. "

II. Resolution on the Affirmation of the principles of International Law recognized by the Charter of the Nuremberg Tribunal.

This Resolution was also adopted by the General Assembly on 11th December 1946. The full text is contained in Doc.Misc.No.66.

III. Resolution on the Progressive Development of International Law and its Codification.

The Resolution provides for the establishment of a committee of 17 Members of the United Nations to be appointed by the General Assembly on the recommendation of the President, each member to have one representative on the committee. The Assembly "directs the committee to study:

- " (a) the methods by which the General Assembly should encourage the progressive development of international law and its eventual codification;
- (b) methods of securing the co-operation of the several organs of the United Nations to this end;
- (c) methods of enlisting the assistance of such national or international bodies as might aid in the attainment of this objective

and to report to the General Assembly at its next regular session."

And "requests the Secretary-General to provide such assistance as the committee may require for its work."

From the Resolution on the affirmation of the Nuremberg principles, (Misc.No.66), it appears that the Codification Committee has been directed by the Resolution on the Affirmation of the Nuremberg principles "to treat as a matter of primary importance plans for the formulation, in the context of a general codification of offences against the peace and security of mankind, or of an International Criminal Code, of the principles recognized in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal".

IV. Draft Declarations on the Rights and Duties of States and on Fundamental Human Rights and Freedoms.

The Delegation for Panama submitted to the appropriate Committee Draft Declarations on the Rights and Duties of States and on Fundamental Human Rights and Freedoms.

Panama's draft declaration on the rights and duties of states will shortly be forwarded by the Secretary-General to Member states for their comments. The draft will be sent also to national and international bodies concerned with international law. This action was directed by the General Assembly in a resolution which provided further that the

comments should be sent to the Secretary-General by June 1, 1946. The resolution referred the draft declaration to the committee established to study the methods of codifying international law and requested the Secretary-General to send to this committee the comments and observations he received from governments and institutions. The Committee is to report to the next session of the Assembly, and the matter is to be put on that session's agenda.

In another resolution the General Assembly took action on the second declaration proposed by Panama: that on Fundamental Human Rights and Freedoms.

The General Assembly unanimously adopted a resolution providing that the draft Declaration should be referred to the Commission on Human Rights which at the direction of the Economic and Social Council, is to study and make proposals for an international Bill of Rights. The resolution expressed the hope that the question would be referred back to the Assembly for inclusion on the agenda of the next session.

UNITED NATIONS WAR CRIMES COMMISSION.

Roumanian War Crimes Legislation.

The following English translations of
Roumanian enactments regarding War Crimes
have been made available to the Secretariat
by the United Kingdom Foreign Office.

I. Law for the Prosecution and Punishment of War Criminals and Profiteers. (*)
(No.50) Published in "Monitorul Oficial" of January 21st, 1945.

Art. 1. Those persons are considered war criminals, who, in any
capacity whatsoever, performed the following actions:

- (a) Inhuman treatment of prisoners of war or hostages, contrary
to international law.
- (b) Ordering or performing repressive measures against civilian
populations of territories which were theatres of war.
- (c) Ordering the creation of ghettos, of concentration camps or
deportations for reasons of race or political hostility.
- (d) Ordering or performing collective or individual repressive
measures; organising or carrying out of transports of persons, with the
obvious view of exterminating those transported; organising or ordering
excessive labour with the obvious view of extermination.
- (e) Systematic inhuman treatment inflicted on those in their power
by commanders, directors, wardens, supervisors and warders of prisons,
camps for the internment of war prisoners, political opponents, deported
persons or political prisoners, or compulsory labour detachments.
- (f) Persecution or torture inflicted on those who objected to the
war or to dictatorship, by police or examining magistrates, in support
of the policy favourable to the war; fulfilment of duties and giving
of verdicts in support of a policy of terror, injustice and violence or
an obvious desire to further them by civil or military public prosecutors
or judges.
- (g) Leaving the national territory to serve Hitlerist Germany and
attacking Roumania verbally, in writing or in any other way.
- (h) Disregard of international rules concerning the conduct of the
war.

(*) This law has been repealed by Article 18 of the Decree-Law of
23rd April 1945, which is printed below under III.

Art. 2. The following are considered war profiteers:

- (a) Those who, taking part in the conduct of the war in any capacity, have realised illicit fortunes.
- (b) Those who, in any capacity, profiting by Hitlerist legionary or racial legislation, or by the use of violence, have realised illicit fortunes.

Art. 3. The actions coming under Art. 1 and 2 are liable to one of the following punishments:

- (a) Sentence of death.
- (b) Penal servitude for life.
- (c) Penal servitude for 5 to 20 years.
- (d) Imprisonment with hard labour for 3 to 15 years.
- (e) Imprisonment from 5 to 10 years.

Actions coming under Art. 2. are liable to one of the following punishments:

- (a) Penal servitude for a limited period from 5 to 20 years.
- (b) Imprisonment with hard labour from 3 to 10 years.
- (c) Imprisonment from 5 to 10 years.

Together with the sentence, the court may decide the total or partial confiscation of the prisoner's property. Any of the above mentioned punishments entails loss of civil rights.

Art. 4. The Minister for Justice will appoint public prosecutors from among magistrates, lawyers, members of legal bodies or members of professional associations. They will be appointed by Royal Decree.

One of the public prosecutors, appointed by the Council of Ministers, acting on the proposals of the Minister for Justice, will be chief public prosecutor.

Public prosecutors will cross-examine those coming under Art. 1 and 2 of this Decree Law, and their accomplices, instigators and accessories before and after the fact.

Public prosecutors may be helped by magistrates, jurists or clerks of the courts, and by financial specialists, or by experts and officials appointed by the Ministry for Justice.

The investigation and cross-examining organs will be attached to the Ministry for Justice and will work in Bucharest. If necessary, the Minister for Justice may appoint public prosecutors also in residence towns of courts of appeal.

Art. 5. Public prosecutors may investigate all cases brought before the Council of Ministers.

Should the public prosecutor ascertain the guilt of any other persons of the charges provided in Art. 1 and 2, he will notify the Ministry for Justice to this effect, which will inform the Council of Ministers, which will then decide whether proceedings should be taken against these persons.

The public prosecutor is obliged to take ex officio measures to assure the safety of the property of the accused or of his wife or descendants, if they acquired it by deeds drawn up after June 21st, 1941, apart from that inherited.

The public prosecutor may withdraw these safety measures entirely or in part. Third parties affected by these measures may appeal to the local courts.

Art. 6. The public prosecutor may make any investigation to collect any proof, availing himself of all the rights and powers granted by the Code of Penal Procedure to public prosecutors and examining magistrates.

The right to arrest or release will be in compliance with the provisions of Art. 7. of the Decree-Law.

Art. 7. Warrants for arrest will be issued by the Council of Ministers.

Arrests ordered need not be confirmed and are not contestable through any ordinary or extraordinary channels.

The Council of Ministers may, through a Journal of the Council, order the release of those arrested.

Art. 8. Pursuant to the investigations undertaken, the public prosecutor will draw up the charge sheet and will immediately notify the court to try the case.

On the request of the Ministry for Justice, the Council of Ministers may at once notify the court to try the case even if an order of non-prosecution is given by the public prosecutor. This notification must be made within 30 days from the date when the non-prosecution order is communicated to the Ministry for Justice.

The actions of the Council of Ministers and of the public prosecutor are not contestable.

Art. 9. When a case is brought up for trial, all the property of the accused and of his wife and descendants, and the property they administer under the conditions of Art. 5, are placed under sequestration.

This sequestration operates from the publication in the "MONITORUL OFICIAL" of the act of accusation.

The death of a person who has perpetrated the actions coming under Art. 1 and 2 intervening before ordering his trial does not cancel the measures provided in Art. 5, nor the trial with a view to confiscation of property.

Art. 10. All public authorities are obliged to assist the public prosecutor. Civil servants disregarding this obligation are liable to the penalties provided by Art. 243 of the Penal Code.

Military authorities are obliged to put members of the regular army at the disposal of the public prosecutor.

Art. 11. The actions coming under this law will be tried by a Special Court for War Criminals.

Art. 12. The Special Court for War Criminals is composed of:

(a) Judges appointed by the Ministry for Justice, by drawing of lots, from among magistrates of the Bucharest Court of Appeal.

(b) Judges elected from among Roumanian subjects of both sexes, of age, belonging to one of the following political groups: the National Liberal party, the National Peasant party, the National Democratic Front.

For each Court, the National Liberal and the National Peasant parties will nominate 10 members each, and the National Democratic Front will nominate 20 members, to form the lists of elected judges.

Should one of these groups fail to name its members, the lists will be formed only with the persons indicated by the other groups.

Judges may be challenged only in the cases provided by Art. 274, paragraphs 2 and 3, Art. 275, paragraph 3 and Art. 276, paragraphs 1, 2 and 3 of the Code of Civil Procedure.

Art. 13. The Ministry for Justice has the right to form several sections of the Special Court for War Criminals.

A section will be composed of 7 members, 3 of them judges appointed by the Ministry for Justice and 4 judges named by the political groups, to wit: one of those named by the National Liberal party, one of those named by the National Peasant party, and two of those named by the National Democratic Front.

Elected judges belonging to a section will be chosen by the Ministry for Justice, by the drawing of lots from the list of judges of each party in the number provided by the preceding paragraph.

The section will be presided over by the judge highest in rank among those appointed by the Ministry for Justice.

Should one of the appointed judges be prevented from attending the Court, he will be replaced by the procedure described above, by another, belonging to the same category as the absent judge. The same procedure will be applied in case of absence of an elected judge, who will be replaced by another chosen through drawing of lots from the list of the members of the group to which the absent judge belongs.

Should one group not submit the list of its members within 15 days from the publication in the "MONITORUL OFICIAL" of the decision for the creation of the Special Court, the Ministry for Justice will appoint the list of judges, through the drawing of lots for the respective judge out of a number of ten persons belonging to the other two remaining groups. If two of the groups do not appoint the lists of their members, the judges will be drawn by lot from the list of the third group. If none of the three groups presents a list, the 7 judges will be completed with members from the body of judges, in compliance with the conditions of the provisions of Art. 7., paragraph a.

A group is also considered not to have presented its list if three of the members of the respective group, chosen by lot, do not appear at the hearing.

Art. 14. The judges' sections will function in Bucharest. The Minister for Justice may delegate the President of the Bucharest Court of Appeal or his deputy, by the drawing of lots from among the judges chosen to form the sections.

Lots will be drawn from the lists of judges appointed by the political groups according to Art. 12.

Co-authors, accomplices, instigators and accessories before and after the fact will be judged by the court competent to judge the principal authors.

Art. 15. The President opens the hearing, orders the parties and witnesses to be called to establish the identity of the accused, and orders the charge to be read out. He then proceeds to the examination of the accused and to the hearing of witnesses, after which he calls upon the counsel for the prosecution and upon the counsel for defence, in such a way that the defence should have the final word.

The President declares the hearing closed, and the Special Court pronounces its verdict.

The verdict will be pronounced by a majority of votes.

Reasons must be given and the verdict must be signed by all the members of the judges' section, divergent opinion, for which reasons need not be given, also being mentioned.

Art. 16. The provisions of the Code of Penal Procedure with regard to trial and execution in criminal matters are applicable to the Special Courts for War Criminals, if they are not contrary to the provisions of the present Decree Law. Civil actions for damages may not be tried before Special Courts for War Criminals, but must be tried before ordinary courts.

Art. 17. Appeal may be made against the decisions of the Special Court for War Criminals to the Supreme Court of Appeal.

The appeal may be made before the court which pronounced sentence. It will be tried with priority and immediately by Section II of the Supreme Court of Appeal and Justice within maximum 30 days from the lodging of the appeal files.

The quashing of a sentence may be demanded for the following reasons:

(a) When the punishment determined by law was not applied to the actions proved by the Court, or when a punishment has been applied exceeding the cases provided by law.

(b) When the court has omitted or refused to pronounce, without giving reasons, on a means of defence for the accused or on an act imputed to the accused.

(c) When the court was composed without regard for the provisions of the present law.

The motives for appeal will be lodged at the Supreme Court of Appeal and Justice 3 days before the term fixed for the trial of the appeal. If the motives are not lodged within the term the appeal is ipso facto null and void.

No adjournments can be allowed for lack of defence.

The appeal is tried ex officio even in the absence of the appellant. An appeal lodged within the term entails the suspension of execution.

The Ministry for Justice is authorised by virtue of the present law to create a special section of judges attached to Section II of the Supreme Court of Appeal and Justice to try the cases on days and at hours other than those provided by the law for judicial organisations.

Final decisions will be carried out by the Ilfov Prosecuting Magistrates' Court,

Art. 18. All legal deeds of any nature referring to the property of those condemned by virtue of the present law, and which were drawn up after August 23, 1944, are ipso facto null and void, and property originally belonging to those condemned is considered as still part of their property and will be liable to the sanctions pronounced by the court.

The property or rights of the wives and descendants of those condemned, if they acquired it in the conditions of Art. 5. are liable to the same provisions.

Art. 19. Persons who conceal or assist those coming under the present law to escape, will be punished by the same court with a term of imprisonment from 3 to 5 years.

Art. 20. Prosecution by virtue of this law must take place within a term of 6 months at the latest from the publication of the law.

II. Decree-Law for the Prosecution and Punishment of those responsible for the Country's Disaster. (*)

(No.51). Published in "Monitorul Oficial" of 21st January 1945.

Art. 1. The following persons are considered responsible for the country's disaster:

(a) Those who established dictatorship, and used their effective political responsibility to endanger the security of the state through concluding treaties of political alliance with Hitlerist Germany, giving permission to the German army to enter Roumania, or starting the war against the U.S.S.R. and the United Nations.

(b) Those who consistently militated for the orientation of our foreign policy towards Germany, and consented to the ceding of Northern Transylvania.

(c) Those who used threats, terror or any kind of illegal action to impose upon Roumania a foreign policy favourable to Germany.

(d) Those who from motives of material interest served the German propaganda organs, with the purpose of bringing Roumania to the side of Germany and of enslaving her to Germany.

Art. 2. The actions provided by Art. 1 are liable to one of the following punishments:

(a) Compulsory labour for life.

(b) Compulsory labour for 5 to 20 years.

(c) Hard Labour for 3 to 20 years.

(d) Imprisonment for 5 to 10 years.

The Court may add to the punishment the total or partial confiscation of the culprit's property, as damages to the State, as well as loss of civil rights or of political rights for 3 to 10 years.

(*) This law has been repealed by Article 18 of the Decree-Law of 23rd April 1945, which is printed below under III.

Art. 3. Investigation and cross-examination will be made by the public prosecutors appointed in accordance with the law for the prosecution and the punishment of war criminals. All provisions of Articles 4, 5, 6, 7, 8, 9 and 10 of that law are valid.

Art. 4. The actions provided for by this law will be judged by a Special Tribunal for those responsible for the country's disaster.

Art. 5. The Special Tribunal for those responsible for the country's disaster is composed of:

(a) Judges appointed by the Ministry for Justice, by the drawing of lots, from among magistrates of the Bucharest Supreme Court of Appeal.

(b) Judges elected from among Roumanian subjects of both sexes, of age, belonging to one of the following political groups: the National Liberal Party, the National Peasant party, the National Democratic Front.

The National Liberal and the National Peasant parties will nominate 10 members each, and the National Democratic Front will nominate 20 members, to form the lists of elected judges for the Court. Should one group fail to name its members, the lists will be formed only with the persons indicated by the other groups.

Art. 6. The Ministry for Justice may form several sections of the Special Court for those responsible for the country's disaster, as and when necessary.

A section will be composed of 11 members, 3 of them appointed judges and 8 judges named by the political groups, to wit: 2 of those named by the National Liberal party, 2 of those named by the National Peasant party and 4 of those named by the National Democratic Front.

Elected judges belonging to a section will be chosen by the Ministry for Justice, by the drawing of lots from the list of judges of each party, in the number provided by the preceding paragraph. The section will be presided over by the judge highest in rank among those appointed by the Ministry for Justice.

Should one of the appointed judges be prevented from attending the Court, he will be replaced, according to the procedure described above, by another, belonging to the same category as the absent judge. The same procedure will be applied in case of absence of an elected judge, who will be replaced by another chosen through the drawing of lots from the list of the members of the group to which the absent judge belongs.

Should one group not submit the list of its members within 15 days from the publication of this law, the Ministry for Justice will appoint the list of judges through the drawing of lots for the respective judge out of a number of ten persons belonging to the other two remaining groups. If two of the groups do not appoint the lists of their members, the judges will be drawn by lot from the list of the third group.

If none of the three groups presents a list, the 10 judges will be completed with members from the body of judges, in compliance with the provisions of Art. 5, paragraph (a).

Art. 7. The judges' section or sections will function in Bucharest.

Judges may be challenged only in the cases provided by Art. 12, final paragraph, of the law for the prosecution and punishment of war criminals and war profiteers.

Art. 8. The President opens the hearing, orders the parties and witnesses to be called to establish the identity of the accused, and orders the charge to be read out. He then proceeds to the examination of the accused and to the hearing of witnesses, after which he calls upon the counsel for the prosecution and upon the counsel for the defence, in such a way that the defence should have the final word. The President declares the hearing closed, and the court pronounces its verdict.

The verdict will be pronounced by a majority of votes and signed by all the members of the judges' section. Divergent opinions need not be mentioned.

Appeal may be made against this decision to the Supreme Court of Appeal, Section II, in cases coming under Art. 17 of the law for the prosecution and punishment of war criminals, following the procedure indicated by that article.

Final decisions will be carried out by the Ilfov Prosecuting Magistrates' Court.

Art. 9. The provisions of the Code of Penal Procedure with regard to trial and carrying out of sentences in criminal cases are valid before the Special Court for those responsible for the country's disaster as long as they are not contrary to the provisions of this law.

Civil actions for damages may not be tried before the Special Court for those responsible for the country's disaster, but must be tried before ordinary courts.

Art. 10 All legal deeds of any nature referring to the property of those condemned by virtue of the present law, and which were drawn up after August 23rd, 1944, are ipso facto null and void, and property originally belonging to those condemned is considered as still part of their property and will be liable to the confiscation pronounced by the Court. The property or rights of the wives and descendants of those condemned, if acquired after January 1st 1938, are liable to the same provisions, with the exception of inherited property.

Art. 11. Persons who conceal or assist those coming under the present law to escape, will be punished by the same court with a term of imprisonment from 3 to 5 years.

Art. 12. Prosecution by virtue of this law must take place within a term of 6 months at the latest from the publication of the law.

III. Decree-Law for the Punishment of those responsible for the Country's Disaster or guilty of War Crimes.
Published in "Monitorul Oficial" of April 23rd, 1945.

Art. 1. Those persons are responsible for the country's disaster who:

- (a) militating for Hitlerism or fascism and having actual political responsibility, permitted the entry of German troops on Roumanian territory;

b after September 6th 1940, militated for the preparation or execution of the above, whether by word of mouth, in writing or any other means.

Art. 2. Those persons are responsible for the country's disaster by committing war crimes who:

- (a) decided on the declaration of war on the USSR and the United Nations or on the prosecution of this war;
- (b) did not observe international laws respecting the conduct of war;
- (c) submitted to inhuman treatment prisoners of war or hostages;
- (d) ordered or executed acts of terror, cruelty or murder on the population of the territories in which war was waged;
- (e) ordered or executed collective or individual repressive measures against the civilian population for reasons of race or political persecution;
- (f) ordered or organised excessive labour or removal and transport of persons with a view to their extermination;
- (g) as commanders, directors, supervisors and warders of prisons, camps for war prisoners or political internees, of deported persons or political prisoners or of compulsory labour camps or detachments, inflicted inhuman treatment on those in their power;
- (h) as judicial police officers or examiners in any capacity for questions of a political or racial nature, committed acts of violence torture or any other illegal means of constraint;
- (i) as civil or military public prosecutors or judges, assisted in committing or intentionally committed, acts of terror or violence;
- (j) left the national territory to serve Hitlerism or Fascism and attacked the country in writing, verbally or any other way;
- (k) appropriated illicitly or by abuse of power private or public property from the territories in which war was waged;
- (l) participating in the conduct of the war in any capacity or profiting by connections with such persons, or taking advantage of laws and de facto measures of a Hitlerist, legionary or racial nature, amassed illicit fortunes;
- (m) ordered or initiated the setting up of ghettos or internment camps, or deportation for reasons of race or political persecution;
- (n) ordered the drawing up of unjust laws or measures, inspired by Hitlerist, legionary or racial views, or, in the execution of laws arising from the state of war and racial and political regulations, showed intentional excess of zeal;
- (o) served Hitlerism or Fascism and, by their own actions, contributed to the realisation of their political aims or to the subservience of the economic life of the country, to the detriment of the interests of the Roumanian people.

Art. 3. Those guilty of acts coming under Art. 1 and 2, paras. m - o, will be punished by penal servitude for life, or penal servitude from 5 - 20 years, or imprisonment from 3 - 20 years.

Those guilty of acts coming under Art. 2., paras a - j, will be sentenced to death or to penal servitude for life.

Those guilty of acts coming under Art. 2., paras. k - l, will be sentenced to penal servitude for life or to hard labour for a limited period from 5 - 25 years or to imprisonment from 3 - 20 years.

Instigators and co-authors of those guilty of acts coming under the present law will be sentenced to the same penalties.

Accomplices and accessories before and after the fact of those guilty of acts coming under the present law will be sentenced to penalties one degree less severe than those provided for the main authors.

These penalties will entail loss of civil rights and confiscation of property to the good of the State as damages.

Art. 4. The Minister for Justice will appoint public prosecutors entrusted with the cross-examination of persons accused of acts coming under the present law, and of their instigators, co-authors, accomplices and accessories before and after the fact.

One of the public prosecutors will be appointed leader of the public prosecutors.

Public Prosecutors will be appointed from among Roumanian subjects, of age, regardless of sex, and may also be appointed from among civil servants.

Appointments will be made by Royal Decree, on the proposal of the Minister for Justice.

Organs for investigation and cross-examination will be attached to the Ministry for Justice, and will work in Bucharest. Should the need arise, they may also function in the resident towns of Courts of Appeal.

Art. 5. Public prosecutors will investigate all cases indicated by the Council of Ministers.

They may also start investigation ex officio, or after cases have been forwarded for investigation by the Presidency of the Council of Ministers.

They may take any measures to assure the property of any suspected person and of other individuals or constituted bodies. These measures will remain valid until the case is tried. Public prosecutors may make these measures partially or totally inoperable.

Art. 6. Public prosecutors have the right to make any investigation and to collect any proof. In this they may use all rights and powers granted to the public prosecutor and the examining magistrate by the Code of Penal Procedure.

They may be assisted by magistrates, clerks of courts or lawyers and by financial experts, as well as by experts and civil servants appointed or delegated by the Minister for Justice.

Public prosecutors have the right to demand that their instructions be executed both by organs of the judicial power and by organs of the executive power of any category. They may demand to be assisted in any circumstances by the organs of public order. They may also make any raid or search or remove any incriminating objects

or documents from individuals or from any civil or military authorities, even documents of a secret nature.

All public authorities are obliged to assist public prosecutors. Civil servants disregarding this obligation are liable to the penalties provided by Art. 243 of the Penal Code.

Military Courts and commanders of garrisons are obliged to place at the disposal of public prosecutors members of the regular army. In respect of officers above the rank of captain, the previous authorisation of the Ministry for War will be requested to this end.

Art. 7. Warrants for arrest will be issued by the Council of Ministers, or by public prosecutors with the approval of the leader of the public prosecutors.

Arrests ordered need not be confirmed.

Public prosecutors may order the release of persons arrested by them, only with the approval of the leader of the public prosecutors.

The Council of Ministers may in all cases order the release of those arrested.

Art. 8. Following investigations undertaken, the Public Prosecutor will draw up the charge sheet, which will be submitted to the Council of Ministers for approval.

The Council of Ministers will decide on the notification of the court in respect of the trial of the case.

The actions of the Public Prosecutor and of the Council of Ministers may not be contested through any channel.

Art. 9. The opening of proceedings deprives the accused of the power to dispose of any of his property, from the moment of the publication of the charge in the MONITOR OFICIAL.

The closing of the action through the decease of the accused occurring after the opening of the investigation, prevents neither the application of the measures provided in Art. 5 nor the sequestration of the property; investigation and action will be proceeded with against the heirs for the confiscation of the property for the good of the state as damages.

Art. 10. The actions coming under the present law will be tried by a People's Tribunal.

Art. 11. The People's Tribunal is composed of:

- (a) judges appointed from among magistrates by the Minister for Justice.
- (b) people's judges, Roumanian subjects, of age, of either sex, chosen from among the members of the 7 political groups forming the representative democratic government.

Each of these groups will appoint 5 members, to figure on the lists of people's judges.

Should one group not appoint its members within 15 days from the publication of the present law, the lists will be formed only with persons indicated by the other groups.

Lists of people's judges will be formed in all resident towns of Courts of Appeal.

Art. 12. The Minister for Justice will form one or more groups of presiding judges for the People's Tribunal as and when necessary.

The presiding judges will comprise 9 members, of which 2 will be appointed magistrates, and 7 people's judges.

The people's judges in the group of presiding judges will be drawn by lots by the Minister for Justice - one each from the list of 5 judges proposed by each separate group. If any one of the groups has not appointed its members, the drawing of lots for the respective judge will be made from among members appointed by the other groups.

The group of judges will be presided over by that appointed magistrate whose rank is greater or of longer standing.

If either of the magistrates is prevented from attending the trial, the Minister for Justice will replace him by another.

If a people's judge is prevented from attending the trial, he will be replaced by another, drawn by lots from the list of members of the group to which the absent judge belongs, while in the absence of the members appointed by that group, the drawing of lots will be made from among members appointed by the other groups.

Before assuming their functions, the people's judges drawn by lots will be sworn in by the Minister for Justice with the oath of loyalty provided for the judicial body.

The appointed magistrates and the people's judges drawn by lots may not be challenged.

Art. 13. The groups of judges will execute their functions in Bucharest.

The Minister for Justice may form groups of judges also in resident towns of the other Courts of Appeal. In this case, these groups of judges will have the right to judge persons accused of offences committed on the territory within the circuit of the respective Court of Appeal.

Persons accused of offences committed beyond the Roumanian frontiers will be tried by the Bucharest People's Tribunal.

Instigators, co-authors, accomplices and accessories before and after the fact will be tried by the same court.

Art. 14. The President opens the hearing and orders the summoning of parties and witnesses, cross-examines the accused in order to establish his identity and orders the reading out of the charge sheet. He then proceeds to the cross-examination of the accused and the examination of the witnesses, after which he calls on the Public Prosecutor and the counsel for the defence to speak, leaving the last word to the defence. The President declares the debate closed, after which the Tribunal pronounces its verdict.

Reports of hearings will be brief.

Motives must be given for the verdict, which may be contested with the right of appeal to the Supreme Court of Appeal and Justice only for faulty composition of the Court or mistaken application of the punishment.

The appeal must be declared verbally before the court and will be tried within three days from the reception of the file. Motives for the appeal will be proposed and expounded in a written memorandum, deposited up to the day of the trial. Appeal entails the suspension of the execution of the punishment only if the death sentence has been pronounced.

The verdict will be carried out by the prosecutors of the County Court resident in the town where it was pronounced.

Art. 15. The provisions of the Code of Penal Procedure with regard to trials and the carrying out of penal verdicts apply to the People's Tribunals, so long as they are not contrary to the provisions of the present decree-law.

Art. 16. Any legal acts of any nature, made after August 23, 1944, in respect of the property of those condemned by virtue of the present law, are null and void, and property no longer belonging to the condemned persons will be liable to confiscation pronounced by the Court. Property and rights belonging to the wife or descendants of the condemned person, acquired after September 6, 1940, with the exception of inherited property, come under the same provisions.

Art. 17. Those who in any way conceal persons coming under this law, or assist them to escape, as well as those who conceal the property of such persons, will be punished by the People's Tribunals with imprisonment from 3 - 5 years.

Art. 18. The provisions of laws No. 50 for the prosecution and punishment of war criminals and profiteers, and No. 51 for the prosecution and punishment of those responsible for the country's disaster, published in the MONITORUL OFICIAL of January 21, 1945, as well as any provisions contrary to those of the present law, are and remain repealed.

Writs for prosecution and cross-examination and warrants for arrests issued in accordance with these laws prior to the publication of the present decree-law, remain valid.

The prosecution and trial by virtue of the present decree-law of those responsible for the country's disaster or guilty of war crimes, may take place up to December 1, 1945.

Given under my hand and seal, in Bucharest, April 21, 1945.

MIHAI

L. Pătrășcanu
Minister for Justice.

No. 1318.

Misc. No. 71.
25th January, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

War Crimes Enactments

for the

French Zone of Germany.

The Ordinance of 28th August 1944, concerning the suppression of war crimes in France has been circulated as No.26 of the Documents Series (Research Office).

The two ordinances, translations of which are reproduced in this paper, apply in the French Zone of Germany.

Reference is also made to Doc. Misc.No.63, containing the translation of Instructions issued by the French Supreme Command in Germany.

I.

Extract from the Official Journal of the French High Command in Germany
(of the 12th December 1945).

Ordinance No.20 of the Commander-in-Chief, concerning the
suppression of war crimes.

(Translation).

The French Commander-in-Chief in Germany,

In view of the Decree of 15th June 1945, establishing a French High Command in Germany, as amended by that of 18th October 1945,

In view of the Hague Conventions of 27th July 1899 and of 18th October 1907, and in particular the Regulations annexed to the Fourth Hague Convention concerning the laws and customs of war,

In view of the London Agreement of 8th August 1945 for the prosecution and punishment of war criminals,

In view of Ordinance No.1 of the Commander-in-Chief of 28th July 1945, maintaining in force the Ordinance promulgated by or under the authority of the Supreme Allied Command,

In view of Ordinance No.1 of the Supreme Allied Command dealing with offences,

In view of Ordinance No.2 of the Supreme Allied Command dealing with
Military Government Tribunals,

Having consulted the Legal Committee,

O R D E R S:

Art. 1.

Military Government Tribunals are competent to try all war crimes defined by international agreements in force between the occupying Powers whenever the authors of such war crimes, committed after the 1st September 1939, are of enemy nationality or are agents, other than Frenchmen, in the service of the enemy, and whenever such crimes have been committed outside of France or territories which were under the authority of France at the time when the crimes were committed.

Art. 2.

These crimes are punishable by all the penalties which such Tribunals are empowered to pronounce, including the death penalty.

Art. 3.

The General Officer, deputy to the Commander-in-Chief of the Occupying Troops, the deputy Administrator General for the Military Government of the French Zone of Occupation, and the Delegate for the Investigation of War Crimes and War Criminals for the French Zone of Occupation in Germany, are entrusted, in so far as they are respectively concerned, with the carrying out of the present Ordinance, which will be published in the Official Journal of the French High Command in Germany.

(signed) P. Koenig.

Army Corps General,

French Commander-in-Chief in Germany.

Baden-Baden, 25th November, 1945.

II.

Extract from the Official Journal of the French High Command in Germany
(of the 8th March 1946)

Ordinance No.36, concerning the suppression of war crimes, crimes against
peace and crimes against humanity, and membership of criminal organisations.

(Translation).

The French Commander-in-Chief in Germany,

In view of the Decree of 15th June 1945, establishing a French High
Command in Germany, as amended by that of the 18th October, 1945,

In view of the Decree of 26th December 1945, creating a Commissioner
General's Office for German and Austrian Affairs,

In view of Law No.10 of 20th December 1945, of the Allied Control Council,
concerning the punishment of persons responsible for war crimes,
crimes against peace and crimes against humanity,

In view of Ordinance No.20 of the 25th November 1945, made by the
French Commander-in-Chief in Germany,

On the proposal of the deputy Administrator General for the Military
Government in the French Zone of Occupation,

Having consulted the Legal Committee,

O R D E R S:

Art. 1.

Military Government Tribunals in the French Zone of Occupation
in Germany are competent, in virtue of Law No.10 of the Allied Control
Council concerning the punishment of persons responsible for war crimes,
crimes against peace and crimes against humanity, to try the crimes set
out in that law.

Art. 2.

The General Officer, deputy to the Commander-in-Chief of the
Occupying Troops, the deputy Administrator General for the Military
Government in the French Zone of Occupation, and the Delegates for the
Investigation of War Crimes and War Criminals for the French Zone of
Occupation in Germany, are entrusted, in so far as they are respectively
concerned, with the carrying out of the present Ordinance, which will
be published in the Official Journal of the French High Command in Germany.

(Signed) P. Koenig,

Army Corps General,

French Commander-in-Chief in Germany.

Baden-Baden, 25th February 1946.

(Translation by G.Brand, LL.B., Assistant Legal Officer.)

Misc. No. 72.
5th February 1947.

CROWGLASS CONSOLIDATED STATISTICS.
WANTED REPORTS RECEIVED.

+ 4000 Names are to be added to this total as a result
of checking UNICC List against CROWGLASS records.

1946

COUNTRY	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUN JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
UNITED STATES	823	97	234	142	9	877	2174	745	317	688	429	6535
GREAT BRITAIN	72	129	119	76	70	205	26	2	5	3	2	709
CANADA	24	2	10	-	-	56	-	-	-	-	-	92
FRANCE	405	372	637	484	170	1557	447	181	143	255	632	5283
BELGIUM	154	52	352	122	157	755	22	69	117	13	-	1813
HOLLAND	102	92	142	140	-	269	108	72	37	139	90	1191
NORWAY	511	-	-	-	-	-	-	65	1	3	-	580
CZECHOSLOVAKIA	199	234	174	169	26	439	194	98	23	2	77	1635
POLAND	50	139	202	58	4	210	136	63	395	68	460	1785
YUGOSLAVIA	28	-	370	2	13	274	526	117	224	143	145	1842
LUXEMBURG	-	18	53	-	4	29	1	1	4	24	1	135
RUSSIA	-	-	-	-	-	-	1	-	-	-	-	1
GRAND TOTAL	2368	1135	2293	1193	453	4671	3635	1413	1266	1338	1836	21601

DETENTION REPORTS RECEIVED.

-2-

1 9 4 6.

COUNTRY	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUN JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
UNITED STATES	3999	968	17756	2852	1091	7407	708	1185	156	96	133	36351
GREAT BRITAIN	4182	4908	5004	4881	3079	12800	1500	1088	1537	1183	1454	41616
CANADA	109	-	-	-	-	-	-	-	-	-	-	109
FRANCE	26	-	24	71	7	80	10	5	73	-	15	311
BELGIUM	-	-	-	-	-	24	-	-	-	-	-	24
HOLLAND	-	-	-	25	-	268	46	80	91	7	-	517
NORWAY	-	-	-	-	-	49	-	-	-	-	-	49
CZECHOSLOVAKIA	-	17	-	-	-	419	1	1	-	-	-	438
POLAND	-	-	-	-	-	7	-	-	-	-	-	7
YUGOSLAVIA	-	-	-	-	-	1	-	-	-	-	-	1
LUXEMBURG	-	-	6	-	21	4	-	-	7	12	1	51
DENMARK	-	-	-	-	-	17	-	-	-	-	-	17
GRAND TOTAL	8316	5893	22790	7829	4198	21076	2265	2359	1864	1298	1603	79491

DETENTION REPORTS RECEIVED.

-2-

1 9 4 6.

COUNTRY	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUN JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTAL
UNITED STATES	3999	968	17756	2852	1091	7407	708	1185	156	96	133	36351
GREAT BRITAIN	4182	4908	5004	4881	3079	12800	1500	1088	1537	1183	1454	41616
CANADA	109	-	-	-	-	-	-	-	-	-	-	109
FRANCE	26	-	24	71	7	80	10	5	73	-	15	311
BELGIUM	-	-	-	-	-	24	-	-	-	-	-	24
HOLLAND	-	-	-	25	-	268	46	80	91	7	-	517
NORWAY	-	-	-	-	-	49	-	-	-	-	-	49
CZECHOSLOVAKIA	-	17	-	-	-	419	1	1	-	-	-	438
POLAND	-	-	-	-	-	7	-	-	-	-	-	7
YUGOSLAVIA	-	-	-	-	-	1	-	-	-	-	-	1
LUXEMBURG	-	-	6	-	21	4	-	-	7	12	1	51
DENMARK	-	-	-	-	-	17	-	-	-	-	-	17
GRAND TOTAL	8316	5893	22790	7829	4198	21076	2265	2359	1864	1298	1603	79491

DEFINITE MATCHES.
1945-1946.

-3-

	NOV '45	DEC '45	JAN '46	FEB '46	MAR '46	APR '46	MAY '46	SEP '46	OCT '46	NOV '46	DEC '46	TOTAL
UNITED STATES	2	4	10	28	64	96	66	163	56	115	99	703
GREAT BRITAIN	5	-	3	3	9	8	13	29	17	19	41	147
CANADA	2	-	-	-	-	2	2	5	2	2	3	18
FRANCE	3	8	5	12	3	26	34	36	23	23	29	202
BELGIUM	-	-	-	1	7	5	2	13	8	19	467	522
HOLLAND	1	1	-	-	-	8	2	10	6	11	2	41
NORWAY	3	2	-	-	-	1	-	6	9	7	5	33
CZECHOSLOVAKIA	-	1	-	1	3	14	16	39	32	15	6	128
POLAND	1	2	1	-	3	11	4	31	17	18	9	97
YUGOSLAVIA	2	-	-	1	-	1	2	3	10	9	7	35
LUXEMBURG	-	-	-	-	4	2	3	26	18	2	2	57
UNWCC	-	-	-	-	2	7	3	2	7	38	18	77
DENMARK	-	-	-	-	-	-	-	1	-	1	-	2
GREECE	-	-	-	-	-	-	-	1	-	-	1	2
GRAND TOTAL	19	18	19	46	95	181	147	365	205	280	689	2064

-4-

POSSIBLE MATCHES.
1945-1946.

COUNTRY	NOV '45	DEC '45	JAN '46	FEB '46	MAR '46	APR '46	MAY '46	SEP '46	OCT '46	NOV '46	DEC '46	TOTAL
UNITED STATES	23	17	56	37	97	103	69	470	184	60	84	1200
GREAT BRITAIN	2	2	14	13	61	31	29	148	65	30	19	414
CANADA	1	-	-	2	-	-	1	7	6	5	-	22
FRANCE	16	18	57	25	39	69	82	335	197	50	49	937
BELGIUM	-	4	4	4	10	10	6	1243	57	22	9	1369
HOLLAND	-	-	5	2	1	3	2	30	19	7	9	78
NORWAY	4	-	1	-	1	3	5	29	39	3	9	97
CZECHOSLOVAKIA	1	2	2	1	2	8	16	63	32	4	3	134
ICELAND	-	-	-	3	2	3	6	69	41	11	4	141
YUGOSLAVIA	-	-	-	3	-	4	2	35	22	13	8	87
LUXEMBURG	-	-	-	-	-	-	11	36	11	2	2	62
UNWCC	-	-	-	-	6	26	-	17	51	16	4	120
DENMARK	-	-	-	-	-	1	-	-	1	-	-	2
GREECE	-	-	-	-	-	1	-	4	2	-	-	7
GRAND TOTAL	47	45	139	90	219	262	229	2486	727	223	200	4667

RELEASES.

COUNTRY	SEPT '46	OCT '46	NOV '46	DEC '46	TOTAL.
UNITED STATES	21	9	17	209	256
GREAT BRITAIN	2928	2595	2557	2603	10683
GRAND TOTAL	2949	2604	2574	2812	10939

TRANSFERS.

UNITED STATES	70	5	17	209	301
GREAT BRITAIN	138	77	4	9	228
GRAND TOTAL	208	82	21	218	529

ACQUITTED.

UNITED STATES	6	6	-	-	12
GREAT BRITAIN	-	3	83	18	104
GRAND TOTAL	6	9	83	18	116

x)

SENTENCED.

UNITED STATES	21	22	2	-	45
GREAT BRITAIN	2	9	197	14	222
GRAND TOTAL	23	31	199	14	267

x)

DIED.

UNITED STATES	1	1	1	-	3
GREAT BRITAIN	6	12	17	11	46
GRAND TOTAL	7	13	18	11	49

SPECIAL SEARCHES.

UNITED STATES	1122	3273	1270	785	6450
GREAT BRITAIN	229	337	567	361	1494
FRANCE	2	26	2	9	39
POLAND	1	35	-	-	36
CZECHOSLOVAKIA	-	39	-	11	50
BELGIUM	-	39	345	128	512
YUGOSLAVIA	-	732	-	-	732
NORWAY	-	373	2	143	518
RUSSIA	-	-	-	4	4
HOLLAND	-	-	9	1	10
GRAND TOTAL	1354	4854	2195	1442	9845

x) Actual figures given by A(PG)4 as at 7 Jan. 1947: ACQUITTED 150
IMPRISONED 248
DEATH 112
510

UNITED NATIONS WAR CRIMES COMMISSION.

The Provisions of the Peace Treaties with
Italy, Roumania, Bulgaria, Hungary and Finland,
prepared for Signature in Paris on 10th February, 1947,
concerning War Crimes.

- I. In Document Misc.No.43, the provisions of the Draft Peace Treaties presented to the Paris Peace Conference by the Council of Foreign Ministers in July 1946, have been reproduced and annotated, on the basis of the text dated Palais du Luxembourg, Paris, 17th July, 1946. The texts of the Draft Peace Treaties have also been published in this country in the following Command Papers:

Italy, No.1 (1946) Cmd. 6892.
Roumania, No.1 (1946), Cmd. 6896,
Hungary, No.1 (1946), Cmd. 6894,
Bulgaria, No.1(1946), Cmd. 6895,
Finland, No.1 (1946), Cmd. 6897.

- II. Now the texts of the Treaties of Peace with Italy, Roumania, Bulgaria, Hungary and Finland, for signature in Paris on 10th February 1947, have been made public (Misc. No.1, (1947), Cmd. 7022).

The United Kingdom Secretary of State for Foreign Affairs has also presented to Parliament a Commentary on these Treaties (Misc. No.2 (1947), Cmd. 7026).

III. The Provisions of the Peace Treaty with Italy regarding War Criminals.

- 1) The following is the text of the provision regarding war criminals contained on the one hand in the Draft Peace Treaty with Italy (Palais du Luxembourg, Paris, 17th July, 1946), and in the text for signature, Cmd. 7022. The differences in the two texts are underlined.

Part III of the Draft Peace Treaty
with Italy, 17th July, 1946.

Part III - War Criminals.

1. Italy shall take the necessary steps to ensure the apprehension and surrender for trial of:

(a) Persons accused of having committed, ordered, or abetted war crimes and crimes against peace and humanity.

(b) Nationals of the Allied and Associated Powers accused of having violated their national law by treason or collaboration with the enemy during the war.

Part III of the Peace Treaty with
Italy; text for Signature in Paris,
10th February, 1947. Cmd.7022.

Part III - War Criminals.

1. Italy shall take all necessary steps to ensure the apprehension and surrender for trial of:

(a) Persons accused of having committed, ordered or abetted war crimes and crimes against peace or humanity.

(b) Nationals of any Allied or Associated Power accused of having violated their national law by treason or collaboration with the enemy during the war.

2) At the request of the United Nations Government concerned, Italy will likewise make available as witnesses persons within its jurisdiction, whose evidence is required for the trial of the persons referred to in paragraph 1 of this Article.

3) Any disagreement concerning the application of the provisions of paragraphs 1 and 2 of this Article shall be referred by any of the Governments concerned to the Ambassadors in Rome of the Union of Soviet Socialist Republics, United Kingdom, United States of America and France, who will reach agreement with regard to the difficulty.

2) At the request of the United Nations Government concerned, Italy shall likewise make available as witnesses persons within its jurisdiction, whose evidence is required for the trial of the persons referred to in paragraph 1 of this Article.

3) Any disagreement concerning the application of the provisions of paragraphs 1 and 2 of this Article shall be referred by any of the Governments concerned to the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, who will reach agreement with regard to the difficulty.

2) As will be seen, the differences between Article 38 of the original text and Article 45 of the more recent text, are only verbal. The replacement of "and" by "or" in paragraph 1(a) makes it clear that the crimes against peace and the crimes against humanity are considered to be different crimes and that it is not a necessary condition for the apprehension of a person, that he is accused of having committed both crimes against peace and crimes against humanity, a result which a reasonable interpretation would have also derived from the original text.

The alteration in paragraph 1(b) brings in a more precise text without altering the sense. The replacement of "will" by "shall" in paragraph 2 lays greater stress on the obligatory character of the Italian collaboration in producing witnesses. The replacement of "Union of Soviet Socialist Republics" by "Soviet Union" and the other alterations in paragraph 3, have no relevance at all for the interpretation.

3) In the official Commentary by the United Kingdom Foreign Office (Cmd.7026), the following is said respecting the provisions which have been quoted above:

" The United Nations have concluded certain agreements between themselves for the bringing to justice of war criminals. Italy, once the Peace Treaty comes into force, would be under no obligation to assist in this matter. Provision is thus made in Article 45 that she should assist in the apprehension and surrender both of war criminals and of quislings. "

The "certain agreements" which the United Nations have concluded between themselves which are alluded to in the Commentary, are probably the London Agreement of 8th August 1945, the Agreement establishing the United Nations War Crimes Commission of 20th October 1943, and the Declarations and Agreements regarding the administration of Germany and Austria including such documents as the Control Council Law No.10.

4) Special provisions as to crimes committed against Ethiopia.

Article 38 of the Peace Treaty with Italy (Cmd.7022, p.17) which was not contained in the Draft Peace Treaty, submitted to the Paris Conference, reads as follows:

" The date from which the provisions of the present Treaty shall become applicable as regards all measures and acts of any kind whatsoever entailing the responsibility of Italy or of Italian nationals towards Ethiopia, shall be held to be October 3, 1935."

This provision is of some relevance on the questions which were dealt with in Docs. C.217, III/50 and I/76.

In accordance with the decision taken by Committee I in its meeting held on 30th January 1947, a paper devoted to the bearing of this provision on the previous papers regarding Ethiopia will be prepared by Dr. Litawski and the Secretary to Committee III.

IV. The provisions of the Peace Treaties with Roumania, Bulgaria, Hungary and Finland.

Provisions similar to those of Article 45 of the Peace Treaty with Italy are contained in the Peace Treaties with the other satellite countries, namely in Article 6 of the Peace Treaty with Roumania, (p.80 of Cmd.7022), Art.6. of the Peace Treaty with Bulgaria, (p.100 *ibid*), Art.6. of the Peace Treaty with Hungary (p.119 *ibid*) and Art.9 of the Peace Treaty with Finland, (p.140, *ibid*).

UNITED NATIONS WAR CRIMES COMMISSION
Progress Report of War Crimes Trials from data available on February 1, 1947

MISC. 74
 February 6, 1947

	Cases tried	Accused Involved	Death	Imprisonment	Acquittal	Remarks
EUROPE: Countries whose reports comprise war criminals only.						
UNITED STATES: USMPT) USMT)	154	724	211	421	92	as at 17.1.47
BRITISH: BAOR IMF & BTA	182	602	130	290	182 -	as at 31.1.47
FRANCE:	7 +	191	95	90	6	No. as at 1.12.46/of cases relates to November 1946 only.
GREECE:	2	4	2	2	-	as at 31.1.47
NORWAY:	not given	16	11	5	-	as at 16.10.46
YUGOSLAVIA:	3	47	34	13	-	as at 1.1.47
TOTAL:		1584	483	821	280	
EUROPE: Countries whose reports show War Criminals & Collabor- ators combined.						
CZECHOSLOVAKIA:	-	18496	362	13969	4165	as at 31.10.46
POLAND:	-	4593	631	1840	2122	as at 1.7.46
TOTAL:		23089	993	15809	6287	
FAR EAST:						
UNITED STATES:	-	420	138	255	27	as at 17.1.47
BRITISH:	193	657	228	350	79	as at 31.1.47
AUSTRALIAN	not given	686	124	351	211	as at 31.1.47
NETHERLANDS EAST INDIES:	12	13	9	4	-	as at 31.1.47
TOTAL:		1776	499	960	317	

UNITED NATIONS WAR CRIMES COMMISSION

MISC. NO. 75

21st February, 1947.

HUNGARIAN WAR CRIMES LEGISLATION

The following English
translation of war crimes
enactments passed in
Hungary have been made
available to the
Secretariat by the
United Kingdom Foreign
Office.

ACT VII OF 1945

of the incorporation in law (giving the binding force of law thereto) of the Orders in Council issued in re the administration of justice by (jurisdiction of) People's Courts.

We herewith bring to the notice of all concerned that the
Provisional National Assembly has framed the following Act:-

Section 1

(1) The Provisional National Assembly herewith incorporates in law (gives the binding force of law to) the following Orders in Council issued by the Provisional National Government in re the administration of justice by (jurisdiction of) People's Courts:-

Order in Council No. 81/M.E. ex 1945 (of the Jurisdiction of People's Courts), which was issued at Debrecen on the Twenty-fifth Day of January, 1945, and came into force on the Fifth Day of February, 1945.

Order in Council No. 1440/M.E. ex 1945 (in re the Amendment and Supplementation of Order in Council No. 81/M.E. ex 1945 (of the Jurisdiction of People's Courts) which was issued in Budapest on the Twenty-seventh Day of April, 1945, and came into force on the First Day of May, 1945;

Order in Council No. 5000/M.E. ex 1945 (of the Supplementation of the Regulations relating to proceedings against an absent delinquent before a People's Court and to the manner of presenting a public indictment) which was issued in Budapest on the First Day of August, 1945, and came into force on the Fifth Day of August, 1945.

Order in Council No. 6750/M.E. ex 1945 (in re the enhancement of labour discipline among public officials); which was issued in Budapest on the Fifteenth Day of August, 1945, and came into force on the Nineteenth Day of August, 1945.

(2) The Texts of the Orders in Council referred to in the foregoing paragraph are to be found in Annexes I - IV of the present Act.

Section 2.

The Provisional National Government is authorised - subject to the approval of the Political Committee of the Provisional National Assembly - to amend and supplement as required the above Orders in Council herewith incorporated in law.

Section 3.

The present Act comes into force on the day on which it is promulgated.

Everyone is required to observe the present Act as being the will
of the Nation

Given in Budapest this Fourteenth Day of the Month of September
One thousand Nine Hundred and Forty-Five.

(Signed) Dr. Bela Zsedenyi
President (Speaker) of the
Provisional National Assembly

(Signed) Bela Miklos de Dalnok
Prime Minister.

L. S.

ANNEX I OF ACT VII OF 1945

Order in Council No. 81/M.E. ex 1945
(of the administration of justice by - jurisdiction of - People's Courts).

By virtue of the powers vested in them at Debrecen on December 21 -22, 1944, by the Provisional National Assembly, the Provisional National Government, actuated thereto by the necessity of providing that all persons who were the causes of or shared in the responsibility for the historical catastrophe inflicted on the Hungarian people should as soon as possible be punished according to their deserts - until such time as trial by jury shall be restored by legislature - ordain as follows respecting the establishment of jurisdiction (the administration of justice) by People's Courts:-

General Provisions

Section 1

The crimes described in the present Order in Council are punishable even in cases where the criminal action was already completed at the time of the coming into force of the Order and was not punishable under the legal provisions in force at the time when the action was completed.

Section 2

The jurisdiction of the People's Court shall extend to civilians and members of the armed forces, inclusive also of the police and gendarmerie as well as to persons taken into custody in the territory of the Hungarian States, irrespective of their nationality.

In respect of a criminal act committed outside the territory^{of} the Hungarian State, as well as in respect of any criminal, who may eventually be subject to extradition, the jurisdiction of the People's Courts shall be in force until the extradition of the perpetrator has been ordained.

In applying the present Order in Council all persons specified in paragraph 3 of Act XVIII of 1940 are to be regarded as public servants.

Section 3

The penalties inflictible by a People's Court shall be:-

1. Sentence of death
2. Hard Labour
3. Imprisonment
4. Confinement
5. Internment
6. Fines, which may be extended to the confiscation of property.
7. Discharge from office, or prohibition to continue in an occupation (profession)
8. Suspension of exercise of political rights
9. Punishments of a disciplinary character specified in points (a), (b) and (c) of Paragraph 3 of paragraph 19 of Order in Council No. 15/M.E. ex 1945.

The penalties enumerated above may be inflicted as principal punishments in themselves, the punishments specified in points 6-8 above being inflictible also as additional penalties in the case of every criminal act referred to the jurisdiction of a People's Court, even where the relevant legal statute does not stipulate the application as additional penalties the punishments specified in points 6-8 above. Any sentence passed may include the infliction of more than one additional penalty.

The minimum term of internment shall be six months, the maximum term two years.

Where the Order in Council stipulates the infliction of internment as punishment the minimum term of that internment shall be determined in its sentence by the People's Court. After expiration of the term fixed for the Court, however, an internee may be released from confinement in an internment camp only in the event of his conduct during the period of internment having been exemplary. Otherwise the authorities in control of the internment camp may prolong the confinement of the person sentenced to internment for a further period of six months. The maximum period of internment may not exceed two (2) years in such cases either.

With respect to the infliction, commutation and collection of fines the provisions of Act X of 1928 are to be duly applied.

A People's Court may instead of confiscating the whole property of a person who has been sentenced, decide also to confiscate a specified quota of the said property.

For the purpose of carrying into effect a sentence involving confiscation of property, a notification must be sent to the Public Revenue Directorate territorially competent to act in the matter, which shall proceed as prescribed by Ordinance of the Minister of Finance.

A person sentenced to discharge from office shall forfeit his public office and his position in the public service. He shall not forfeit his claim to a pension or lose the pension or bounty allowance enjoyed by him unless such forfeit is expressly determined in the sentence pronounced by the People's Court. The People's Court may determine to maintain intact the pension claims of those members of a sentenced person's family who are unprovided for.

Discharge from office may be decided also in the case of a private employee holding a leading position. Such decision shall not prevent the person sentenced from occupying a position not of a leading character.

A person forbidden to continue in his occupation (profession) may not exercise such occupation for a period of five years in that commune(parish) or those communes(partishes) specified as banned in the sentence of the People's Court.

Section 4

Paragraph 125 of the Regulations for the simplification of Judicial Procedure shall not be applicable.

Section 5

When determining punishment paragraphs 91 and 92 of the Criminal Code may be applied and, over and above the mitigations comprised in paragraph 92 of the Criminal Code, any of the milder penalties specified in paragraph 3 above may be applied too.

Section 6

Criminal procedure may be carried on also against accused persons who have escaped. subject to the restrictions contained in paragraph 2 of Section 12 of Act III of 1921, it not being necessary however to summon the persons in question by public notice, though the time appointed for the trial must be announced thirty days previously in the usual manner at the last places of residence of the said persons. Failure to do so cannot serve as a reason for annulling the procedure.

Section 7

A death sentence passed by a People's Court may be commuted by a pardon to hard labour(penal servitude) for life or for a specified term extending to 10-15 years.

The right of granting pardon(reprieve) with the Supreme National Council.

The Supreme National Council shall take its decision on the basis of a proposal of the Minister for Justice.

Section 8

The Ministerfor Justice may sanction a postponement of the beginning of the term of punishment or the interruption of a term of punishment already begun.

The remission of any part of the term of punishment not yet completed is a matter for the decision of the Supreme National Council in cases

where the persons sentenced have not yet completed two-thirds of their terms of punishment.

Where a person sentenced has already completed two-thirds of his term of punishment, the remission of the rest of his term of punishment rests with the Prime Minister, whose decision shall be taken on the basis of a proposal of the Minister for Justice.

Section 9

In the matter of prescription paragraph 106 of the Criminal Code is to be applied, it being hereby stipulated that in respect of actions committed between June 21st, 1941, and the conclusion of the Armistice the period of prescription shall be taken as beginning with the day on which the Armistice was concluded (January 20th, 1945)

In respect of political murders committed in 1919 and the following years - prosecution for which was prevented by the regime formerly in power - the period of prescription must be taken as beginning only on December 21st, 1944.

Section 10

The provisions contained in Act V of 1878 - provided they do not run counter to the present Order in Council - are to be duly applied.

Special Provisions

Section 11

As war criminals are to be regarded:-

1. Persons who by their activities or conduct in leading positions furthered the extension to Hungary of the war of 1939 or the constantly increasing measure of Hungary's participation in the war, or who failed to endeavour to prevent that issue, though the leading positions occupied by them in public offices or the roles played by them in the political, economic or public life of the country would have enabled them to do so;
2. Who as Members of the Government or of the Parliament or as public servants occupying leading positions initiated or - though they must have foreseen the consequences - took part in the passing of any resolution responsible for plunging the Hungarian people into the war of 1939;
3. Who endeavoured, either by force or by the use of their influence, to prevent the conclusion of an armistice;
4. Who by an act calculated to lead others assisted the "Arrow Cross" movement in its insurrection aimed at seizing the power or in its efforts to retain possession of that power, or who without being compelled to do so by threats endangering their lives accepted leading positions - on the basis of appointments made after the said seizure of the power - in the "Arrow Cross" Government, administration or National Defence organisation. (Leading position as used here means the offices of Minister, Chief Burgomaster, High Sheriff, Army Commander, Corps Commander, or positions of similar importance);
5. Who in respect of the treatment of the inhabitants of occupied territories or of prisoners of war committed serious breaches of the rules of international law relating to warfare or - abusing their power - committed atrocities against the inhabitants of reincorporated territories or who in general incited to, were themselves guilty of or took part in the unlawful execution or torture of human beings.

Section 12

Unless some other legal statute ordains the application to the act of a severer penalty, the severest penalties inflictible by a People's Court shall be:

sentence of death for any of the criminal acts specified in paragraph 1 of point 1 and in points 3, 4 and 5 of paragraph 11.

ten(10) years' penal servitude in the case of any of the criminal acts specified in paragraph 2 of point 1 of paragraph 11;

fifteen (15) years' penal servitude in cases coming under point 2 of paragraph 11.

Section 13.

As war criminals shall be regarded also;

1. Persons who agitated in favour of a more intensive continuation of the war by printed matter (by any writing multiplied in any form whatsoever), in speeches delivered before an assembly or by broadcasting;
2. Persons who offered assistance to any formation of a military character in the committal of any forcible act against any person or property;
3. Persons who assisted the "Arrow Cross" movement by actions not of a leading character to obtain possession of the power or to retain possession thereof;
or who by appointment received after the seizure of that power undertook any offices of importance other than those specified in paragraph 4 of Section 11 in the "Arrow Cross" administration or within the framework of the National Defence organisation;
4. Persons who, though Hungarian citizens, entered the German Army or any German security service (S.S., Gestapo, etc.);
5. Persons who supplied any German formation with information (data) injurious to the interests of the Hungarian people or functioned as spies (informers);
6. Persons who contributed materially (by pen or other intellectual activity) to further war propaganda.

Section 14.

Unless some other legal statute ordains the application to the act of a severer penalty, the severest penalties inflictible by a People's Court shall be:-

- three (3) years' imprisonment for any of the acts specified in point 1 of paragraph 13;
- two (2) years' imprisonment for any of the acts specified in points 2 and 3;
- five (5) years' imprisonment for any of the acts specified in points 4;
- three (3) years' imprisonment for either of the acts specified in point 5;
- One (1) year's imprisonment for the act specified in point 6.

In the case coming under point 2 of paragraph 13, where the forcible act in question involved physical injury to the victim that could only be cured in a period exceeding 20 days, the severest penalty shall be three (3) years' imprisonment and where the act in question caused the death of the victim, the severest penalty shall be ten (10) years' penal servitude.

In cases coming under point 4 of paragraph 13, in which the persons guilty of such acts took part in any forcible act against Hungarian nationals the severest penalty shall be ten (10) years' penal servitude, while the case of persons causing the death of a Hungarian national or fighting against Hungarian National Defence troops or by armed force preventing individuals or detachments from going over to the Red Army the severest penalty shall be sentence of death.

In cases coming under point 5 of paragraph 13 in which a denunciation resulted in a Hungarian national thereby denounced being murdered or presumably dragged out of the country, the severest penalty shall be fifteen (15) years' penal servitude, that penalty to be sentence of death in the case of a person who functioned systematically or for a reward.

Section 15

As guilty of a crime against the people shall be regarded:-

1. Any member of the Government(Ministry) or Parliament or public servant holding a leading office who initiated any legal statute(enactment) seriously injuring the people's interests or took part deliberately in the work of framing such enactment;
2. Any person who in the period subsequent to September 1st, 1939 in the course of his activity as a public official, in the course of carrying into effect laws or Orders aimed against certain sections of the people, exceeding the measure of activity prescribed him and took action, endangering or injuring personal liberty or involving physical injury or contributed to bring about the material ruin of individual persons;
3. Any public servant endowed with legal authority who consistently acted in his official capacity in an anti-democratic, pro-fascist manner.

Section 16

Unless some other legal statute ordains the application to the act in question of a severer penalty -

the severest penalty for any act coming under point 1 of paragraph 15 shall be five(5) years' penal servitude.

the severest penalty for any act specified in point 2 of paragraph 15 shall be three (3) years' imprisonment.

In cases in which the act specified in point 2 involved physical injury to the victims requiring for its cure a period exceeding 20 days, the severest penalty shall be five (5) years' imprisonment.

And in cases in which, as a consequence of the physical injury inflicted, the victims suffered the injury specified in Section 303 of the Criminal Code, the severest penalty shall be five (5) years' penal servitude;

The severest penalty for any act specified in point 3 of paragraph 15 shall be two(2) years' imprisonment.

Section 17.

As guilty of an offence against the people shall be regarded:-

1. Anyone who failed to endeavour to prevent the commitment of any of the acts specified in point 2 of paragraph 15, though he would have been able in the sphere of authority conferred on him by law to do so;
2. Anyone who in a fascist, anti-democratic party displayed an activity which, though of lesser importance, was nevertheless of a leading character;
3. Anyone who in print(in a writing multiplied in any form whatsoever), before an assembly, by broadcasting or in any other way publicly agitated in favour of the taking of measures injurious to the people or anti-democratic in character or who spoke or wrote in praise of such measures after they had been taken.
4. Anyone who without being compelled to do so contributed to further propaganda aimed against the people or anti-democratic in character;
5. Anyone who by his menacing conduct prevented the expression of any anti-fascist(anti-"Arrow Cross", anti-German, anti-war)opinion.

Section 18

Unless some other legal statute ordains the application to the said act of a severer penalty, the severest penalty inflictible by a People's Court shall be -

for the act specified in point 1 of paragraph 17, one (1) year's confinement.

for any of the acts specified in points 2 and 3 of paragraph 17, one (1) year's internment;

for any of the acts specified in points 4 and 5 of paragraph 17, one (1) year's confinement (as first-class misdemeanour)

Section 19

The criminal acts enumerated in the present Order in Council are to be prosecuted officially.

Jurisdiction and Competency

Section 20

The passing of judgment on the criminal acts specified in paragraphs 11, 13, 15 and 17 of the present Order in Council shall be within the jurisdiction of the People's Courts.

The jurisdiction of the People's Courts shall extend also to the criminal acts specified in Sections 1 - 5 of Act III of 1921, in Sections 58 - 59 of Act III of 1930, in Chapter IV of Act V of 1878, in paragraph 1 of Section 172 of Act V of 1878 (Section 19 of Act LXIII of 1912).

as well as to other criminal acts connected with those so far enumerated in the present Section, in particular to the criminal acts specified in Chapters XVIII, XX, XXI, XXII, XXXVI, XXXVII, XXXVIII, and XXXIX of Act V of 1878.

Section 21

In the case of the criminal acts specified in the closing paragraph of Section 20, in the absence of the connection referred to therein People's Courts have no jurisdiction unless the act be of a political character and unless the head of the Office of Public Prosecutions (Director of Public Prosecutions) designated in the Criminal Procedure regulations as competent to act shall on the proposal of the head of the People's Office of Public Prosecutions (Nepugyeszeg) approve of the case being referred to a People's Court.

Section 22

a People's Court may also take proceedings in cases of juvenile offenders. In such cases - apart from the measures specified in Article IV of Chapter II of Act XXXVI of 1908 - the penalties specified in Section 3 of the present Order in Council may also be applied though with the difference that sentences of death may not be inflicted, while imprisonment or penal servitude may be inflicted only on juvenile offenders already over 15 years of age.

Section 23

The question of competency shall be decided in accordance with the provisions contained in Chapter II of Act XXXIII of 1896.

In the event of a person under suspicion being suspected of several criminal acts committed in different places, the People's Public Prosecutor handling the affair shall refer the case - specifying the acts and any proofs that may be available - to the People's Office of Public Prosecutions (Nepugyeszeg) attached to the People's Court competent to act in the district where the suspect's place of residence is situated.

People's Office of Public Prosecutions/Nepugyeszeg: People's Attorneys).

Section 24

The prosecution in trials before People's Courts shall be in the hands of a People's Public Prosecutor. People's Public Prosecutors and their chiefs (heads of offices) shall be appointed by the Minister of Justice from among persons who have qualified as judges or lawyers or - where necessary - from among persons having taken the degree of doctor of law (LL.D) on nomination by or after consultation with the local National Committee. The Minister of Justice may at any time relieve People's Public Prosecutors (Attorneys) of their office.

During the term of their activity People's Public Prosecutors - unless already appointed as Public Prosecutors - shall receive the emoluments due to judges and public prosecutors in Section 4 of Group 1 (classification adjusting scale of salaries)

People's Public Prosecutors may not carry on any other profession (occupation) yielding earnings.

The appointment of Public Prosecutors is only temporary. When relieved of office - unless appointed public prosecutors by the Minister of Justice, they shall receive, by way of global composition, three months' salary.

People's Public Prosecutors - unless they have already been sworn in as public prosecutors - shall have administered to them by the competent Chief Public Prosecutor the oath prescribed in Section 2 of Order in Council No. 17/M.E. ex 1945.

Section 25

In respect of the right of supervision of the Minister of Justice the provisions of Section 5 of Act XXXIII of 1871 and of Ordinance No. 4600/I.M. ex 1899 of the Minister of Justice and the legal rules supplementing the same are to be applied.

Section 26

People's Public Prosecutors (attorneys) must sign with their own hands all indictments and decisions drafted by them which must be countersigned by the head of the respective People's Public Prosecutor's Office. No decision or indictment may be issued which has not been counter-signed (endorsed)

A People's Public Prosecutor is personally responsible for all decisions (findings) signed by him. For decisions (findings) which have been countersigned the responsibility devolves on the respective Chief Public Prosecutor (Chief People's Attorney).

Section 27

The President of the High Court of Justice and the Chief Public Prosecutor shall jointly nominate the auxiliary staff of the People's Public Prosecutor's (Attorney's) Office from among the members of the auxiliary staffs (clerks) of the courts and public prosecutions office respectively.

Section 28

The President of the High Court of Justice and the Chief Public Prosecutor shall likewise jointly designate the premises to be used by the People's Public Prosecutor's Office (Attorney's), doing so in a manner providing that the same shall as far as possible be situate in the vicinity of the courts. the

Section 29

Investigations shall be carried out as provided in Sections 83 - 86 of the Criminal Procedure Regulations.

Section 30

The rights (duties) specified in Chapter XII of the Criminal Procedure Regulations as due to (incumbent upon) a police magistrate (coroner) shall be in force in the case of People's Prosecutors (Attorneys)

Section 31

A People's Prosecutor may not take note of a denunciation, unless the person making such denunciation communicates his (her) full address and appends his (her) signature. No account must be taken of a denunciation made without these stipulations being observed or under a false name, such being manifestly without foundation.

Denunciations made orally shall be recorded by the People's Public Prosecutor in a protocol containing the name and address of the denouncer, the facts

upon which the denunciation is based and the evidence relating thereto. The denouncer must be made to sign the denunciation.

In cases of denunciations made to the People's Public Prosecutor's Office no proceedings can be taken against the denouncers for an act coming under Section 20 of Act XLI of 1914. This provision shall not prejudice the application of Chapter XIII of the Criminal Code.

Section 32.

Cases referred in terms of point 2 of Section 10 of Order in Council No.15/M.E. ex 1945 to the jurisdiction of a People's Court must be submitted to the respective People's Public Prosecutor's Office. The procedure taken, in cases thus referred to him, by a People's Public Prosecutor shall be the same as that followed in cases originating from denunciations.

Section 33

Previous arrest(taking into custody) is to be ordained by a People's Public Prosecutor in the cases specified in Section 141 of the Criminal Procedure Regulations.

There is no appeal against a warrant of previous arrest.

Where a People's Public Prosecutor has failed within 30 days to bring an accused person before a People's Court for trial of his case or fails to submit an indictment to the People's Court within the same period, the person in previous custody must be released or the papers referring to the case submitted without delay to the People's Court. The People's Court is required to decide within three days whether the person under arrest shall be kept in custody or not. A People's Court may on the proposal of the People's Public Prosecutor concerned prolong the period of previous arrest by 30 days. While the trial proper is in progress the previous arrest may be prolonged until the People's Court has taken a final decision. The period of previous arrest thus prolonged, i.e. until the taking of a final decision by the People's Court - may not exceed altogether six (6) months.

However, should a People's Court - by intermediate finding fully motivated - establish the guilt of an accused person in respect of any criminal act figuring in the indictment the period of previous arrest may be prolonged for a further six (6) months.

The period of previous arrest prolonged after the publication of such finding of a People's Court shall last until the passing of the final judgment in the case in question.

Section 34

A people's Public Prosecutor shall either submit an indictment or, in cases of minor importance, shall - duly applying the provisions of Sections 107 -108 of the Regulations for the Simplification of Criminal Procedure - bring the accused before a People's Court.

Section 35

Of intermediate procedure there can be no question.

Section 36

In respect of the defence of the accused the provisions of Chapter V of the Criminal Procedure Regulations must be applied.

People's Courts

Section 37

A People's Court must be set up at the seat of each High Court of Justice (Court of Law).

The Minister of Justice may ordain the formation of more than one Council within the framework of any single People's Court.

Section 38

Premises suitable for the holding of trials by the People's Court shall be designated by the President of the High Court of Justice.

Section 39

A People's Court Council shall consist of 5 Members.

Within 8 days of the coming into force of the present Order in Council the local organisations of the five political Parties (Democratic Bourgeois Party, Independent Smallholder Party, Hungarian Communist Party, National Peasant Party, Social Democratic Party) amalgamated in the Hungarian National Independence Front shall nominate 5 Members for each of the People's Court Councils which the Minister of Justice shall have ordered to be formed in the place (township) in question. The High Sheriff shall within a further period of 8 days from the presentation of the lists of Members - on the basis of a proposal submitted by the local National Committee - designate from each list of names one Ordinary and one Supernumerary Member. In this way each of the five political Parties specified above will be represented in the People's Court Councils by one Ordinary and one Supernumerary Member respectively. In the event of any Ordinary Member of a Council being prevented from attendance, the Supernumerary Member belonging to the same Party shall be called in.

No one may be appointed judge of a People's Court who has been sentenced for a crime, for an offence committed for lust of gain or for any act of a fascist character. In applying the present Order in Council persons sentenced for anti-fascist acts or for any of the acts specified in the Jewish Laws must not be considered as "not having clean records".

To the lists submitted by the political Parties must be annexed written declarations of the candidates in which in full cognizance of their responsibility under criminal law they state that they are persons possessing clean records as interpreted in terms of the present provision.

In the event of any of the political Parties enumerated above not functioning actively at the seat of a People's Court to be set up, the High Sheriff shall fill the vacant offices of Ordinary and Supernumerary Member by nomination from among the 5 persons recommended by some other Democratic Party or Parties not figuring in the enumeration - or, in the absence of such Party, from among non-Party persons who must nevertheless be politically reliable - in this case too after consultation with the National Committee.

A person nominated for the office of Member of a People's Court may not refuse to accept nomination.

Members and Supernumerary Members of People's Courts may after functioning for three months ask to be relieved by the High Sheriff, who shall nominate the new Members and Supernumerary Members by the procedure specified in the present section.

Section 40

Members of People's Courts receive for each day of a trial the daily fees appointed by the Minister of Justice. At present the amount of such fees is 20 pengő for each day of a trial. No fees are due for extra-trial sittings.

All expenses - including the cost incidental to visits to the scenes of crimes, etc. - are to be advanced on behalf of the Treasury by the local government body to whose jurisdiction the seat of the People's Court in question belongs.

Section 41

Should both the Ordinary and the Supernumerary Member (representing a particular Party) be permanently prevented from attendance, the High Sheriff shall designate a new Ordinary and Supernumerary Member from among the five members recommended by the Party concerned.

Section 42

The Minister of Justice shall designate a professional (juridically qualified) judge to direct the work of each Council (referred to hereinafter as "head judge" as well as a deputy judge.

Procedure of People's Courts

Section 43

The preparations for a trial (summoning of accused and witness, notification of members and supernumerary members of the respective Council) are to be made by the head judge, whose business it is also to designate a recorder of proceedings from among the members of the clerical staff of the courts functioning at the seat (of the People's Court).

Section 44

The minutes of proceedings are to be recorded as provided in Sections 331-332 of the Criminal Procedure Regulations and of Section 113 of the Regulations for the Simplification of Judicial Procedure.

Section 45

People's Judges shall take an oath (make a vow) before the opening of the first trial. The oath shall be administered by the head judge. The text of the oath shall be as prescribed in Section 1 of Ordinance No. 45, O.C./I.M. ex 1945. Where a vow (solemn declaration) is made, the text of the oath shall be modified as provided in paragraph 3 of Section 8 of Order in Council No. 15/M.E. ex 1945.

Section 46

The exclusion of a head judge, a People's Judge, a recorder of proceedings or a People's Public Prosecutor shall be subject to the stipulations contained in Chapter VI of the Criminal Procedure Regulations.

Section 47

Proceedings shall be directed by the head judge in accordance with the provisions of the Criminal Procedure Regulations relating to trials.

After the head judge the People's Judges, the People's Public Prosecutor and counsel for the defence may address questions to the accused and witnesses - the accused being also entitled to address questions to the witnesses.

Section 48

A People's Court may before the work of taking evidence has been finally completed taken an intermediate decision in respect of any criminal act which appears to be proven establishing the guilt of the accused. Such decisions - taken in conformity with the procedure prescribed for the passing of sentences - shall be taken by a People's Court only in cases where the accused is under arrest and it seems probable that the trial cannot be concluded in respect of all the acts included in the indictment before the expiration of the maximum period (6 months) of arrest. Intermediate decisions must be motivated by the People's Court.

The previous (preventive) arrest of an accused person cannot be prolonged on the basis of an intermediate decision, unless it is to be presumed that the sentence to be passed in the case in question will inflict on the accused a punishment of not less than one (1) year's imprisonment.

There is no appeal against an intermediate decision (finding).

A People's Court may pass the sentence to be pronounced in such a case without regard to the intermediate decision.

Section 49

After the taking of evidence has been concluded the council in question shall withdraw for the purpose of taking its decision. The discussion for that purpose shall be behind closed doors, only the People's Judges, the head judge and

the recorder of proceedings being present.

At this discussion the head judge shall sum up the results of the trial and shall offer expert information respecting the provisions of laws or Orders respectively that are to be applied and respecting the kinds of - and measure of - the penalties that may be inflicted. The head judge is required to submit a fully motivated opinion also on the question as to what criminal acts the evidence produced at the trial seems to prove the accused to have committed. He is forbidden however to express any opinion as to which kind or measure of penalty he would himself inflict as a judge administering justice.

The Council shall first decide what criminal act or acts the accused may be proved to have committed.

The order of voting shall be determined by the respective ages of the People's Judges, the oldest voting first and the youngest voting last. The head judge has no vote.

After a decision has been taken on the question of guilt the head judge shall once more offer the People's Judges information as to what kinds and what measure - of penalties may be inflicted for the criminal acts already determined as committed. The People's Judges shall vote - in the order specified above - respecting the kind(form) and measure of penalty to be inflicted.

Should the majority of three votes(opinions) of the like tenor required for the taking of a decision not be forthcoming, the head judge is authorised to endorse the opinion of two People's Judges in agreement on the question(casting vote). Except in such cases the head judge is not entitled to vote.

No minutes need be recorded of the voting, unless the head judge thinks it necessary to do so.

The sentence shall be drafted by the head judge in conformity with the legal measures in force.

Section 50

In the event of the head judge feeling convinced that the People's Judges have taken their decision in a manner contravening essential provisions of the laws or of the present Order in Council and of there being no appeal against the decision, the head judge may address to the Supreme Council of People's Courts on behalf of the accused fully motivated representations placed in a sealed envelope. The head judge may not make public any such resolve taken by him and the representations made by him shall not have the effect of delaying further procedure.

Section 51

Sentences inflicted by a People's Court or the Supreme Council of People's Courts shall be pronounced by them "IN THE NAME OF THE HUNGARIAN PEOPLE"

Section 52.

Apart from the cases enumerated in the Criminal Procedure Regulations, the sentence proper(that prescribing the penalty inflicted) when it has become valid in law(final) must be communicated to the People's Office of Public Prosecutions (People's Attorney's Office) to the Central Criminal Record Office, to the municipal (parish) authorities to those jurisdiction the place of residence of the person sentenced thereby belongs, to the Central(Election)Committee and to the Housing Office.

Appeals

Section 53

Against a sentence of a People's Court inflicting the death penalty, the confiscation of the accused's entire property, forfeit of office, imprisonment for a term exceeding three years or a fine exceeding 20,000 pengő in amount, an appeal may be made by the person thus sentenced to the Supreme Council of People's Courts(N.O.T.)

An application for legal address filed by a person sentenced - in whatever form or terms such application may be made - is to be regarded as an appeal.

Apart from the procedure described in Section 6 of the present Order in Council, the counsel for the defence is not entitled to file an independent appeal.

A People's Public Prosecutor may appeal in all cases either against the acquittal of the accused or for the infliction of a severer penalty. An appeal filed by a People's Public Prosecutor may lead to a modification of the sentence in favour of the person sentenced.

A People's Public Prosecutor is entitled to join the appeal made by a person who has been sentenced by protesting himself against the sentence as not sufficiently severe (Section 29 of Act X of 1928).

In other respects appeals are subject to the provision of Section 388 of the Criminal Procedure Regulations.

Chief People's Public Prosecutor

(Attorney)

Section 54

The Chief People's Public Prosecutor or his Deputy shall conduct the prosecution before the Supreme Council of People's Courts.

Only persons qualified by examination as judges or lawyers may be Chief People's Public Prosecutor or Deputies of the same: these functionaries shall be appointed by the Government on the proposal of the Minister of Justice.

The Chief People's Public Prosecutor shall receive the emoluments due to judges and public prosecutors in Grade 1 of Group III, his Deputies those due to judges and public prosecutors in Grade I of Group II; unless they are in receipt of higher salaries due to them as holding other offices in the public service.

Sections 24, 25 and 26 of the present Order in Council are to be duly applied to the Chief People's Public Prosecutor and his Deputies.

Section 55

The Chief People's Public Prosecutor may withdraw any appeal or agreement to an appeal filed by a People's Public Prosecutor.

The legal statutes relating to the Chief Public Prosecutor and his Deputy are to be duly applied to the Chief People's Public Prosecutor and his Deputies.

Supreme Council of People's Courts

(N.O.T.)

Section 56

The sentences (findings) of People's Courts against which applications for legal redress have been made shall be referred for re-consideration to the Supreme Council of People's Courts.

The proceedings of the Supreme Council of People's Courts shall be taken by Councils of five members each, the number of such Councils to be determined by the Minister of Justice.

The seat of the Supreme Council of People's Courts shall be at all times that of the Government.

Section 57

The central management of each of the political Parties enumerated in Section 39 of the present Order in Council shall delegate to sit on each of the Councils to be formed as permanent Member thereof, a person with a clean

record(paragraph 3, of Section 39) who has qualified by examination as judge or lawyer. The Minister of Justice shall entrust one of the Members of each Council so constituted to act as President(head judge) of the Council.

Each several political Party shall nominate a supernumerary Member irrespective of the number of Councils.

The Parties are not entitled to withdraw the mandates of the members and supernumerary members nominated as Members of a Council.

During the term of office of the Council the members and supernumerary members designated to act as Presidents(head judges) shall receive emoluments corresponding to those due to judges and public prosecutors in Grade I of Group III, unless they are as public servants in receipt of higher emoluments.

Ordinary and supernumerary members may not engage in any other profession(occupation)yielding earnings.

In respect of the taking of an oath by the members and supernumerary members the provisions of Section 45 are to be applied, the oath(vow) in these cases to be administered by the President of the Supreme Council of People's Courts.

Section 58

The Supreme Council of People's Courts shall be under the direction of a President appointed by the Minister of Justice. His emoluments shall be as provided in paragraph 4 of Section 57.

The President shall be responsible for all agenda incidental to the administration of the Supreme Council of People's Courts(calling in of supernumerary members distribution of cases, acceleration of procedure, etc.)

Section 59

The recorder(clerk) of the Supreme Council of People's Courts shall be a judge or clerk of a court of law attached to the Council by order of the Minister of Justice.

Section 60

With respect to the procedure in cases brought before the Supreme Council of People's Courts the provisions of Section 33 of Act X of 1928 are to be duly applied, the Council being, however, entitled to take ^{the} evidence itself or to request at its discretion any court of law to take the evidence. An accused person under previous(preventive)arrest need not be summoned to appear at the discussion of his case or during the recording of the evidence, unless the Council so ordains. The accused and the counsel for the defence must however be informed of the discussion(trial of his case) and of the taking of evidence, though the fact that such notification has not been made cannot serve as ground for the procedure to be repeated.

Section 61

The decision of the Council respecting the representations(report)submitted by a head judge(Section 50) shall be taken in secret session(behind closed doors)

The Council shall take one or other of the following decisions:-

1. to take no account of the representations, or
2. to ordain the production of proofs and for the purpose of taking the evidence -
 - (a) to fix a time for the trial, or
 - (b) delegate a Member of the Council, or
 - (c) to request a court of law to do so, or
3. to quash the sentence of the People's Court and refer the case for re-trial either to the same People's Court or to another People's Court designated by it, or

4. to amend the sentence of the People's Court, in favour of the accused.

In the cases specified in sub-points(b) and (c) of Point 2 the Council shall, after evidence has been taken, decide in full session.

Section 62

In the matter of an appeal filed by an accused person(defendant) or of the decision of a People's Public Prosecutor to join such appeal the Supreme Council of People's Courts shall decide as provided in Article II of Chapter XX of the Criminal Procedure Regulations.

The Supreme Council of People's Courts shall subject to re-consideration the whole of a sentence referred to its decision by the filing of an appeal.

Re-trial Section 63

After a sentence has become valid in law application may be made for re-trial.

In respect of a re-trial Chapter XXI of the Criminal Procedure Regulations are to be duly applied, it being postulated hereby, however, that there may be no re-trial aimed at prejudicing the position of a person who has been sentenced within two years of the sentence becoming valid in law.

Sundry Provisions Section 64

Unless the present Order in Council warrants other measures, Act XXXIII of 1896 and the laws and ordinances respectively supplementing the same must be duly applied.

Section 65

The procedure to be followed in carrying into effect the confiscation of property under the present Order in Council shall be determined by Ordinance of the Minister of Finance.

Section 66

Questions of procedure and organisation arising during the carrying into effect of the present order in Council shall be adjusted by Ordinance of the Minister of Justice.

Section 67

A People's Public Prosecutor may issue for the purpose of presentation to the local Housing Office a certificate showing that the person requesting the issue of the same is not having proceedings taken against him before the People's Court.

Section 68

The present Order in Council shall come into force immediately on publication.

(Signed) Bela Dalnoki Miklos
Prime Minister.

Debrecen, January 25th, 1945.

Annex II of ACT VII of 1945

Order in Council No. 1440/M.E. ex 1945 of the Provisional National Government

(of the Amendment and Supplementation of Order in Council No. 81/M.E. ex 1945 issued in re Jurisdiction by People's Courts).

In re the amendment and supplementation of Order in Council No. 81/M.E. ex 1945 (of Jurisdiction by People's Courts) issued by them by virtue of the powers vested in them on December 22nd, 1944, by the Provisional National Assembly, the Provisional National Government ordain as follows:-

Section 1

Section 3 of Order in Council No. 81/M.E. ex 1945 shall become invalid and shall be replaced by the following provisions:-

The kinds (forms) of penalties inflictible by a People's Court shall be:-

1. sentence of death;
2. forced labour;
3. penal servitude;
4. imprisonment;
5. fines
6. confiscation of property;
7. forfeiture of office or prohibition to engage in one's occupation (profession)
8. suspension of exercise of political rights.

The penalties enumerated sub-points 1 - 4 of the foregoing paragraph shall be principal (primary) penalties or punishments; those enumerated sub-points 5 - 8 being subsidiary (secondary) penalties; the latter may be applied (enforced) in the event of their application not being ordained by the legal statute relating to the criminal act in question. The application of the secondary penalty specified in point 8 shall be obligatory in all cases in which the accused person is condemned. Several secondary penalties may be applied (enforced) against one and the same person sentenced.

Death sentences by hanging or shooting must be executed in enclosed places, though not to the exclusion of the public.

Forced labour may be inflicted for life or for an indefinite period. In the latter case the legal statutes relating to compulsory labour in public works prisons (penitentiaries) must be enforced in respect of the term and the conditions governing eventual release. Persons sentenced to forced labour must be placed in labour camps. The detailed regulations relating to the carrying out of such sentences shall be drafted by the Minister of Justice in agreement with the Minister of the Interior.

In the matter of inflicting, commuting and collecting fines the provisions of Act X of 1928 are to be duly applied.

A People's Court may stipulate the confiscation of a specified quota of the property or of certain items of the property instead of the total property of a person sentenced.

A sentence pronouncing confiscation of property must for the purpose of its being carried into effect be communicated to the inland revenue office territorially competent to act, which shall proceed as provided by Ordinance of the Minister of Finance.

A person sentenced to forfeiture of office shall lose the post held by him in the public service. He shall not forfeit his claim to a pension or his pension or bounty allowance, unless the People's Court expressly includes in its sentence a stipulation to that effect. The claim to pension allowances of the dependents of a person who has been sentenced may be maintained intact by a People's Court; in that case, when determining the amount of pension allowances claimable, the person sentenced must be regarded as subject to the same criteria as a person deceased on the day on which the sentence became valid in law. Forfeiture of office may be pronounced also in the case of a private employee holding a leading position. The pronouncement of this sentence shall not prevent the person thus sentenced from filling in the future a non-leading position in some private employment.

A person who has been sentenced to forfeiture of office may not subsequently - as provided by the stipulation to be made in its sentence by the People's Court - be employed in a public office or in a leading post in private employment at all or at least not for a specified period of time.

- 1 -

A person forbidden to engage in his occupation (profession) may not within a period of five years continue to engage in that occupation (profession) in the locality or localities expressly banned by the sentence of the People's Court.

The pronouncement of forfeiture of office or of a prohibition to engage in an occupation involves also the consequences specified in Points 3 and 4 of Section 55 of the Criminal Code -- the term for which those consequences are to be in force being determined in its sentence by the Court.

Where a criminal action involved the person suffering or his legal assign(s) in a critical situation, a People's Court may in its sentence require the person sentenced for such criminal act, if the owner of adequate means or the receiver of a sufficient income, to restore the undisputed loss or losses in a quota thereof; any claim in civil law exceeding the amount thereof may be recovered by ordinary legal process.

Section 2

Section 5 of Order in Council No. 81/M.E. ex 1945 shall lose its validity and be replaced by the following provisions:-

Regarding the infliction of penalties the regulations hereinafter following shall be in force:-

A death sentence may be inflicted in cases in respect of which the death penalty is prescribed for the criminal act in question by the criminal laws or the present Order in Council and where the death penalty is the only sentence proportionate to the objective gravity of the criminal act and to the degree of the subjective guilt of the accused. The provisions of Section 32 of the Criminal Code may not be applied in procedure before a People's Court.

Where the present Order in Council determines various forms of punishment by imprisonment as applicable to any particular act, the most severe form of punishment by imprisonment determined as applicable to the act must be inflicted for the longest term permissible or a sentence of approximately such severity must be pronounced, in the event of the aggravating circumstances preponderating numerically or in respect of their relative importance (Section 90 of Criminal Code).

The shortest term of the mildest form of punishment by imprisonment applicable to the act in question which has been fixed in the present Order in Council must be actually or approximately applied in the event of the extenuating circumstances preponderating numerically or in respect of their relative importance. (Section 91 of Criminal Code)

If the extenuating circumstances are of such importance or so numerous that even the shortest term of the mildest form of punishment determined as applicable to the act in question which has been fixed in the present Order in Council would be disproportionately severe, the shortest term of the mildest form of punishment determined in the Criminal Code may be inflicted. A milder form of punishment may not be applied simply by reference to Section 92 of the Criminal Code.

Penal servitude may be inflicted instead of forced labour only in cases where the accused persons are by reason of their age or state of health unfitted for forced labour.

Section 3

Section 7 of Order in Council No. 81/M.E. ex 1945 shall lose its validity and be replaced by the following provisions:-

The right of granting a pardon (reprieve) may not be exercised only in respect of a sentence of death and only if appealed for by the condemned person or the counsel for the defence -- except in the case of a general amnesty. A sentence of death may be commuted by reprieve to forced labour for life or, in the case of physical unfitness, to confinement for life in a convict prison.

The right of granting a pardon (reprieve) is reserved for the Supreme National Council.

Decisions of the Supreme National Council are taken on the basis of proposals

made by the Minister of Justice. The Minister of Justice shall submit his proposals in cases of appeal for a reprieve within two days of his receiving the papers relating to the case in question; and the Supreme National Council shall decide respecting an appeal for a reprieve within five days of the receipt of the appeal.

If the Supreme Council of People's Courts unanimously finds itself unable to recommend a condemned person as deserving a reprieve, it shall itself within its own jurisdiction and without forwarding the same for consideration to any other quorum reject his appeal for a pardon.

Section 4

Section 8 of Order in Council No.81/M.E. ex 1945 shall lose its validity and be replaced by the following provisions:-

With respect to any postponement of the carrying into effect of a sentence of imprisonment the provisions of Section 507 and of Paragraph 1 of Section 508 of the Criminal Procedure Regulations must be applied. The provisions of Paragraph 2 of Section 508 and Section 509 of the Criminal Procedure Regulations may not be applied. The right of deciding in the matter of a postponement shall rest with the Minister of Justice.

An interruption of the carrying into effect of a sentence of imprisonment may be ordained only in the event of a re-trial (Section 453 of the Criminal Procedure Regulations) and only by a People's Court. Sections 468 and 513 of the Criminal Procedure Regulations may not be applied.

Section 5

Paragraph 2 of Section 9 of Order in Council No.81/M.E. ex 1945 shall become invalid and be replaced by the following provisions:-

The period of prescription of political crimes (criminal acts) committed in the year 1919 and subsequently which resulted in loss of life, as well as of those criminal acts committed by way of the Press, the factual substance of which is determined in the present Order in Council - acts the punishment of which was impeded by the regime then in power - shall begin as from December 21st, 1944.

Section 6

Point 5 of Section 11 of Order in Council No.81/M.E. ex 1945 shall be replaced by a provision stipulating that those persons too are to be regarded as war criminals who -

5. In respect of their treatment of the inhabitants of occupied territories or of prisoners of war committed flagrant breaches of the rules of international law relating to war or who, abusing the power entrusted to them, behaved cruelly to the inhabitants of re-incorporated territories or who, in general, either at home or abroad, instigated, committed or took part in unlawful executions or torture of human beings.

Point 6 of Section 11 of Order in Council No.81/M.E. ex 1945 shall be supplemented by the provision that those persons too are to be regarded as war criminals who -

6. in print (in a writing multiplied in any manner whatsoever), in speeches delivered before assemblies or by broadcasting for any length of time engaged in a continuous and permanent activity calculated to seriously influence public opinion in favour of the country entering the war or an intensification of hostilities and to lead that public opinion into a course of action detrimental to the country's interests.

Section 7

Section 12 of Order in Council No.81/M.E. ex 1945 shall become invalid and be replaced by the following provisions:-

The following penalties may be inflicted as primary (chief) penalties for the acts enumerated in Points 1-6 of Section 11:-

- a) sentence of death, or
- b) forced labour for life - in cases of physical unfitness confinement for life in a convict prison - or,
- c) forced labour, the shortest term of which may not be less than ten years, - in cases of physical unfitness confinement in a convict prison for a term of 10-15 years.

Section 8

Point 1 of Section 13 of Order in Council No.81/M.E. ex 1945 shall be supplemented as follows: as a war criminal coming under this Point shall be regarded also a person who agitated in the manner specified therein in favour of entering the war.

Point 7 of Section 13 of Order in Council No.81/M.E. ex 1945 shall be supplemented as follows: as a war criminal shall be regarded also a person who

7. in any form whatsoever displayed or displays, furthered or furthers, an activity calculated to obstruct or undermine the post-war peace or co-operation of the peoples or to become the source of an international scandal

Section 9.

Section 14 of Order in Council No.81/M.E. ex 1945 shall become invalid and be replaced by the following provisions:-

The following penalties may be inflicted as primary(chief) penalties for the acts enumerated in Points 1-7 of Section 13:-

- a) sentence of death, or
- b) forced labour for life - in cases of physical unfitness confinement for life in a convict prison -, or
- c) forced labour, the shortest term of which may not be less than five years - in cases of physical unfitness confinement in a convict prison for a term of 5-15 years, or
- d) imprisonment for a term of 5-10 years.

Section 10

Section 15 of Order in Council No.81/M.E. ex 1945 shall be supplemented by three additional Points(4,5 and 6), stipulating that those persons too are to be regarded as guilty of anti-democratic crimes who -

4. in print(in a writing multiplied in any manner whatsoever), in speeches delivered before assemblies(public speeches) or in broadcasting for any length of time engaged in a continuous and permanent activity calculated to seriously influence public opinion either for the purpose of propagating and strengthening fascist and anti-democratic tendencies or with the object of arousing or keeping alive racial or denominational(religious) hatred and to lead that public opinion into a course of action detrimental to the country's interests);

5. acted as informer to any official organ, party or social organisation serving the objects of fascist or anti-democratic endeavours or of the persecution of certain sections(classes) of society or supplied such with data;

6. by exploiting for their own ends the instruments of power of the fascist and anti-democratic régime committed criminal acts against public morality, property of personal liberty.

Section 11

Section 16 of Order in Council No.81/M.E. ex 1945 shall become invalid and be replaced by the following provisions:-

Unless some other legal statute prescribes the application to the act in question of a severer penalty, the following penalties may be inflicted as primary (chief) penalties for the acts enumerated in Point 1-6 of Section 15:-

- a) forced labour, the term of which may not be less than five years - in cases of physical unfitness confinement in a convict prison for a term of 5-10 years, or
- b) imprisonment for a term of 5-10 years.

Section 12

Section 17 of Order in Council No.81/M.E. ex 1945 shall become invalid and be replaced by the following provisions:-

As guilty of a crime against the people (an anti-democratic crime) shall be regarded also persons who -

1. made no attempt to prevent the committal of any of the acts specified in Point 2 of Section 15, though they had it in their power in the sphere of activity entrusted to them by law to do so;
2. without any coercive measures having been taken either directly or indirectly to compel them to do so, joined as members the Volkstund organised in Hungary by the Germans or accepted offices in any fascist or anti-democratic party, organisation or formation or as members of such functioned actively;
3. (the cases specified in point 6 of Section 11 and in point 4 of Section 15 respectively excepted) in print (in a writing multiplied in any manner whatsoever), before assemblies, by broadcasting or in any other way publicly agitated in favour of the introduction of measures injurious to the people or anti-democratic in character or spoke or wrote in favour of such after they had been taken;
4. without being coerced into doing so contributed to further propaganda aimed against the people or anti-democratic in character;
5. by their conduct prevented the expression of any anti-fascist (anti-"Arrow Cross", ~~anti-German~~, anti-war) opinion.
6. in respect of any of the acts enumerated in Section 11, 13 and 15 or in the present Section - the case specified in Section 378 of the Criminal Code being excepted - were guilty of compounding a felony as specified in Section 374 or Section 375 of the Criminal Code;
7. though having knowledge of someone having been guilty of or taken part in an execution or torture connected with (resulting from) an act coming under Point 5 of Section 11, fails to immediately report (denounce) that person to the authorities.

Section 13

Section 18 of Order in Council No.81/M.E. ex 1945 shall become invalid and shall be replaced by the following provision:-

Unless some other legal statute prescribes the application to the act in question of a severer penalty, imprisonment, for a term of 2-5 years may be inflicted as primary (chief) penalty for the acts specified in Points 1-7 of Section 17.

Section 15

Section 21 of Order in Council No.81/M.E. ex 1945 . shall become invalid and shall be replaced by the following provisions:-

In respect of the criminal acts enumerated in the closing paragraph of Section 20 - in the absence of the connection referred to therein - a People's Court shall not have jurisdiction, unless the act in question is of a political character.

Should there be a divergence between the opinion of the public prosecutor's

département competent to act under the Criminal Procedure Regulations and the People's Office of Public Prosecutions respectively as to whether the act in question is of a political character or not, the decision shall rest with the Chief Public Prosecutor.

Section 15

Section 22 of Order in Council No. 81/M.E. ex 1945 shall become invalid and shall be replaced by the following provisions:-

People's Courts shall also take proceedings in criminal cases of juvenile offenders.

Should a juvenile offender have committed the act in question after the completion of his fifteenth year, the penalties enumerated in Section 3 may also be inflicted over and above the measures specified in Article IV of Chapter II of the Criminal Procedure Regulations. Nevertheless, sentence of death may only be passed if the juvenile offender concerned had at the time the act in question was committed, already completed his sixteenth year.

The secondary penalties enumerated in points 5-7 of Section 3 may be applied also in the case of juvenile offenders who have not yet completed their fifteenth year.

In proceedings before a People's Court no recourse may be had to reprimand and release on trial when dealing with a juvenile offender.

Section 16.

The provisions of the present Order in Council contained in the foregoing Sections must be applied retrospectively also in those cases still under consideration in which no final judgment (valid in law) have been passed when the present Order in Council comes into force.

Section 17

Section 33 of Order in Council No. 81/M.E. ex 1945 shall be supplemented by the provisions that a People's Court too may ordain a previous (preventive) arrest and that a previous arrest may be extended on more than one occasion.

Section 18

In Budapest only one People's Court shall function, its jurisdiction to extend to the spheres of jurisdiction of the Budapest Criminal Court and the Pest District Court.

Section 19

Sections 39 and 41 of Order in Council No. 81/M.E. ex 1945 shall become invalid and shall be replaced by the following provisions:-

Local organisations of the people's Court Council shall comprise six members.

The local organisations of the five political Parties (Independent Smallholder Party, Hungarian Communist Party, National Peasant Party, Bourgeois Democratic Party, Social Democratic Party) united in the Hungarian National Independent Front and the local organisation of the Trade Unions Council shall - within eight days of the coming into force of the present Order in Council - nominate one Ordinary and two Supernumerary Members each to sit on each of the Councils the organisation of which has been ordained by the Minister of Justice. A People's Court Council shall be formed of the Ordinary Members nominated for the purpose. In the event of any Ordinary Member of a People's Court Council being prevented from attending sittings of his Council, the head judge shall call in the first of the Supernumerary Members on the list of that Party (Trade Union) of which the person prevented from attending is a Member. In the event of the said Supernumerary Member too being prevented from attending, the Supernumerary Member second on the respective list of nominees shall be called up, while in the event of his being prevented too a new nomination must be made.

No one may function as a People's Judge who had been sentenced for a crime, for an offence committed for lust of profit or for any act of a fascist character. In applying the present Order in Council persons sentenced for anti-fascist acts or for any of the acts specified in the so-called Jewish Laws must not be considered as "not having clean records".

When making nominations, declarations of the Members and Supernumerary Members thus delegated must be submitted in which, in full cognizance of their responsibility under criminal law they state that they are persons possessing clean records as interpreted in terms of the foregoing paragraph.

In the event of any of the political Parties amalgamated in the Hungarian National Independence Front not functioning actively at the seat of a People's Court, the vacant offices of Ordinary and Supernumerary Members shall be filled by the head judge, by drawing lots, from among the 5 persons recommended by each of the Parties functioning actively.

Persons nominated as Members or Supernumerary Members may not refuse to accept office.

The term of office of Members and Supernumerary Members shall be three months, but is renewable.

Section 20

Section 49 of Order in Council No.81/M.E. ex 1945 shall be amended as follows: the head judge may not express an opinion as to whether the committal of a criminal act is proven or not, unless requested to do so by at least one Member of the Council, while in the event of an equality of votes the head judge shall also vote (Section 49 Paragraphs 2 and 6)

Section 21

Section 53 of Order in Council No.81/M.E. ex 1945 shall become invalid and shall be replaced by the following provisions:-

Against a sentence of a People's Court the People's Public Prosecutor may appeal against the sentence passed (for greater severity to be applied). On the basis of an appeal filed by a People's Public Prosecutor a sentence may be modified also in favour of the person sentenced.

A person sentenced by a People's Court is not entitled to appeal at all in the event of his being declared guilty of any of the acts coming under Points 1-6 of Section 11, and may only appeal in other cases against a sentence of death or of imprisonment for a term exceeding five years.

An application for legal redress filed by a person sentenced - in whatever form or terms such application may be made is to be regarded as an appeal.

Apart from the procedure described in Section 6, the Counsel for the Defence may file an appeal only with the consent of the person who has been sentenced. And appeals made by the Counsel for the Defence are subject to the same restrictions as those made by a person who has been sentenced.

The Chief People's Public Prosecutor may join in an appeal made by a person who has been sentenced with the object of securing a severer sentence (Section 29 of Act X of 1928)

The closing Paragraph of Section 388 of the Criminal Procedure Regulations may not be applied in proceedings before a People's Court.

In the event of an appeal being filed against a judgment pronouncing the death sentence the People's Court concerned shall within eight days of the passing of the judgment submit the case to the Supreme Council of People's Courts. The motivation of a judgment of the kind must be presented orally on the occasion of the pronouncement of the sentence, and the judgment must be put in writing within three days. The Supreme Council shall within three days of the receipt of the papers fix a date as early as possible for the discussion of the case and take steps to have the evidence supplemented.

Where the present Section precludes an appeal against a sentence of death and the People's Court, proceeding as defined in Section 497 of the Criminal Procedure Regulations, decides that the condemned person does not deserve to be pardoned(rerieved), the death sentence must be executed within two hours.

In cases coming under the foregoing Paragraph the sentence must be put in writing immediately, together with a brief motivation thereof.

Section 22

The penalty for those deliberate criminal acts subject in terms of Sections 20 and 21 of Order in Council No.81/M.E. ex 1945 to the jurisdiction of a People's Court for which the criminal laws prescribe punishment by confinement(as first class misdemeanor) shall be imprisonment for a term corresponding to the term of confinement prescribed by law.

Section 23

If there are serious grounds for fearing that a person whom there is every reason to suspect of a crime coming within the jurisdiction of a People's Court will be alienating or hiding his property or of values belonging thereto frustrate the carrying into effect of the confiscation of his property, the People's Office of Public Prosecution shall ordain the attachment of his movables or the distraint respectively both of his personal and his real estate.

No appeal can be made against the ordaining of an attachment or distraint.

Rights acquired after the opening of criminal proceedings cannot be enforced against the Treasury in respect of property or items of property which has(have) been subjected to attachment or distraint; provided that the People's Court subsequently confiscated the property or items of property in question.

In other respects attachments and distraints respectively are subject to the application in due form of the provisions of the Criminal Procedure Regulations.

Section 24

Head judges of People's Courts and People's Public Prosecutors shall receive additional fees to be appointed by the Minister of Justice.

Section 25

The validity of the proceedings of People's Courts formed prior to the coming into force of the present Order in Council shall not be prejudiced by the circumstance that it(the said activity) was not in keeping with the provisions of Section 39 of Order in Council No.81/M.E. ex 1945: but the number of Members of Councils already functioning must within 8 days of the coming into force of the present Order in Council be raised to 6, as provided in Section 19.

Section 26

People's Courts shall without delay return to the Chairman of the respective Investigation Committee(for inquiring into past records) all matters referred to them - together with the decision taken by the respective Committee - prior to the coming into force of Order in Council No.1080/M.E.ex 1945.

Proceedings before the Budapest People's Court relating to appeals against decisions(findings) of Investigation Committees shall be taken as provided in the Regulations relating to procedure in Courts of Law.

Section 27

The present Order in Council comes into force on May 1st,1945.

Budapest,
April 27th, 1945.

(signed) Béla Miklós

Prime Minister.

Annex III of Act VII of 1945

Order in Council No. 5900/M.E. ex
1945 of the Provisional National
Government

in re the supplementation of the regulations relating to proceedings against accused persons who are absent before People's Courts and to the conduct of public prosecutions.

By virtue of the powers vested in them on December 22nd, 1944, by the Provisional National Assembly, the Ministry (Government) ordain as follows:-

1) (1) of Order in Council No. 81/M.E. ex 1945 (of the Jurisdiction of People's Courts Hungarian Gazette No. 3) is supplemented by the following provisions:-

Where according to the data of the trial the accused has been guilty of committing an act for the punishment of which the Legal Statutes now in force prescribe the death penalty, the absence of the accused shall not impede the infliction of the death penalty and the determination of the corresponding secondary penalties. Against a sentence of death passed in the absence of the accused no appeal may be filed at the time of the pronouncement of the sentence and that part of the sentence prescribing a fine or the confiscation of property respectively may be carried into effect. The accused must be brought before the People's Court immediately after he has reported himself or been taken into custody. The People's Court shall cross examine (give a hearing to) the accused at a public trial and shall decide in accordance with the result of such cross examination whether the death sentence shall be upheld or whether a new trial is to be ordained as provided in paragraphs 460-462 of the Criminal Procedure Regulations. Should the People's Court decide to uphold the death sentence, its judgment must be pronounced publicly without delay in the presence of the accused. The procedure to follow the pronouncement of the judgment is subject to the same regulations as in the case of the judgment passed on the basis of the trial held in the presence of the accused.

2) (24) of Order in Council No. 81/M.E. ex 1945 is herewith supplemented by the following provisions:-

The Minister of Justice may in certain cases entrust with the performance of the duties of Public Prosecutor also persons not members of the organisation of Public Prosecutors. A Public Prosecutor thus delegated shall within the sphere of activity entrusted to him enjoy the same rights as a Public Prosecutor proper (by profession). The fees payable to a Public Prosecutor thus delegated ad hoc shall be determined by the Minister of Justice in agreement with the Minister of Finance.

c) The present Order in Council comes into force on the day of its publication: its provisions must be applied also in those cases in progress in which no final decision has been taken by a court of first instance.

Budapest, August 1st, 1945.

(Signed) Béla Miklós

Prime Minister.

*Annex IV of Act VII of 1945

Order in Council No. 6750/M.E.
of 1945 of the Provisional
National Government

(of the More Effectual Ensuring of the Office Discipline - Efficiency - of Public Officials).

By virtue of the powers vested in them on December 22nd, 1944, by the Provisional National Assembly, the Ministry (Government) ordain as follows:-

1) (15) of Order in Council No. 81/M.E. ex 1945 (10) of Order in Council No. 1440/M.E. ex 1945) is herewith supplemented by a new Point (7) branding as guilty of an anti-democratic crime -

7. that public official who deliberately commits a serious breach of his official duty and in particular fails to comply with the lawful service instructions of his superiors or mala fide carries them into effect ^{at} an inopportune moment or not in the prescribed manner, if his action seriously endangers the uninterrupted execution of the measures of the democratic Government or serves to materially impede the re-organisation of the country in a popular and democratic spirit.

2) Criminal proceedings for a criminal act specified in (1) can be instituted only on the basis of a denunciation made by the competent Minister. The previous (preventive) arrest of any accused person is subject to the consent (approval) of the competent Minister.

3) (16) of Order in Council No. 1440/M.E. ex 1945 may not be applied to any of the acts specified in (1)

The present Order in Council comes into force on the day of its publication.

Budapest, August 16th, 1945

(Signed) Béla Miklós

Prime Minister.