

referred to in paragraph I of this Article.

3. Any disagreement concerning the application of the provisions of paragraphs I 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".

3. In view of the fact that Article 38 speaks of "all measures and acts of any kind whatsoever" it is clear that also the measures dealing with war criminals (Article 45) must necessarily belong to those measures entailing the responsibility of Italy or of Italian nationals.

Since Ethiopia is one of the Allied and Associated Powers to that Treaty and Article 45 does not contain any reservation or restriction as to those of the Allied and Associated Powers or of the United Nations which will be entitled to request from Italy the apprehension and surrender of war criminals, it follows that Ethiopia will have the right to demand extradition of any Italian "accused of having committed, ordered or abetted war crimes and crimes against peace or humanity" in Ethiopia during the 1935-1936 war.

## II.

4. In the Meeting of Committee I held on 30th January 1947, the question arose whether Article 38 read in conjunction with Article 45 does not require the Commission to modify its resolution of 31st July 1946 on the question of the Commission's jurisdiction over war crimes committed in Ethiopia during the 1935-36 Italo-Abyssinian War (Document C.217), (reproduced in Document I/76).

The Commission's resolution is based on the assumption that no direct connection exists between the Italo-Abyssinian War and the present War.

5. The above question of direct connection between the two Wars has already been discussed at some length in Document III/50 of 23rd July 1946, i.e. at the time when the Commission was called upon for the first time to consider the question of its jurisdiction over crimes committed in Ethiopia in 1935-1936.

It has been pointed out therein that before 1939 it was generally understood that the Italo-Abyssinian War had been concluded by the debellatio of Ethiopia (see also Oppenheim-Lauterpacht, Volume II; page 468); that the annexation of Ethiopia by Italy was recognised by most Governments de jure and by all the Governments de facto; and that the later events (the recognition of Ethiopia as a free and independent state by the United Kingdom Government in 1942) did not amount to a reversal of the position brought about in 1936, and are therefore not irreconcilable with the proposition that the 1935-1936 War between Italy and Ethiopia was a war different from the Second World War.

6. The question now arises whether this proposition has in any way been affected by the present Peace Treaty with Italy in view of the fact that its provisions entailing the responsibility of Italy and their nationals towards Ethiopia become applicable as from October 3, 1935. In other words, the

question is - which war is ended by this Treaty?

In the preamble to the Treaty, it is stated that "Italy under the Fascist régime became a party to the Tripartite Pact with Germany and Japan, undertook a war of aggression and thereby provoked a state of war with all the Allied and Associated Powers and with other United Nations, and bears her share of responsibility for the war".

From the above declaration looked upon in connection with the fact that the Tripartite Pact between Germany, Italy and Japan was formally concluded in 1939, and also in view of the fact that for the rest, the preamble rehearses the main events of Italy's war career since 1939 only, it would appear that the Treaty with Italy will end only the present War, and not any other War in addition, and that therefore there is no direct connection between the two Wars.

In support of this view, it may also be mentioned that the Commentary on the Treaty, while commenting on the territorial clauses, explains that Italy's frontiers in Europe will, with some exceptions, remain the same as before the outbreak of war. This, taken together with the fact that the relevant provisions speak of the frontiers as they existed formerly 1, 1938, indicates that the war with which the present Treaty is concerned is the war which broke out in 1939.

7. The question why Ethiopia is then a party to the present Peace Treaty with Italy is to be explained by the following reasons.

Since a treaty of peace is considered a final settlement of war, its aims lies not only in a restoration of conditions of peace and in a resumption of peaceful intercourse between the former belligerents, but also in the disposal of territorial possessions of the vanquished, as desired by the victor, and in the settlement of all other questions outstanding between the parties at the time of the conclusion of the treaty.

Thus, the Treaty with Italy is also concerned with the settlement of all questions still outstanding as a result of the events brought about since 1939 ("will settle questions still outstanding as a result of the events hereinbefore recited", the Preamble, paragraph 4).

To the questions still outstanding as a result of the events brought about since 1939 belongs also the case of Ethiopia. Since her subjugation and annexation by Italy in 1936, a new situation occurred during the present war: in 1942 she has regained her freedom and independence. has been recognised as a free and independent state by the United Kingdom Government; and concluded with the latter a Military Convention in which she agreed to certain provisions "in order as an Ally to contribute to the effective prosecution of the War".

This new situation required that Ethiopia should be formally recognised as a sovereign and independent state also by Italy as her former conqueror, and this will be put into effect by the provision embodied in Article 33 by which "Italy recognises and undertakes to respect the sovereignty and independence of the state of Ethiopia".

Consequently, the main concern of the other Treaty provisions regarding Ethiopia is thus only "the extinction of rights acquired by Italy as a result of her aggression in Ethiopia" (see the Commentary), and her



subsequent subjugation and annexation. It is also quite clear that such provisions must at the same time entail certain obligations on the part of Italy and Italian nationals towards Ethiopia. To this type of provisions belongs also the special political clause contained in Article 38. The fact that this article puts back the date from which the provisions should be applicable to a time substantially preceding the outbreak of the present war is not an isolated one, and cannot be construed to the effect that thereby the present Treaty will also end the 1935-1936 War. There are many more similar cases in the Treaty in regard to other matters such as for instance the extinction of rights acquired by Italy from her position as one of the principal Allied and Associated Powers at the last Peace Settlement, i.e., concluded after the First World War, or in the case of special interests of China in which case the Treaty goes even as far back as September 7, 1901.

### III.

8. From the foregoing it appears that the question whether or not the terms of reference of the Commission are to be construed to the effect that they only cover war crimes committed during the present war, still remains to be not a question of law, but that of policy.

In the official Commentary to the Peace Treaty, the following is said regarding the provisions dealing with war criminals in general as they have been embodied in Article 45:

"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 Quislings".

The "certain agreements" which the United Nations have concluded between themselves 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.

At the same time, by special provision laid down in Article 38 the general provisions of Article 45 have been made applicable with retrospective effect to war crimes, crimes against peace, crimes against humanity, committed during the Italo-Abyssinian War of 1935-1936.

According to Article 45 "all the Powers and the United Nations concerned can avail themselves of the rights accorded to them in respect of war criminals by direct action towards the Italian Government, and only in cases of disagreement concerning the application of the provisions of this article the matter must be referred to the Ambassadors in Rome of the 4 Powers, who will reach agreement with regard to the difficulty.

But, it is submitted, the terms of reference of the 4

Ambassadors are limited only to disagreements which might arise over the apprehension and surrender for trial of persons wanted, i.e. only over the technical question of extradition, and not over all other questions which might be involved. Thus a very important issue as to who will decide on the question which of the persons wanted should be regarded as war criminals and which not, has been left open in the Treaty.

From this point of view, a two-fold important discrimination between Ethiopia and all other nations concerned will at once occur. Firstly, all nations, except Ethiopia, while submitting to the Italian Government their requests for extradition, will have not only Article 45 behind them, but also the moral support of the United Nations War Crimes Commission as an international body with which they are listing Italian war criminals. Secondly, the Ethiopian Government will acquire a privileged position as against all other nations, as it will be calling upon the Italian Government to act only upon ex parte statements, a possibility which undoubtedly will not be in the interest of the international community.

9. As the original terms of reference of the Commission agreed upon on 20th October 1943 do not contain any express limitation to the effect that war crimes committed prior to the beginning of the present War should be excluded from the Commission's jurisdiction, it appears that the question of its jurisdiction over war crimes committed in Ethiopia in 1935-1936 is still open for decision by the member Governments of the Commission.

P.T.O.



A N N E X.

Final text of the provisions of the Peace Treaty with Italy  
regarding Ethiopia.

SECTION VII. ETHIOPIA.

Article 33

Italy recognises and undertakes to respect the sovereignty and independence of the State of Ethiopia.

Article 34

Italy formally renounces in favour of Ethiopia all property (apart from normal diplomatic or consular premises), rights, interests and advantages of all kinds acquired at any time in Ethiopia by the Italian State, as well as all para-statal property as defined in paragraph I of Annex XIV of the present Treaty.

Italy also renounces all claims to special interests or influence in Ethiopia.

Article 35

Italy recognises the legality of all measures which the Government of Ethiopia has taken or may hereafter take in order to annul Italian measures respecting Ethiopia taken after October 3, 1935, and the effects of such measures.

Article 36

Italian nationals in Ethiopia will enjoy the same juridical status as other foreign nationals, but Italy recognises the legality of all measures of the Ethiopian Government annulling or modifying concessions or special rights granted to Italian nationals, provided such measures are taken within a year from the coming into force of the present Treaty.

Article 37

Within eighteen months from the coming into force of the present Treaty, Italy shall restore all works of art, religious objects, archives and objects of historical value belonging to Ethiopia or its nationals and removed from Ethiopia to Italy since October 3, 1935.

Article 38

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.

The present Document supersedes Document I/80  
issued on 10th February,  
1947.

I/81.  
13th February, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Submission of Charges by Ethiopia.

Commission's Jurisdiction over Crimes committed in  
Ethiopia.

Note by Dr. J. Litawski, Legal Officer.

(Revised).

I.

1. Since Document I/76 was circulated, the final text of the Peace Treaty with Italy has been published (Command Paper 7022). Simultaneously an official Commentary on this Treaty has also been made public (Command Paper 7026).

As compared with the Draft Peace Treaty, the final text of that instrument contains a new and additional provision concerning Ethiopia, which has an important bearing on the question of Ethiopia's right to prosecute Italian nationals responsible for war crimes committed in that country during the 1935-36 war.

The relevant provision, Article 38, 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".

The full text of the political provisions regarding Ethiopia, as contained in the Treaty, is reproduced in the Annex.

2. The provisions dealing with Italy's obligations regarding the apprehension and surrender of war criminals in general are set forth in Article 45 of the Treaty which reads:-

"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 shall likewise make available as witnesses persons within its jurisdiction, whose evidence is required for the trial of the persons referred to in paragraph I of this Article.

"3. Any disagreement concerning the application of the provisions of paragraphs I 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".

3. In view of the fact that Article 38 speaks of "all measures and acts of any kind whatsoever" it is clear that also the provisions dealing with war criminals in general (Article 45) are necessarily included among the measures entailing the responsibility of Italy or of Italian nationals.

Since Ethiopia is one of the Allied and Associated Powers, parties to the Treaty, and since Article 45 does not contain any reservation or limitation as to those of the Allied and Associated Powers or of the United Nations which will be entitled to request from Italy the apprehension and surrender of war criminals, it follows that Ethiopia will have the right to demand the extradition of any Italian "accused of having committed, ordered or abetted war crimes and crimes against peace or humanity" in Ethiopia during the 1935-36 Italo-Abyssinian War.

## II.

4. In the Meeting of Committee I held on 30th January, 1947, the question arose whether Article 38 thus read in conjunction with Article 45, does not require the Commission to modify its resolution of 31st July 1946 on the question of the Commission's jurisdiction over war crimes committed in Ethiopia during the 1935-36 Italo-Abyssinian War (Document C.217), (reproduced in Document I/76).

As the Commission's resolution was based on the assumption

that no direct connection exists between the Italo-Abyssinian War and the present War, it is necessary to examine first the question whether the present Treaty has any bearing on that proposition.

5. This question had already been discussed at some length in Document III/50 of 23rd July, 1946, at the time when the Commission was called upon for the first time to consider the question of its jurisdiction over crimes committed in Ethiopia in 1935-36.

It was pointed out in that Document that, prior to 1939, it was generally understood that the Italo-Abyssinian War had been concluded by the debellatio of Ethiopia (see also Oppenheim-Lauterpacht, Volume II; page 468); that the annexation of Ethiopia by Italy was recognised by most Governments de jure and by all the Governments de facto; and that the subsequent events (the recognition of Ethiopia as a free and independent state by the United Kingdom Government in 1942, etc.) did not amount to a complete and unqualified reversal, with retrospective effect, of the position brought about in 1936, and are therefore not irreconcilable with the proposition that the 1935-36 War between Italy and Ethiopia was a war different from the Second World War.

6. The question now arises whether this proposition has been in any way affected by the present Peace Treaty with Italy in view of the fact that its provisions entailing the responsibility of Italy and their nationals towards Ethiopia will become applicable as from October 3, 1935. In other words, the question is - which is the war that is terminated by this Treaty?

In the Preamble to the Treaty, it is stated as follows:  
"Whereas Italy under the Fascist régime became a party to the Tripartite Pact with Germany and Japan, undertook a war of aggression and thereby provoked a state of war with all the Allied and Associated Powers and with other United Nations, and bears her share of responsibility for the war ...".

From the above declaration taken in conjunction with the fact that the Tripartite Pact between Germany, Italy and Japan was formally concluded in 1939, and also in view of the fact that for the rest, the Preamble rehearses the main events of Italy's war career since 1939 only, it would appear that the parties have agreed that the Treaty with Italy will terminate the present War only, and not any other War in addition.

In support of this view, it may also be mentioned that the Commentary on the Treaty, while commenting on the territorial clauses, explains that Italy's frontiers in Europe will, with some exceptions, remain the same as before the outbreak of war. This comment, taken in conjunction with the fact that the relevant provisions speak of the frontiers as they existed on January 1, 1938, also indicates that the war with which the present Treaty is concerned is the war which broke out in 1939.

7. The question why in these circumstances Ethiopia is a party to the present Peace Treaty with Italy is to be explained by the following reasons.



Since a treaty of peace is considered as the final settlement of a war, its aims comprise not only the restoration of conditions of peace and the resumption of peaceful intercourse between the former belligerents, but also the settlement of territorial questions and of all other questions outstanding between the parties at the time of the conclusion of the treaty.

Accordingly, the Treaty with Italy is also concerned with the settlement of all questions still outstanding as a result of the events brought about since 1939. (The Preamble states in paragraph 4 that the Parties "will settle questions still outstanding as a result of the events hereinbefore recited").

The questions still outstanding as a result of the events brought about since 1939 include also that of Ethiopia. Since her subjugation and annexation by Italy in 1936, a new situation had been created during the present war: in 1942 Ethiopia regained her freedom and independence, and has agreed as an Ally to contribute to the effective prosecution of the war.

This new situation required that Ethiopia should be formally recognised as a sovereign and independent state also by Italy as her former conqueror, and this requirement will be satisfied by the provision in Article 33 by which "Italy recognises and undertakes to respect the sovereignty and independence of the State of Ethiopia".

Consequently, the main concern of the other Treaty provisions regarding Ethiopia is "the extinction of rights acquired by Italy as a result of her aggression in Ethiopia" and of her subsequent subjugation and annexation. It is manifest that such provisions must, at the same time, entail, with retrospective effect, certain obligations and responsibilities on the part of Italy and Italian nationals towards Ethiopia. The mere fact, however, that Article 38 puts back the date from which these obligations will be effective to a time substantially preceding the actual outbreak of the present war cannot be interpreted to the effect that thereby a direct connection between the two wars has unambiguously been established.

### III.

8. From the foregoing it appears that the question of the Commission's jurisdiction over war crimes committed in Ethiopia during the 1935-36 Italo-Abyssinian War, viz. the question whether or not the terms of reference of the Commission are to be construed to the effect that they only cover war crimes committed during the present war, continues to be not so much a question of law as that of policy.

In the official Commentary to the Peace Treaty, the following is stated regarding the provisions dealing with war criminals, in general, as embodied in Article 45:

"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 Quislings".

The "certain agreements" which the United Nations have concluded between themselves 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.

At the same time, by a general clause inserted in Article 38, the general provisions of Article 45 have been made applicable, with retrospective effect, to war crimes, crimes against peace and crimes against humanity, committed during the Italo-Abyssinian War of 1935-36.

According to Article 45 all the Powers and the United Nations concerned can avail themselves of the rights accorded to them in respect of war criminals by direct action towards the Italian Government, and only in cases of disagreement concerning the application of the provisions of this article, the matter must be referred to the Ambassadors in Rome of the Four Powers, who "will reach agreement with regard to the difficulty".

But, it is submitted, the terms of reference of the Four Ambassadors are limited to disagreements which might arise in regard to the apprehension and surrender for trial of wanted persons, i.e. they apply only to technical questions of extradition, and not to all other matters which might be involved. Thus, a very important question as to who will decide which of the persons wanted should, or should not, be regarded as war criminals, has been left open.

In respect of this particular question an important two-fold discrimination between Ethiopia and all other nations concerned is at once apparent. On the one hand, all the nations concerned, except Ethiopia, when submitting to the Italian Government their requests for extradition, will have behind them not only Article 45, but also the moral support of the United Nations War Crimes Commission, as an international body, which is called upon to investigate and decide in each individual case whether a prima facie case of a war crime has been established by the Government concerned, and with which body these nations have been listing, inter alia, Italian war criminals. On the other hand, the Ethiopian Government will acquire a privileged position as compared with all the other nations, for it will be calling upon the Italian Government to act solely upon ex parte statements.

9. As the original terms of reference of the Commission agreed upon on 20th October, 1943, (see Document III/50), do not contain any express limitation to the effect that war crimes committed prior to the beginning of the present War should be excluded from the Commission's jurisdiction, it appears that the question of its jurisdiction over war crimes committed in Ethiopia in 1935-36 is still open for decision by the member Governments of the Commission.

(See page 6 for the Annex).



Final text of the provisions of the Peace Treaty with Italy regarding Ethiopia.

(Political Clauses).

SECTION VII. ETHIOPIA.

Article 33.

Italy recognises and undertakes to respect the sovereignty and independence of the State of Ethiopia.

Article 34.

Italy formally renounces in favour of Ethiopia all property (apart from normal diplomatic or consular premises), rights, interests and advantages of all kinds acquired at any time in Ethiopia by the Italian State, as well as all para-statal property as defined in paragraph I of Annex XIV of the present Treaty.

Italy also renounces all claims to special interests or influence in Ethiopia.

Article 35.

Italy recognises the legality of all measures which the Government of Ethiopia has taken or may hereafter take in order to annul Italian measures respecting Ethiopia taken after October 3, 1935, and the effects of such measures.

Article 36.

Italian nationals in Ethiopia will enjoy the same juridical status as other foreign nationals, but Italy recognises the legality of all measures of the Ethiopian Government annulling or modifying concessions or special rights granted to Italian nationals, provided such measures are taken within a year from the coming into force of the present Treaty.

Article 37.

Within eighteen months from the coming into force of the present Treaty, Italy shall restore all works of art, religious objects, archives and objects of historical value belonging to Ethiopia or its nationals and removed from Ethiopia to Italy since October 3, 1935.

Article 38.

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.

I/82.

24th February, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Deliberate Bombardment of Undefended Places.

Note by Dr. J. Litawski,  
Legal Officer.

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In connection with the request received from the Far Eastern and Pacific Sub-Commission concerning the war crime of "deliberate bombardment of undefended places" (see Document III/77), and in particular with the question under (c) contained in the above request, the following material as to

- 1) charges filed with the Commission and alleging the above mentioned crime,

and

- 2) decisions and rulings of Committee I in the respective cases -

is circulated for information of, and consideration by, Committee III, in conjunction with Document III/78.

It is to be noted that Committee I has not had the opportunity to give its authorisation to the formulation of its rulings relating to the matter under consideration, as attempted in Section II of this Document.

I.

The following is a compilation of material information as contained in the cases submitted by the National Offices.

FRENCH CASES.

437. In July 1944, a Wehrmacht artillery detachment bombarded by way of reprisal a French village, because a F.F.I. unit refused to hand over some German prisoners captured by them.

The accused have also been charged with wanton destruction and pillage.

The case was accepted on 10.1.45.



498. This case is identical with case 437.

The case was accepted on 31.1.45.

1177. In September, 1944, a French town was bombed by German artillery by way of reprisal because three German soldiers had been disarmed by members of a F.F.I. unit. Considerable damage was caused and 23 persons killed and wounded.

The case was accepted on 1.8.45.

1351. In June 1944 a French village was bombed by German air force by way of reprisal for an attack by a F.F.I. unit on a car with a German interpreter.

20% of the houses were destroyed, 40% damaged, and 10 persons killed.

The accused have also been charged with wanton destruction of property, pillage and deportation of civilians.

The case was accepted on 29.8.45.

1946. In September 1944, a French village was bombed by German artillery by way of reprisal, because 7 German soldiers had been taken prisoner by a F.F.I. unit.

The accused have also been charged with wanton destruction of property, pillage, and torture.

The case was accepted on 6.12.45.

1956. In July 1944, a French hameau was bombed by German artillery by way of reprisal for an attack on German soldiers by a partisan unit.

Small damage was caused and one person killed.

The case was accepted on 6.12.45..

2078. In June, 1944, a German artillery unit bombed a French château in which a maquis detachment was stationed.

The case as regards this particular charge was not accepted.

2259. In August 1944 in view of the approaching Allied forces a German C.O. decided to defend a French town to the last. After the actual contact between the two forces had been established, and also during the subsequent siege he issued orders to destroy large parts of the town. This was carried out by way of heavy artillery bombardment from a nearby fortress.. Considerable destruction was caused, part of which was effected during a suspension of arms and was not necessitated by military reasons. Buildings dedicated to public worship, historic monuments etc. were not spared.

The case was accepted on 28.2.46. with the reservation

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The case was accepted on 31.1.45.

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The case was accepted on 28.2.46. with the reservation



that the Committee consider as criminal only those instructions issued by the C.O. which resulted in wanton destruction of buildings, not necessitated by the defence of the town.

3489. In September, 1944, during a combat between a F.F.I. unit and a German detachment the latter opened artillery fire on a village.

The case was not accepted.

4000. As the charge of deliberate bombardment was not substantiated by any particulars the case in regard to this count was not accepted.

4226. This case as far as it deals with deliberate bombardment was not accepted for the same reason as case 4000.

4293. This case concerns, inter alia, an aerial bombardment, carried out by the Germans during a large scale military operation against the Maquis.

The case with regard to this charge was not accepted.

#### YUGOSLAV CASES.

1003. In May, 1943, an Italian artillery unit opened fire on a Yugoslav village as they suspected that some partisan units were stationed there. "This suspicion was incorrect". The village suffered extensive damage, several persons were killed and seriously wounded.

The accused have also been charged with murder and systematic terrorism.

The case was accepted on 11.7.45.

1010. In July, 1942, an Italian unit of frontier guard shelled a Yugoslav village during a massacre carried out against its inhabitants. No particulars available.

The accused have also been charged with a number of other crimes.

The case was accepted on 11.7.45.

1145. In September and December, 1943, the Italian air force bombed three Yugoslav villages. There were no military objectives in any of the villages, nor were any units of the National Liberation Army present therein. The bombing resulted in the death of 2 persons and in the destruction of several houses.

The accused have also been charged with murder and systematic terrorism.

The case was accepted on 1.8.45.

1161. In June to July, 1942, several Yugoslav villages were completely wiped out, inter alia, by aerial bombardment. This was carried out by the Italian air force during the so-called systematic "liquidation" action directed against a number of inhabited places in the mountains.

The accused have also been charged with murder, systematic terrorism and wanton destruction of property.

The case was accepted on 1.8.45.

3118. In July, 1943, "an Italian squadron ..... bombed the undefended village of Sosici, in Slovenia, and completely destroyed several buildings and damaged others. 16 bombs of 12 kg and 4 bombs of 50 kg were dropped. They fired 600 rounds of machine gun ammunition at the inhabitants in order to terrorise them, in spite of the fact that the village was undefended and on occupied territory."

In order to substantiate the above statement, the Yugoslav National Office submitted a certificate issued by the Operative Department, H.Q., IV Army, Democratic Federative Yugoslavia, stating that there was no concentration of troops in the localities on the days specified, nor were there any military objectives in the villages or their neighbourhood.

The case was accepted on 26.9.46, but it was decided to list the accused for murder and not for deliberate bombardment, as submitted by the National Office.

The reasons for which Committee I has changed the original legal qualification have not been recorded.

3120. ) These cases are similar to the preceding case 3118.

3121. )

3123. )

3127. )

Same decision as in case 3118 taken on the same day.

3546. In March, 1942, an Italian unit bombarded a Yugoslav village by artillery fire. No other particulars to substantiate this charge have been given.

The case in regard to this count was not accepted as from other particulars of the case it appeared that the bombardment was presumably carried out during military operations against the partisan units.

TO SECTION II.



II.

From the foregoing it appears that only a small number of cases alleging deliberate bombardment of undefended places has been submitted to the Commission by the National Offices. All this material is limited only to: a) bombardment of places during the military operations on land, and b) aerial bombardment. No cases alleging deliberate naval bombardment of undefended places have been notified to the Commission.

Although the instances of the bombardment referred to in Section I occurred during the military operations, it is, however, to be noted that all of them, except that recorded under 2259, were carried out not as a part of a real war in the technical sense of the term, but only after one of the belligerents had succeeded in occupying the territory of the other belligerent, and after the occupation of the latter's territory had been fully effected.

While acting upon the individual charges, Committee I made a distinction between two types of cases:

- a). Cases where the alleged bombardment was carried out during the military operations directed either against the authorised irregular forces, or the partisan or guerilla units of the occupied country; or against the buildings occupied by such forces or units.

Cases of this type were not accepted on the ground that the bombardment was directed against places containing military objectives, be it, as they were, the armed forces consisting of the inhabitants of the occupied country.

- b). Cases where the alleged bombardment was carried out against apparently peaceful civilian population and constituted an act of reprisal for the acts of warfare committed by members of the armed forces indicated sub a), a reprisal to which the occupying power resorted to in an illegitimate and indiscriminate application of the measure of collective responsibility, or which was carried out for the purpose of terrorising the population.

Cases of this type were accepted, on the ground that the bombardment was deliberate and directed against places containing no military objectives, and thus constituted a violation of the laws and customs of war.

See Note with Doc 75  
for distribution  
of this Doc.

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I/83  
25th February 1947.

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

GENERAL MARINOV'S CASE

The following further evidence against General MARINOV, submitted by the Greek Representative on the Commission, is circulated to members of Committee I for their information and consideration at its next Meeting:

- I. Copy of Document AP/3325/A1/1 issued by the Greek General Staff.
- II. Examination on Oath of witness Elias Alexopoulos Major of the Greek General Staff.
- III. Examination on Oath of witness Ivan Ivanof Gologanof, Colonel of the Bulgarian Army.
- IV. Examination of Oath of Major of Gendarmorie LOLA Peters.
- V. Statement on the examination under Oath of witness Goust. Bonia.
- VI. Sworn-in statement of witness Demou Evanghellou.
- VII. Sworn-in statement of witness Olga Nasis.

I

Copy of Document AP/3325/A1/1 issued by the Greek General Staff, - 12-2-47.

Subject: Chief of 15th Bulgarian Division MARINOFF.

General Army Staff/  
SECRET.

To: Hellenic National Bureau for War Crimes.

GAS/AP.3325/A1/1

COMM 1

In reply to your document under No. 172 current year, we have the honour to bring to your knowledge the following:

1) On your first question, being: "Whether, from order No. 1-17 dated the 11-1-1944 of the Bulgarian Army Staff, it derives that the Chief of the 15th Bulgarian Division MARINOFF had been alienated completely from the Command of the Detachments of his Division who in conjunction with German Detachments executed the war enterprise specified in said Order."

That the Bulgarian Ministry of War - Army Staff - having ordered as they did for the use of Units of the 15th Bulgarian Division by the German Command, it is impossible not to have communicated this Order to the Commander of this Division. The assumption that this Order to the Commander of the 15th Division has purposely disappeared from the records of Orders of this Division which have been deposited cannot be excluded, or it may be that, in the communicated copy of the Ministry's Order as above, the 15th Division has been purposely omitted as a receiver of the Order. We therefore consider the Commander of this Division as a receiver of the Order to use his troops, and consequently as being in knowledge of this Order. We base this on the fact that it is not possible for the Commander of the Division to remain unmoved at the departure of his Detachments without these latter reporting to him, when all events the Commander of the Division should have received knowledge of the Order by which his Detachments remove, at the moment of their departure.



2) On your second question, being: "Whether it is possible and militarily understandable for the Commander of a Division to be ignorant of the activities of his Division troops in the execution of a Military Order entrusted to him, and thus for him to be irresponsible for the acts committed by his the Detachments belonging to his Division, by violating the international laws of Military warfare".

That the Commander of the 15th Division is responsible for the activities of the detached troops of his Division, as all the Military Regulations and the very logical sequence impose that the Commander of a Division keeps the material and moral liaison of the detached troops of his Division even go when it is question of military war enterprises notwithstanding the fact that these detachments are under foreign Command. It is not understandable that a Commander of a Division is indifferent for the life of his soldiers who continue to be under his Command for Administrative matters even more of ethical ones. Therefore, the Commander did receive or in any case had received knowledge of the activities on the whole <sup>and</sup> of the life in general of his temporarily detached troops. Hence the responsibility for the activities on the whole of his such troops. If he did not act as above, he should not be considered as a worthy Commander of a Division in which case he may have shown any indifference he liked to his men.

THE  
DIRECTOR AI/G.A.S.

Seal (Signature)

A TRUE SERVICE COPY

Athens the 13th of February 1947.

The Secretary of the Hellenic National Bureau for War Crimes.

31/

II

Examination on Oath of witness Elias Alexopoulos, Major of the Greek General Staff.

Athens: February 10, 1947.

Question: What's your name etc.

Answer: ALEXOPOULOS, Elias, son of Christo, Major of Artillery, I was born at Calavryta and I am living in Athens, 12 Valaoritou Str. I am aged 39 and I am an Orthodox Christian.

Question: Do you know and are you a relative of

Answer:

Here, the witness under examination swore on the Holy Bible in accordance with and in virtue of article 124 of the Penal Procedure in case of his being prevented from appearing before the court.

Before the witness was laid the order of the War Office (Gen. Staff of the Bulgarian Army) under No. 1-17 of the 11th January 1944, and was asked if it appears from this order that the C.O. of the 15th Bulgarian Division MARINOV had entirely given up the Commandment of the Detachments of his region, which in cooperation of similar German detachments executed the military operation fixed by this order.

Answer: From this order it is clearly apparent, that after previous arrangement with the Highest German Command, in this case the German Commandant of the Salonica and Aegean Area and the High Bulgarian Command, i.e. the General Staff of the Bulgarian Army, it was decided to execute a military operation the objective of which was to clear up a certain area of Greek Macedonia from the Greek partisans. According to agreement the operation was entrusted to two military detachments, one of German and one of Bulgarian troops. The direction of the operations was entrusted to the German General Fluschat. The powers of the Command of the German General, over the two detachments according to the accepted international Military rules was restricted to the preparation of the plan of operation and its execution. For all other matters the detachments under the a.m. General, continue to keep also during the operations their own commanding hierarchy and dependence. A consequence of the above principle is that anything which is outside the execution of the plan of operations

concerns exclusively and only the Command of the detachment and the chiefs of hierarchical order of each detachment, with the additional explanation that even the contravention of the military order as far as control and sanctions are concerned, belong to the hierarchical chiefs as any contravention of the Military Laws and rules. In the order of the Bulgarian General Staff, we have in view, the composition of the group of the Bulgarian Forces which took part in the operations, fixed. All the detachments of the Bulgarian Army which compose this group conventionally called "X" belong to the organisation of the 15th Division to which, it appears, this order was not communicated, neither is it otherwise apparent, how the Artillery Regiment of the 15th Division could be order or advised that one of its Batteries was to be at the disposal of group "X". Also this order which was communicated to the Commanding Officers of the 45th and 54th Infantry Regiments and the C.O. of the 5th Army in between the C.O. of the 15th Division is omitted, this order does not appear to have been communicated to him. All the above are not only militarily inadmissible but also logically it cannot be upheld, for the reason that any movement of any detachment of a Division is not militarily comprehensible without the knowledge of the C.O. of the Division, but it is not clear who was responsible for the transmission of this order of the Bulgarian General Staff to the Artillery Regiment of the 15th Division. These only prove that the order we have in view is probably defective (in copying) or counterfeited. Anyway from the whole spirit of the order it appears without the slightest doubt, that this order has been duly communicated to the C.O. of the 15th Division and he, according the right military perception, is the man responsible to the Bulgarian General Staff for the execution of this order, which in fact concerns detachments of his own Division only. The Bulgarian General Staff orders, by their order we have in view, the daily submission of reports relating to the progress of the operations. In this order the manner of submission of these reports is not settled, and that because, according to the military rules, the submission of reports follows the hierarchical degrees. In certain cases it is possible to infringe the hierarchy, but this must be mentioned without fail in the order. In this instance the hierarchy is: the C.O. of the 15th Division - C.O. of the 5th Army - Bulgarian General Staff. Consequently the C.O. of the 15th Division was receiving daily reports from the officer at the head of the Group "X" Colonel Tzanef relative to the evolution and progress of the operations and facts generally.

The C.O. of the 15th Division having completed those reports according to his lights submitted them to the C.O. of the 5th Army.

Question: Since this is the meaning contained in the order of the Bulgarian General Staff, placed before us, is it militarily possible for the C.O. of the 15th Division to be in ignorance of the doings of the detachments of his Division, in the execution of the military order entrusted to him, and thus be held not responsible for the doings, in transgression of the internationally lawful execution of military operations, of the detachments belonging to his Division?

Answer: The answer to your question has been given immediately and quite clearly in answering the first question. But since you put me this question explicitly I am obliged to report that the C.O. of the 15th Division, has not stopped even for a moment to exercise the command on the detachments of his Division, composing Group "X". Consequently he had to, and he surely followed his above detachments in their every movement and was informed at every moment of the state of his detachments, with regard to the discipline, supplies, state of health and wants generally. Moreover he was obliged and surely he must have organized a system of transmission of information of the general state of these detachments and the evolution and progress of the operations. Surely every contravention of the international law and military rules would be brought to the notice of the C.O. of the Division and he would have exercised the proper control and imposed the due sanctions for every deviation, if he were doing his duty scrupulously. Resuming my reply to your above question, I answer that it is not militarily comprehensible that the C.O. of the Division has not been informed of the accidental transgressions of the international law and consequently if such acts have been committed, and the C.O. of the Division omitted to impose the due sanctions, he has failed in his military duty. I have nothing to add, Read and confirmed,

The Witness

The Examining Magistrate

The Secretary.

A TRUE SERVICE COPY  
ATHENS, FEBRUARY 14, 1947, The Secretary,  
N. RAPTIS.



III

Examination on Oath of witness Iven Ivanof Gologanof, Colonel of the Bulgarian Army.

In Piraeus and in Hadji Kyria Keion Prison the 5th February 1947.

Question: Your name etc.

The witness declared here that he does not speak Greek but speaks Bulgarian, following which we appointed as interpreter Anastasios Anastasiou, Lieutenant of the Greek General Staff who, taking the oath on the Holy Bible according to the law swore that he would faithfully translate the Bulgarian text into Greek and vice versa.

Reply. Ivan Ivanof Gologanof, I was born in Acro-Sochori of Siderocastron (Krovasovon) and live in Sofia. I am 48 years of age, an orthodox Christian, Colonel of Army Justice.

Herewith the witness swore on the Holy Bible, according to article 124 of the Penal Procedure, in the event of his non-appearance in the courts.

Question: Do you know if etc. (he was accordingly asked)

Answer: I was obliged to cross the Greek frontier from Bulgaria because after the Communists dominated my country I was in danger of my life, not for any other reason but that of contrary political opinion. Together with many other military and civilians after the domination of the Communists in Bulgaria we were forced to take to the mountains where we remained 16 months and in the end on the 3rd November 1946 I was forced to cross the Greek frontier, as stated above, and the following day, on the 4th November, I gave myself up to the police. During the war I served as Legal Advisor of Civil Mobilization with Sofia as headquarters. During the course of the war I went twice to Monastir and Skopje, travelling on leave in October 1942 and August 1943. At Monastir I met the then C.O. of the 15th Division, well known and friend of mine, General Marinof (Lt. General) Ivan. I met him simply and as was natural we did not discuss service or general political matters, and even if we did discuss them I do not remember now because I paid no attention to the discussions. General Marinof when the Government of Moravieff was formed in Bulgaria on the 2nd September 1944, took over the Ministry of War; after the fall of Moravieff and the taking over by Georgiev, who also declared war against Germany, General Marinof took over the Command of the Bulgarian army up to approximately June 1945, when he took over the General inspection of the army after that was posted as Ambassador in Paris. So far as I know before and during the war, officers, of the Bulgarian army did not belong to particular political parties, with the Governments of Moravieff and then Georgiev however the greater part were attached to particular political parties. I am not aware personally or from official communications or documents whether the Bulgarian Government was practising propaganda in Western Macedonia (Greek Macedonia) for political aims. I cannot however conceal that the opinion was spread that Bulgaria was seeking the annexation of Western Macedonia to Bulgaria and it followed naturally enough that she used appropriate means of propaganda necessary for the success of this purpose. I know that in Marinof's Division at Monastir, Colonel Tsanef (also personally known to me) was serving under his orders, but I do not know if at the beginning of 1944 Tsanef, together with his regiment, was ordered to enter the Florina area which, at the time, was held by the Germans. Colonel Tsanef is a very educated officer and he was considered competent to bring discipline to his regiment. Consequently, if Tsanef's regiment during his stay in Florina area, took to successive and continued acts of violence burning villages, killing people etc. things which I am unable to ascertain, since I do not know of them, I must admit that these acts took place, with the knowledge of Tsanef, because it is not possible for me to refute that when Tsanef first had knowledge of them he would not be able to stop them and establish discipline in his regiment. As I imagine, in every army, so it is in the Bulgarian, when one section of the army is ordered either by the Ministry of War or the General Staff to act independently or to be attached to another military unit, the General Staff will issue orders to the General in Command. Further, this last General in Command will give detailed orders to the officer at the head of the unit which is detached which general and detailed orders the officer in command is bound to conform. What orders the

Ministry of War or the General Staff gave to Marinof for Tsanef's regiment I am not able to say. Moreover I do not know what further detailed orders

Marinof gave to Tsanef. I cannot however deny that if Tsanef's regiment in the Florina area in January 1944 committed cruelties and that in consequence of these even the Germans asked for his recall. I must admit that these cruelties if they were not committed on Tsanef's express orders they were done with his toleration and that Tsanef showing such toleration must have been carrying out Marinof's orders because he too had received them from Headquarters. In any case, knowing Marinof, his character was a good one and a mild one. Replying to your question, I must state that when I was informed that Marinof was posted as Ambassador of Bulgaria in Paris it astonished me how he, a military man, managed to become an Ambassador. My astonishment is justified by the following - Before being made Ambassador he was Inspector General of the Army, which post in Bulgaria is considered more decorative than sought after and honourable. However, Marinof during the Boris regime was considered a royalist and not an anti-royalist like General Stoitsef, who was posted as Ambassador in Washington. Stoitsef from 1935 was retired with the rank of Lieut. Colonel for his anti-royalist views. Consequently my astonishment is justified as to how Marinof was able to obtain a so sought after post. I therefore think, though I am not able to ascertain this, that he must have joined the SVENO party.

I have no more to state.

This had been read and certified.

#### IV

#### Examination on Oath of Major of Gendarmerie LOLA Petros.

Athens, 4th February 1947.

Question: Name etc.

Answer: LOLAS Petros, son of Antonios. I was born in Actos of Messinia and I live in Athens, Bucharest Street 19, Age 40. Major of Gendarmerie, unmarried and Christian, Orthodox.

He took the oath on the Holy Bible according to articles Nos. 121 and 121 of the Penal Procedure in the event of his non-appearance in court.

Question: What events and incidents led you to the conclusion that General Marinof is a war criminal, since the 15th Bulgarian Infantry Division of which the C.O. was the aforementioned General, did not occupy Greek soil?

(The first paragraph of Document No. 5545-III-30-9-46 of the Bulgarian Ministry of Foreign Affairs was read).

Answer: It was shown from every side that the General in question is a war criminal because:

a) From the time when he was established in Monastir the aforementioned General Marinof became the brains and superintendent of the other secret army of Bulgaria which, for four years, committed the most frightful atrocities against the unarmed Greek population and the national armed Greek resistance against the conquerors in Greek (especially Western) Macedonia.

The other army of Bulgaria in question is as is known, the agent and the organ (Komitadjis and Ochranives) of the Bulgarian Komitate (V.M.R.O.) i.e. Internal Macedonian Revolutionary Organisation - conspirators of the terrifying organisation of Ivan Michailof...

The fact that General Marinof was the representative of the Bulgarian Komitate, is made clearly manifest, not from the written orders of the General Army Staff of Bulgaria, because the II secret Bureau of this Staff would not make known attempted plans etc. but is based on certain events and incidents which, in short, I state hereunder:-



-6-

-/ comprised of 1,400 pro Bulgarian Komitadjis,  
-// while General Marinoff personally proceeding to Kastoria

1) The official organs of the Bulgarian Komitate, which appeared from the Spring of 1941 in Western and Central Macedonia, as Lieutenant Kaltsef Captain and Professor of the University of Sophia Doutsos, Lieut. Kostoff, Flight-Lieut. Blantrenoff and hundreds of others, ceased their incursions into Salonica, and rarely from the end of 1942 and after, those of Western Macedonia worked together with Major Mitkoff, Nirtseff etc. of the Bulgarian Club in Salonica, because they all each week visited Marinoff in Monastir -

2) The pro-Bulgarian Greek subjects - inhabitants of Western Macedonia (Kastoria, Florina etc) as, Geles Memelaos, Toubidis Stavros, Makris Panbelis, Damianides Loukas, Gannvrollas Pantelis, Lelios Anastasios, Pazarongas Georgios, Sioupis Antonios and hundreds of others from the various villages also lessened their weekly incursions into Salonica and their collaboration with the Bulgarian Club, because these they realised in the direction of Monastir.

3) The economic suppliers of Sofia of the Bulgarian Komitate and the carriers from there to Western Macedonia of maize, salt, clothing, Bulgarian leaflets, books and money (levies) with the purpose of changing the ethnological composition and uprooting of Greek national feeling, as the suppliers Basilof Spiro, Markoff, Roukoff Christos, Stournboff Basileios etc. always worked together with General Marinoff and with his diplomatic Counsellor D. Dimitrov sent to Monastir by the Bulgarian Ministry of Foreign Affairs.

4) The proven criminal agents of the Bulgarian Komitate in murdering Greeks - as Salamboutis, Terposki etc. murderers of the Macedonian Captain Dailaki, were given fugitive shelter by Kalsterf at Monastir, where they received highly honoured awards by the services of Marinoff and thus avoided their capture by Greek Justice.

B) It is shown that the aforementioned General Marinoff was the representative of the Bulgarian Komitate by the fact also that, while Major Nitkoff, director of the Bulgarian Club in Salonica, opposed the offers of Kaltseff, concerning the formation and arming by the Italians of the formed, in March 1943, Axis-Bulgarian Komitate - the said Kaltseff personally received the approval of General Marinoff and in Kastoria took place the arming of 1,400 irregular armed bands on the part of the Italians and about a further 800, by arms secretly sent from Monastir in the care of Kaltseff and Marinoff.

C) Also from the fact that, no other Bulgarian general or superior officer worked with, reinforced or came into contact with Komitadjis of Kastoria - in the summer of 1943 warmly advised, and publicly the gathered 150 Komitadjis "to fight honestly by the side of the Italians against the Greek andartes" and that, furthermore, he declared that "I will personally see that help is sent to you from Sofia" (see also affidavits by Raveli and Kaltsef) and that, without doubt, did not tend to be realised by the distribution of 500 suits of clothes, food (4,000,000) levas etc. only to the armed Komitadjis, taking place in the village of Aposkepos of Kastoria about the middle of June 1943.

D) Also from the fact ~~that~~ of the despatch from Monastir to Greek Macedonia of about 80 reserve and regular Bulgarians (officers and sub-officers), who were placed in the spring of 1944 at the head of the formed armed bands (Voluntary Axis-Bulgarian Security Corps) to whit, of the organisation OCHRANA, consisting of a force of 6,500 men from pro-Bulgarian inhabitants, strengthened by the S.S. of the German General Sionana, for the war against the Greek andartes and against the British Intelligence.

Those at the head of the OCHRANA had two, and two people only as their protectors and whom they worshipped and these were Marinoff and Kalsterf, whose names and faces electrified the criminal Ochramitas in their atrocities against the Greek population and,

E) By this same way was proved the representation of the Bulgarian Komitadjis (V.M.R.O.) by General Marinoff in regard to the criminal actions of the Bulgarians generally in Greek Macedonia, and from the fact of the, unheard of in psychological life, gathering of over 3,000 students and girl students, Greek subjects and Greek in soul and spirit up to 1942 when the Bulgarian Komitadjis, through the minds of Marinoff and Kaltseff wiped out

the Greek teachers, destroyed the Greek schools by fire, denied food and clothing to the youthful Greek students and forcibly turned them towards the Bulgarian viper. From the end of 1942 the Greek students, who were sons of pro-Bulgarians and organs of the Komitate, ceased to go, as before to Salonica, and those of Western Macedonia went to Monastir where they were taught the Bulgarian language from the start, even thought they may have graduated from the Gymnasium where they were surrounded by Bulgarian emblems, because the propaganda of the organisations of Marinoff poured poisoned hatred into the soul of Greek youth against the Greek nation - the students, and even the girl-students, easily forsook Greek ideals, against one bag of lentils, which Marinoff gave them in Monastir and for this reason nearly all the older ones were enlisted, some in the OCHRANA organisation, and others in the then autonomous organisation SNOF of Goltseff, so that all might work with fanaticism against Greece:- As organs of Marinoff and Kaltseff the said pro-Bulgarian youths acted, and under the mask of the Communist-Slav-Macedonians, exterminated by satanic murder thousands of Greek national andartos.

Question II: Do you know if a Bulgarian military unit of Marinof's 15th Division took part in operations together with German one, against the Greek andartes in the regions of Central and Western Macedonia, and, in the affirmative, when and exactly in which region and under whose orders was it acting and what dependence had it on General Marinof.

(Here we read to the witness under examination Order No. 1-17 of the 11th January 1944 of the Bulgarian General Staff in accordance with the question).

Answer: Certainly - It was shown that in January-February 1944, when the Bulgarian propaganda attempt for the forced de-nationalisation of the Greek people of Western Macedonia began to fail, because the Greek andartes had established themselves masters of large areas of Macedonia and when the victory of the Allies showed on the Russian and Anglo-American fronts, then, through Kaltseff's operations with his German friends, the 54th Regiment of the 15th Division under Colonel Tsanef was placed at the disposal of its German allies and the Bulgarian Army went from Monastir to the Florina area.

This regiment, owing to the fact that Colonel Tsanef was its C.O. and that he was superior in rank to the only then existing in that area German Major Komb and because the Bulgarian aim was to wipe out the Greek population and at the same time to encourage the idea of the Komitadjis and pro-Bulgarian Ochianitos inhabitants, operated independently and at appointed distances from the German armies & the only one who simply acted as liaison between these armies (German and Bulgarian) was the Delegate-Counsellor of the OCHRANA organisation Lieut. Anton Kalstef, given that all foodstuffs, arms, changes of officers of the 54th Regt. of Tsanef were referred direct to the Commander of the 15th Division at Monastir, General Marinof. Kalstef received the instructions and orders of Marinof in a manner that was both uneasy and troublesome, as Kalstef used to go daily from Florina to Monastir in a motor car de luxe covering the distance in only 35 minutes - apart from Kalstef, two dispatch riders were sent every afternoon to Monastir to keep the C.O. of the 15th Division in touch with Tsanef's unit.

The actions of Tsanef's soldiers surpassed in their frightfulness all human mind and thought - so much so that even the Nazis, and their terrible servants the German S.S., were aroused by the appalling crimes of Tsanef's Bulgarian units, especially in the village of Flambouron, so that, without many formalities, the German Major Komb expelled from Greek Macedonia Colonel Tsanef and his "heroic" Bulgarian regiment. From the judicial medical autopsies of the exhumed Greeks of the village of Flambouron, killed by various and murderous instruments by Bulgarian soldiers, it was proved that the bodies of the "Grecmani" i.e. those who loved Greece had had their limbs cut off, for which the two lower-in rank German officers present at the autopsy publicly swore against the Bulgarians.

The protestations of the Greek authorities and the Greek people in no way moved Marinof and Kalstef - It is even not unlikely that Marinof praised those same Bulgarian soldiers of Tsanef as these had carried out the orders of the V.M.R.O. and the Instructional Office of the Bulgarian General Staff, according to which they ought. To fight by the side of the Germans with the greatest determination until the enemy (the Greek army) be destroyed or wholly taken prisoners" "you must be pitiless in face of the wicked Greeks" etc.



Question III: Do you know whether Bulgarian regiments at any time occupied the soil of Greek Macedonia west of the AXIOS river, and in this case what do you know generally of their actions?

(Here we read to the witness under examination para II of Document No. 5545-III of 30-9-46 of the Bulgarian Ministry of Foreign Affairs addressed to the Vice-President of the Allied Military Commission in Bulgaria).

Answer: The entry and occupation by Bulgarian forces was not necessary in the region west of Axios of Greek Macedonia, because the irregular bands of the Bulgarian army of the OCHRANA had been well organised by the Bulgarian Club of Salonica which disposed of 50 active Bulgarian officers in uniform and at the head of these bands of the OCHRANA, active all along the region west of the Axios were Bulgarian officers despatched from Sofia (Bulgarian Gen. Staff via Monastir) and nearly all of these were under the orders of Lieut. Kalstef who carried out the duties of Delegate and Counsellor between the OCHRANA and the German regiments and did not seriously take into account Mitsoff of the Bulgarian Club of Salonica because he had Marinof as protector and advisor - Also the Bulgarian army of occupation, east of the Axios and west of the Strymon, were a worthy acquisition for the Germans against Greece, as thus (end of 1943) a large number of German regiments were dispensed with, and were transferred by air, as has been proved, to the Eastern Front, against Russia, an Ally of Greece, given that at the time the Bulgarians not yet co-belligerents of the Allies, inflicted serious damage on the units of National Resistance acting under officers of the Gendarmerie Tsantalouias and Mitsou - These units had been fully organised with the help of the British from the Middle East, and they seriously disturbed and damaged the Ochranaitas and the Germans - Unfortunately, however, they were stopped because they accepted (Nov. and Dec. 1943) a three-party frontal attack, from the Bulgarian army, the German, reinforced by the Komitadjis of the Ochrana, and finally by the andartes of the SNOF in whose ranks these reigned, under the mask of communism, a pro-Bulgarian element which came from the Ochranites-Komitadjis of Kaltsef:-

I have no more to add,

Whereupon the statement was composed and being

read was duly signed.

The Deputy Prosecutor of the  
Supreme Court, (Areios Pazo)

The examined,

Signature.

Signature.

(N.B. Major Peter Lozas, was, during the years 1942-1944 Chief of the Greek Gendarmerie in the Florina-Castoria area; apart from that he had secret orders from the Free Greek Government to organize an intelligence service and inform the Middle East H.Q. of the movements of the axis armies in that area).

V.

Statement of the examination under oath of witness Constantine Bonis.

Castoria: May 9th, 1946.

Question: Your name etc.

Answer: Constantine Emmanuel Bonis, I was born in Stromvisti, I live in Salonica, I am a Lt. Colonel and I am 54 years old and a Christian Orthodox.

Here the witness swore on the Holy Bible in accordance with and in virtue of Art. 124 of the Penal Procedure, in case of his being prevented to appear before the court.

Question: Do you know etc.

Answer: During the whole occupation that is to say from May 1941 to November 1944 I was the Prefect of Florina. From my position in Florina I am in a state to know that General Ivan Marinof was C.O. of the 15th Bulgarian Division in Monastir and was directing from there the Bulgarian Propaganda against Greece; the aim of the Bulgarian Propaganda was the alteration and the uprooting of the National feelings of the inhabitants of that area, and its annexation, in due time, to Bulgaria. The Bulgarian officers who carried out this propaganda, under the mask of liaison officers with the Germans, were Marinof's tools; this letter not only gave them orders for their activities, but provided them with big amounts of money and other goods (foodstuff, clothing) and later on provided them with arms sent from Monastir. Everybody who used to come to Western Macedonia from Bulgaria, did so via Monastir, where he received orders and instructions personally and direct from Marinof.

Marinof exploiting the misery of the Greek people, dying from starvation in 1942 for the purpose of uprooting their national feelings, sent to Western Macedonia great quantities of maize, sugar and other goods to be distributed only among those who were willing to revoke their Greek national feelings and change their names. The Committee appointed to distribute these goods, were the Comitadjis Neuelaos Geles and Stavos Mauzos; on my refusal to allow this distribution they pointed out that this was a formal order of Marinof and it ought to be carried out by all means. All the Bulgarian speaking members of the Propaganda were supplied with special identity cards, which permitted them to travel freely to Monastir, where they received instructions by Marinof. For better attaining his aim, Marinof, organised in Monastir a center of education for young Greek boys and girls from Western Macedonia.

On April 1943 Marinof accompanied by an important German Major Komb, town Major of Florina, came to Castoria. Later on Marinof with the aid of Kaltsef and under the pretext of the activities of the Greek autartes, persuaded the Germans to be allowed to send a Bulgarian unit to help them fight the Greek autartes; following this a Bulgarian regiment, belonging to the 15th Division of Monastir, came to the Florina area on January 10th, 1944, under the command of Colonel Alesia Tsanef, where they terrorised the population by murdering innocent people, burning houses and looting properties. I remember well that in the Farmalls district they burned alive the old mother of the President of the community; this latter they deported to Monastir. They also sent to Monastir as booty sixty-five big animals (cows). I am certain that Marinof, if having not ordered these atrocities, at least had knowledge of them and could have stopped them if he wished because every afternoon Bulgarian soldiers were sent on motor cycles from Florina to Monastir and brought to the H.Q. of their division reports of the daily events of the unit.

The following are the names of the murdered people by Colonel Tsanef regiment:  
(Follow the names of victims)  
I have no more to say.

The Public prosecutor.

The examined.

Signature

Signature.

VI

Sworn-in Statement of Witness Demou Evanghellou.

At Asprogheia the 17th of April 1946.

Question: What is your name?

Reply: Demou Evanghellou of Evanghelou, I was born here and also reside here, aged 65, farmer and Christian Orthodox.

Has been sworn on the Holy Bible according to the articles 121 and 124 of Penal Procedure.

Question: Do you know whether (duly interrogated).



Answer: The Bulgarians Simos and Constantinos Kiotseff envoys of the Bulgarian Committee of Sophia and of the representative of this latter in Monastir, General Marinoff with whom the Committee was in constant touch, came to our village few days after some Slavo-Macedonians of our village were armed, and they became their chiefs, with the object of arming the other inhabitants against Greece and make them phanatic Bulgarians. Immediately they assumed service they mobilised all the Slavo-Macedonians of the village by force and supplied them with Bulgarian identity cards, they gave them an unlimited liberty and big authority to treat badly every Greek. They deprived us of our liberty and did not permit us to come out of our homes without a permission. They requisitioned many Greek houses as well as my house which they transformed into a guard-house and so I remained in the streets; they obliged us to pay very heavy taxes in kinds which were collected by a Committee whom they appointed with the most phanatic Bulgarian speaking man of our village as chiefs of the committee, for the feeding of their armed forces. They made often researches in our homes to find out partisans, and they plundered our fortunes, arrested without any reason Greeks, imprisoned them and treated them badly. They fired at my child Evanghelos many times without killing him, and had he not hid himself he would be lost. For the most hard obligatory work of the armed forces they took and used us, work which we did sometimes with our cattle and sometimes with our own hands, from fear, because they threatened us with the pistol in the hands; they did whatever they liked, considered no one, they terrorised the Greeks so much that we could not even go to our lands which we left uncultivated, nor could we work outside, and so they condemned us to death from starvation. In their gatherings they tried to take out of their hearts all sign of Greek feeling, they told us that here is Bulgaria, that Greece is henceforth dead, and your interests are only with Bulgaria, Macedonia has been taken for Bulgaria of which the Committee also fixed the boundaries, and that within a short time a help composed of Bulgarian soldiers would arrive on the spot.

I have nothing else to add, and I am literate. It has been read to him and being confirmed, it is signed:-

The examined

The Witness

The Police Chief

Signatures follow

Of this same content are the sworn-in statements of the following; attached to the file:-

- 1) Dimitrios Georgiou Gogos
- 2) Vyrzas Zisis of Constantinos
- 3) Polysios Karaliotis of Athanassios
- 4) Tsatalis George of John
- 5) Syskopoulos Tryfon of Evanghelos
- 6) Athanassios Economidis of Dimitrios
- 7) Vainas Gregorios of George.

A true Service copy  
Athens the 13th February 1947.

The Secretary,  
of the Greek National Bureau of War Crimes.

Signature.

## VII

### Sworn-in Statement of Witness Olga Nasis.

At Flamouron the 23rd of February 1946.

Question: What is your name etc.?

Answer: Olga widow of Constantinos Nasis, I was born and reside in Flamouron of Florina, am aged 40, a housewife, Greek and Christian Orthodox.

She has been sworn on the Holy Bible according to the articles 121 and 124 of the Penal Procedure.

Question: Do you know whether etc? (duly interrogated).

Answer: My husband Constantinos Nasis, when the Bulgarian military detachment came to our village Flambouron on February 5, 1944, was President of the Community. The Bulgarians took him away with them to Ammohori, they tortured him and killed him with pick-axes. How are these Bulgarians named I do not know. But I know that my husband was reported to the Bulgarians by Christos Nikolaou of Elias a resident of Keptokaraya, who was with them at that time and to-day is in Monastir of Serbia with Gotseff.

I have nothing else to depose and I am illiterate.

It has been read to her and having been confirmed is signed, except by the examined who declared that she is illiterate.

The examined,  
illiterate.

The witnesses.

The Chief of Police

signatures follow.

Of this same content are the statements of the following witnesses attached to the file ?

- 1) Theano widow of Lazaros Galios
- 2) Anastassia widow of Filotas Tahos alias Lykas
- 3) Maria widow of Christos Gatsis
- 4) Anastassia widow of George Tzekas.
- 5) Alexandra widow of Sotirios Kakaratzas
- 6) Helen widow of Gabriel Broikos
- 7) Evangelia wife of Sterghios Delvizis
- 8) Stavros Elovaris of Nikolaos
- 9) Anastassia widow of Xenophon Mitrousidis
- 10) Constantian widow of Christos Mitrousidis.

A true Copy

Athens the 13th of February 1947.

The Secretary,

of the Hellenic National Bureau for War Crimes.



Question: Do you know whether etc? (duly interrogated).

Answer: My husband Constantinos Nasis, when the Bulgarian military detachment came to our village Flambouron on February 5, 1944, was President of the Community. The Bulgarians took him away with them to Ammohori, they tortured him and killed him with pick-axes. How are these Bulgarians named I do not know. But I know that my husband was reported to the Bulgarians by Christos Nikolaou of Elias a resident of Keptokaraya, who was with them at that time and to-day is in Monastir of Serbia with Gotseff.

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- 1) Theano widow of Lazaros Galios
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- 4) Anastassia widow of George Tzekas.
- 5) Alexandra widow of Sotirios Kakaratzas
- 6) Helen widow of Gabriel Broikos
- 7) Evaghelia wife of Sterghios Delvizis
- 8) Stavros Eloveris of Nikolaos
- 9) Anastassia widow of Xenophon Mitrousidis
- 10) Constantian widow of Christos Mitrousidis.

A true Copy

Athens the 13th of February 1947.

The Secretary,

of the Hellenic National Bureau for War Crimes.

I/84.

13th March, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Bearing of the Italian Peace Treaty on  
the position of Italian war criminals.

(Note by the Secretary to Committee III, on a  
conference with Monsieur Maillard).

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Today I received the visit of Monsieur Maillard, who asked  
for my opinion on the following questions:

1. Will the Commission continue listing Italian war criminals when the Italian Peace Treaty comes into force? Will the lists of Italian war criminals be communicated to the Italian Government? The exact date of this communication.
2. What is the value of listing Italian war criminals by the Commission in view of the new machinery envisaged in the Italian Peace Treaty?
3. Can, when the Italian Treaty comes into force, Italian prisoners of war be tried by Allied authorities in whose custody they are without the approval of the Italian Government?
4. Can, when the Italian Peace Treaty comes into force, Italian war criminals, who are in the custody of States different from the State which demands them and who are on the United Nations War Crimes Commission lists, be handed over by the custodian Government to the demanding Government without approval of the Italian Government?

I replied to Monsieur Maillard's questions in my personal capacity  
as follows:

Regarding 1: I believe the Commission will continue listing persons  
of Italian nationality accused of war crimes.

The question whether the existing lists of Italian war criminals  
and future lists, if any, are to be communicated to the Italian Government  
is a question of policy, not a question of law, and will have to be  
decided by the Commission.

Regarding 2: The value of listing war criminals consists, under the



procedure envisaged in the Peace Treaty, in the fact that the four Ambassadors in Rome, who decide disputes concerning the application of Article 45 of the Peace Treaty, have no machinery for the examination whether there is a prima facie case of a war crime and will certainly find the examination of individual cases by the Commission useful in arriving at a final decision.

Regarding 3: Article 71 of the Peace Treaty provides that Italian prisoners of war shall be repatriated as soon as possible in accordance with arrangements agreed upon by the individual Powers detaining them and Italy.

In my view this provision must be interpreted as subject to the exception which is implied in Article 45, namely, that persons accused of war crimes in the wider sense need not be repatriated, if they are being tried for war crimes or serving a sentence therefore. If Italy is under the obligation to apprehend and surrender for trial persons accused of having committed, ordered or abetted war crimes, even if they are under Italian jurisdiction, it follows that Italy has not the right to insist on the repatriation of such persons if they happen to be in Allied custody. Any other interpretation would lead to the absurd result that an Italian prisoner of war, who is, e.g., in French custody, would have to be repatriated by France to Italy under Article 71 of the Peace Treaty, in order to be then surrendered by Italy to France under Article 45.

Respecting 4: What has been said under 3 applies here mutatis mutandis. The Allied States have the right to hand over inter se prisoners of war accused of war crimes in spite of, and as an exception to, the general obligation to repatriate them deriving from Article 71.

In view of the great importance of the principles involved in the questions raised, Monsieur Maillard asks the Secretariat to arrange for these questions being brought before the Commission.

I should like to add that the problems arise not only in connection with the Italian Treaty, but also in connection with the Treaties with Roumania, Bulgaria, Hungary and Finland; the Italian aspect is, however, practically the most important

Committee I Doc I/85  
24th March 1947.

UNITED NATIONS WAR CRIMES COMMISSION

Bearing of the Bulgarian Peace Treaty on the position of  
Bulgarian War Criminals.

Note by the Secretary to Committee III on a conference with  
Monsieur Dimitzas.

To-day I received a visit from the Greek representative Monsieur Dimitzas, who asked for my opinion on the question to whom requests for the extradition of Bulgarian war criminals will have to be addressed when the Bulgarian Peace Treaty comes into force.

The relevant provision is Art. 5 of the Bulgarian Peace Treaty, which corresponds to Art. 45 of the Italian Peace Treaty.

In paragraph 1 of Article 5 it is provided that Bulgaria shall take all necessary steps to ensure the apprehension and surrender for trial, inter alia, of persons accused of having committed war crimes. The second paragraph of Article 5 says that at the request of the United Nations Government concerned, Bulgaria shall likewise make available as witnesses persons whose evidence is required. Particularly from the word "likewise", used in paragraph 2, it seems to follow that it is Bulgaria (i.e. the Bulgarian Government) which has to make available the persons concerned and to take the necessary steps. The Peace Treaty provides, therefore, in my opinion that request for the surrender of war criminals will have to be addressed to the Bulgarian Government.

Disputes arising out of Article 5 of the Peace Treaty will be decided under its paragraph 3, by the Heads of the Diplomatic Missions in Sofia of the Soviet Union, the United Kingdom and the United States.

I agreed with Monsieur Dimitzas that it would be appropriate to discuss this question in the meeting of the Commission to be held on the 26th March 1947, in connection with the related problems arising out of the Italian Peace Treaty which are being dealt with in the Joint Report by Committees I and III, Doc. C.252.



I/86.  
29th April, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Case of Dr. Madori  
listed by Yugoslavia.

The following letter received from Dr. Madori's solicitors is  
circulated to members of Committee I for consideration at its next  
Meeting.

Pisa,  
April 17th, 1947.

"Dear Sirs,

"We are in receipt of yours kind dated 27 March.

"In the silence of any information relating to the exact situation of Subject as far as his possible responsibilities as war criminal were concerned it was care of this Council to be informed about all the events happened in the areas where Dr. Madori had his residence.

"In the course of the said inquires no outstanding fact was remarked in the activities of the Italian Broadcasting Corporation on the time and in the places in which Subject was serving.

"A sole information reached us that on or about the 13th of September 1943 the Radio Station of Ljubljana, Yugoslavy, where he had been previously serving, was blown up subsequently to the departure of our customer.

"If this event should be possibly the ground of the charge against Dr. Madori, we have plenty of evidences here that the Station was destroyed whilst Subject had been first repatriated to Italy on the 28th August 1943, being assigned to the Direction of Naples Italian Broadcasting Corporation Detachment on or about the 3rd September of the same year, office that he headed for some weeks, later being appointed to Rome Department.

"It is plainly clear that he could not absolutely be in Ljubljana on 13th September; this fact may be proved by the same Italian Broadcasting Society, who still have in their possession copy of the order of attachment.

"Such Anna VOSELI, Yugoslav born, married VESCO, living in Palermo, Sicily Region, ITALY, 57 Via Francesco Crispi, who was radio announcer at the Ljubljana Station for a large period of time could exhaustively testify on the matter referred.

"If questioned by Your Organization she will also be

.....

"able to report about the entire behaviour of Doctor Madori in all his functions and activities developed in Yugoslavia.

"It is therefore believed that on such proves and arguments the leading charge against our customer must fall and whenever any further evidence should be necessary to support these facts and this thesis we will be able to pick it up and respectfully submit to your attention.

"On the same time we think that is inderogable and out of discussion right of the Council to be instructed about all the offences that may be addebted to our defended and be contemporaneously enabled to examine the files and the documents of Your Commission or of the Yugoslav Investigating and Requiring Authorities so that a sufficient and material plan of defence may be prepared by them. Instead it is the opinion of the Council that the case is going to be handled without any freedom for the accused to present his reasons and produce his excusations.

"Your courtesy is therefore asked to forward the above request to the proper Yugoslave Officials in conformity with the general regulations of your procedure and inform them that no possibility and no way will be left by us to clarify and to set aside the alleged liabilities brought against the Subject.

Yours respectfully,

(Signed) GIOVANNI SORBI.  
Lawyer.

RENATO TORTORELLA.  
Attorney at Law.



"able to report about the entire behaviour of Doctor Madori in all his functions and activities developed in Yugoslavia.

"It is therefore believed that on such proves and arguments the leading charge against our customer must fall and whenever any further evidence should be necessary to support these facts and this thesis we will be able to pick it up and respectfully submit to your attention.

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"Your courtesy is therefore asked to forward the above request to the proper Yugoslave Officials in conformity with the general regulations of your procedure and inform them that no possibility and no way will be left by us to clarify and to set aside the alleged liabilities brought against the Subject.

Yours respectfully,

(Signed) GIOVANNI SORBI.  
Lawyer.

RENATO TORTORELLA.  
Attorney at Law."

I/87.

16th May, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Case of General Marinov.

The following letter received from General Marinov's lawyer is circulated to members of Committee I for consideration at its next meeting.

TRANSLATION

A. Schlisselman,  
Advocate to the Paris Court of Appeal,  
110, Boulevard de Courcelles, (XVII).

Paris, May 6th, 1947.

Colonel Ledingham,  
Secretary General of the U.N.W.C.C.,  
Lansdowne House,  
Berkeley Square,  
London, W.I.

Sir,

I have the honour to acknowledge with thanks your letter of April 16th last.

General MARINOV, who is at present in Sofia, has since sent me the text of the Commission's reply to the Bulgarian Government.

I quite understand that the Commission's decision in no way prejudices the guilt or innocence of General MARINOV, and that he has simply been entered in the list of persons accused of war crimes.

Nevertheless, I venture to ask you for certain explanations regarding the legal consequences of this decision.

- I. Is the Greek Government entitled to institute proceedings against General MARINOV for a war crime only if he has first been entered on the list of persons charged with being war criminals, or can the above-mentioned Government institute them independently of such a decision?
2. Is the Greek Government, founding itself on a decision of the Commission, entitled to demand the extradition of General MARINOV only



from States signatories of the Convention of St. James's, or also from States regarded as former satellites of Germany?

As regards the final paragraph of the Commission's reply, I believe that I am interpreting it correctly as meaning that the Commission's decision is not final and that it was only adopted having regard to the present position of the question. If, then, at any time, General MARINOV or the Bulgarian Government should be in a position to submit documents to the Commission in reply to the accusations made by the Greek Government, is it the case that the Commission would still be disposed to examine them, to reconsider the question, and to nullify its decision, if the documents submitted were such as to convince the Members of the Commission?

I thank you in advance for the reply which I hope to receive to my letter, and I take the opportunity of conveying to you my appreciation of the manner in which you received me when I was last in London.

I remain,

Yours, etc.,

(Signed) A. SCHLISSELMAN.

I/88

2nd June, 1947

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

CASE OF GENERAL MARINOV

The following letter received from the Bulgarian Minister for Foreign Affairs is circulated to members of Committee I for consideration at the next meeting of the Committee.

TRANSLATION

Minister for Foreign Affairs

No. 1576 - III

SOFIA, 13.v.1947

To the Right Hon. Lord Wright of Darley,  
President of the U.N.W.C.C.,  
Lansdowne House,  
Berkeley Square,  
London, W.1.

Sir,

The Minister for Foreign Affairs has received, through the Chancery of the Political Representative of Great Britain, the United Nations War Crimes Commission's reply concerning General MARINOV, together with the summary of the statement of charges brought against him, submitted by the Greek Government.

While regretting that the Commission did not find it possible to remove General MARINOV's name from the list of persons accused of war crimes, the Bulgarian Government is grateful to learn from the Commission that, before taking a final decision, it is prepared to consider such supplementary information as the Bulgarian Government may submit in the future. The Bulgarian Government especially appreciates the understanding which the Commission has shown in regard to the scope of this question; all the more so because the case of General MARINOV has been the subject of premature and unusual publicity, and also because the Bulgarian



Government's first statement was not transmitted to the Commission, a fact which the Bulgarian Government only learned on April 17th of this year.

Now that the Bulgarian Government is, for the first time, in possession of a statement of the charges filed with the Commission, it hopes that, by the supplementary information which it intends to submit, it will succeed in completely elucidating the case of General MARINOV. Nevertheless, in this connection, the Bulgarian Government feels bound to point out that the absence of a detailed statement of the charge itself, and, above all, of the different pieces of evidence on which the charge is founded, constitutes a considerable obstacle, and is hardly consistent with the recognised method of presenting an accusation.

I have, etc.

(Signed) K. GHEORGHIEV

Vice-President of the Cabinet,  
Minister for Foreign Affairs

Charge 3769/Y

-1-

I/89.  
25th June 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Case of General von Stockhausen (Wilhelm)

The following correspondence concerning General Wilhelm von STOCKHAUSEN, listed by Yugoslavia, is circulated to members of Committee I, for consideration at its next meeting.

HAMBURG 34 10 06  
Tel. Ext. 505.  
609/SECT/128/10.

Office of the Regional Commissioner.  
HQ. Military Government,  
Hansestadt HAMBURG  
609 OCG., BAOR.

Lord Wright, P.C.K.C.,  
Chairman of the United Nations Committee  
for the Investigation of War Crimes,  
LONDON.

The Regional Commissioner has instructed me to forward the attached documents for the defence of General von Stockhausen to you with a request that they should receive the earliest convenient attention.

Frau von Stockhausen is resident in Hamburg and any correspondence arising from this letter may be sent to this Office for forwarding to her.

(Signed) IAN WINTERBOTTOM.

Private Secretary to the  
Regional Commissioner.

IV/JFW.

Enclosure.



Dr. Fritz Meyer-Struckmann  
Rechtsanwalt.

(24) HAMBURG, den 10th June, 1947.

Alterwall 37/53.

My Lord,

Will you kindly consider the following application concerning the extradition of the former German General Wilhelm Hunold von STOCKHAUSEN to Yougoslavia.

General Wilhelm Hunold von Stockhausen who was commander in the Concentration Area in Schleswig-Holstein after the capitulation and whose activity was appreciated in a wide degree by the Eighth British Army Corps, should be released preferentially as prisoner of war. The release did not take place because his name was on a list of war criminals presented by the Yougoslavian Government. In the beginning of April he was brought from P.O.W. Camp Munsterlager to Internment Camp Neuengamme as interned civilian and on 20th April, 1947, was transported from here without any announcement of his present whereabouts. There was no notification to his family members, especially to his wife. After all inquiries made hitherto it is to be feared that General von Stockhausen was extradited to the Yougoslavian Government and will be in Belgrade already:

According to an information of the

War Crimes Branch (N.W.E.)  
Trial & Extradition Section,  
H.Q. B.A.O.R.,  
attention Group Capt Somerhough,  
3 Luisenstr.,  
Bad Oeynhausen,

the Yougoslavian Government is charging General von Stockhausen with death-sentences carried out to Yougoslavian nationals in April 1941, near Belgrade at Pancevo. This charge lacks of any rightful foundation. It is true that there were death-sentences in April 1941 in Belgrade and surroundings to Yougoslavian nationals and that General von Stockhausen was commander of the Regiment "Grossdeutschland" in Pancevo then, yet these sentences were not inflicted by the court of the Regiment "Grossdeutschland" or his commander but were passed by the court-martial of the SS-Division "Das Reich" and confirmed by the commander of this division.

General von Stockhausen, who then held the rank of a colonel, had - as commander of a regiment - no possibility to encroach upon the jurisdiction of the SS-Division. This SS-Division, therefore, can only be made responsible for the death-sentences inflicted and carried out.

It is certified by the enclosed declaration on oath of the former Generalfeldmarschall Freiherr von Weichs that the Regiment "Grossdeutschland" neither carried out death-sentences against natives nor shot hostages and that death-sentences carried out in Belgrade and surroundings were only inflicted by the SS-Division "Das Reich". This declaration shows without any doubt that General von Stockhausen has absolutely nothing to do with the executions in Yougoslavia, having been there himself only up to the end of April 1941 that is for 3 weeks. It is made obvious hereby that the charges against General von Stockhausen are wrong or

Lord Wright, P.C.K.C.,  
Chairman of the U.N. Committee for Investigation of War Crimes,  
London.

Charge 3769/Y

-1-

I/89.  
25th June 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Case of General von Stockhausen (Wilhelm)

The following correspondence concerning General Wilhelm von STOCKHAUSEN, listed by Yugoslavia, is circulated to members of Committee I, for consideration at its next meeting.

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Tel. Ext. 505.  
609/SECT/128/10.

Office of the Regional Commissioner.  
HQ. Military Government,  
Hansestadt HAMBURG  
609 OCG., BAOR.

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Chairman of the United Nations Committee  
for the Investigation of War Crimes,  
LONDON.

The Regional Commissioner has instructed me to forward the attached documents for the defence of General von Stockhausen to you with a request that they should receive the earliest convenient attention.

Frau von Stockhausen is resident in Hamburg and any correspondence arising from this letter may be sent to this Office for forwarding to her.

(Signed) IAN WIMMERBOTTOM.

Private Secretary to the  
Regional Commissioner.

IW/JFW.

Enclosure.



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Trial & Extradition Section,  
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Lord Wright, P.C.K.C.,  
Chairman of the U.N. Committee for Investigation of War Crimes,  
London.

based on an error.

Your Lordship is asked by the undersigned lawyer to consider the following details when deciding on this matter:

On 15th Nov., 1945, General von Stockhausen was to be brought up for examination by a British military motor-car from Ploen (Schleswig-Holstein) to Bad Oeyhausen. The British car had a serious accident near Neumünster. General von Stockhausen got a compound fracture of the skull and since this time is considerably restricted in his thinking power and ability of remembrance. Owing to this accident, General von Stockhausen will be unable to defend himself when a proceeding of court-martial is taken against him or to follow the proceeding and its cross-examinations.

The seriousness of his injury is certified by the enclosed attestation of the physician Dr. Wolsky, who treated him at the Reserve-Lazarett Heiligenhafen.

According to material and personal reasons stated, I beg Your Lordship to care for

- 1) withdrawal of the extradition of General von Stockhausen
- 2) cancellation of General von Stockhausen on the list of war criminals.

In addition, an application out of the regiment of General von Stockhausen with further evidence will be submitted to the Commander of the British Army of the Rhine. As it is to be feared that the Yugoslavian Government will already take proceedings by court-martial against General von Stockhausen before a decision would be given concerning the application of the undersigned or concerning the application to be submitted to the Commander of the British Army of the Rhine, I beg Your Lordship to see that any trial against General von Stockhausen by the Yugoslavian Government will be stopped as soon as possible and that definitive decisions will be deferred until Your Lordship will have at hand all the evidence from here.

It is further requested to arrange for General von Stockhausen who is bodily and intellectually ill, for sufficient assistance by a defending lawyer.

(Signed) MEYER-STRUCKMANN.

Lawyer.



A F F I D A V I T

of Field-Marshal General Maximilian Freiherr von WEICHS.

I, Field-Marshal General Maximilian Freiherr von WEICHS, at present in Nuremberg Court Prison, aged 65, am cognizant that I shall render myself punishable if I make an untrue affidavit. I declare in lieu of oath that my statement corresponds to the truth and that it was made for the purpose of being used as proof before a court.

When the German Army entered Yugoslavia in April, 1941, I was commander-in-chief of the 2nd Army. The troops moving in the direction of Belgrade were in my area of command.

In the plan of campaign it had been provided that the regiment "Grossdeutschland" under the leadership of Colonel Hunold von Stockhausen should capture or occupy Belgrade. Contrary to the given orders, however, the SS Division "Das Reich" pushed forward and captured the capital.

Immediately on the news hereof I was notified that a number of sentries of the SS Division had been shot overnight by civilians and that the SS Division thereupon had proceeded to take severe counter-action.

I was particularly interested in having the SS Division leave Belgrade again. The order was given that the regiment "Grossdeutschland" should enter Belgrade and relieve the SS Division. This order was carried out.

As far as I know, no death sentences against inhabitants of the country nor shootings of hostages were ever carried out by the regiment "Grossdeutschland". Whether the possible execution of death sentences which had been passed by courts of the SS Division took place in the period during which the SS Division was just being relieved by the regiment "Grossdeutschland" is not known to me. If this was the case, Colonel v. Stockhausen certainly did not have anything to do with these executions. The SS courts were independent. They were not even placed under me as commander-in-chief of the Army but under the Reichsführer SS directly. The regiment "Grossdeutschland" was an élite troop of picked officers and men. This regiment was in every respect under my control, also with regard to jurisdiction. I am not informed of any executions by the regiment at that time.

Nuremberg, 2nd June, 1947.

Signed: Frh. v. Weichs.  
Field-Marshal General.

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The above signature of Field-Marshal General Maximilian Freiherr von WEICHS given in the presence of Attorney Dr. Hans Laternser is herewith certified and attested by me.

Nuremberg, 3rd June, 1947.

Signed: Dr. Hans Laternser  
Solicitor and Counsel before the  
American Military Tribunal in  
Nuremberg.

This is to certify that the above translation, submitted to me, gives the true meaning of the original document before me.

Hamburg, June 10th, 1947.

Johannes Obermeyer.  
Sworn Interpreter and Translator.

Hilfskrankenhaus Heiligenhafen  
Block XX.

Heiligenhafen, June 10th, 1947.

Medical Certificate.

General Hunold v. STOCKHAUSEN, Born January 30th, 1891, has been under medical treatment in Heiligenhafen Hospital from March 22nd to July 22nd, 1946.

Mr. v. St. suffered from severe hurts of the skull with permanent hard complaints.

In June, 1916, the right side of his head has been wounded by a shell splinter. For eight months, he has been treated in a Military Hospital, and after 12 months, he was fit for service in the army again. In 1939, Mr. v. St. had a railway accident and suffered since that time from the complaints of a concussion of brain. On 15th of November, 1945, during the drive in a motor car on duty, Mr. v. St. got a fracture of skull. After this accident, he was unconscious for several hours. In the following days, memory had absolutely gone and he could not remember any events that happened just before. The injury of the brain has been very hard. Some days later, an effusion of blood arose below both his eyes - as a sign of a bone fracture of the basis of the skull. Hearing on the right ear was impaired. The patient suffered from sleeplessness, sensibility in a high degree, degradation of his memory, permanent head aches, and vertigo in turning his head.

By repeated and solid medical examinations, specialists stated the fracture of the right temple bone (os petrosum). - The left radius-reflex has been increased and disturbances of the deep sensibility and of equilibrium were to be found out.

On account of his injuries of brain, (brain contusion!) which have been objectively and clearly proved, Mr. v. St. has been classified to the group of "heavy wounded", degree of injury III.

By these different hurts of the skull, as well of the brain, memory and ability of concentration are diminished and creased in a high degree. Psychic alterations have been observed also during his stay in our hospital.

According to medical opinion, Mr. v. St. will not be able to take part in a difficult discussion longer than one hour with attention. Furthermore he is not able to follow a cross-examination.

(Signed) WOLSKY.

Physician  
of the Internal  
Section.



I/90.  
27th June, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Case of Dr. GASSAUER, listed by Czechoslovakia.

The following letter received from Dr. GASSAUER's lawyer is circulated to members of Committee I for consideration at its next meeting.

PAUL ABEL, Dr. Jur. (Vienna).  
Consultant on International Law  
and Central-European Law of Patents,  
Trade Marks and Copyright.  
A/MW.

72 New Cavendish Street,  
London, W.I.

c/o Messrs. Kaufman & Co.  
Solicitors.  
Private Telephone: CUN.8772.

The Secretary General,  
The United Nations War Crimes Commission,  
Lansdown House,  
Berkeley Square,  
London, W.I.

25th June, 1947.

Sir,

Re: Dr. Carl GASSAUER.

I have been instructed by Dr. Franz Lach, a lawyer in Graz, Styria, to apply to you on behalf of Dr. Carl Gassauer, now a lawyer in Timmersdorfergasse 4, Leoben, Styria.

Dr. Gassauer seems to be on the list of War Criminals and his extradition appears to be demanded by the Czechoslovak Representative in London, on the United Nations War Crimes Commission.

Dr. Gassauer is an Austrian subject, born on September 12th, 1901, in Tschermich, Czechoslovakia. Up to 1936 he was employed in a lawyer's office in Austria and on May 9th, 1936 he moved to his father-in-law in Czechoslovakia. There he fell sick and went to Munich to relatives of his, where he worked until April, 1938 as a clerk with a welfare organisation. In 1938 he was appointed assistant judge, on August 1st, 1939 he became "Amtsgerichtsrat in Zivilsachen". He was employed with the censorship authorities and had to censor the mail of Czechoslovak prisoners as he is conversant with the Czech language. He treated the Czechoslovak prisoners in such a manner that he was commonly called the "andel z Mnichova" (angel of Munich). He employed them for instance at works at the Menagerie Hellabrunn, gave their relatives frequent permits of visiting them, allowed them to receive parcels, etc. He was hailed by the prisoners wherever he met them at their outdoor work.

He can refer to many witnesses who would confirm his statements. One of the witnesses is Mrs. Karla Dufkova who can testify that her father was transferred on Dr. Gassauer's instructions from the prison in Munich to the prison in Landsberg a/Lech in order to delay his prosecution. She can further testify that he allowed her to speak to her father, although he had been expressly forbidden by the superior authorities to grant such permission.

Against his wish he was ordered on March 4th, 1942 to serve in Czechoslovakia. He was very helpful to the Czechoslovak prisoners there as well. A Czechoslovak officer called Mr. Dudak dedicated a picture to him as a token of his gratitude. A Czech policeman called Snevajs was acquitted by Dr. Gassauer in spite of instructions to the contrary.

This statement can be confirmed by witnesses as well.

.....

Dr. Gassauer helped the prisoners whenever he could. His attitude was very much disliked by his superiors so that he was eventually replaced by another judge. Several times acquittals issued by Dr. Gassauer were squashed by the superior courts or by the department of justice of the so-called "Reichsprotektor" in Prague.

Dr. Gassauer's brother, Hans Gassauer was arrested by the Gestapo on September 20th, 1943, and died in February, 1945 in the prison of Wittenberg. Dr. Gassauer had joined the Nazi party on October 1st, 1939 but left the same as a protest against the treatment of the said brother.

During his activity as a judge, he was very often attacked in the Nazi press, for instance in an article in the "Schwarze Korps", edited by the SS in an article entitled "Die Arche Noas", because he had decided in favour of a Jewish party in a lawsuit for damages. He had also a rencontre with the Gauleiter of Munich Wagner who accused him of his anti-Nazi attitude.

Dr. Gassauer further states that he was accused to have been present as an officer in a Polish camp where Jews were murdered, but he solemnly declares that this accusation must be based on an error of identification because he never was an officer and never was employed in a Polish camp.

In these circumstances Dr. Gassauer would humbly apply to be removed from the War Crimes List and in any case would pray that his extradition to the Czechoslovak authorities might be postponed until he has proved the lack of guilt on his part. Dr. Gassauer is now imprisoned in the prison of the Landesgericht Salzburg.

I shall be very glad if you would be good enough to consider the matter and let me know whether any further information is required or whether I could call on you to discuss the matter.

Yours faithfully,

(Signed) PAUL ABEL.



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I shall be very glad if you would be good enough to consider the matter and let me know whether any further information is required or whether I could call on you to discuss the matter.

Yours faithfully,

(Signed) PAUL ABEL.

I/91,

23rd July, 1947,

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Case of Johann MAJOR or MAYER, listed by Poland,  
(5164/P/G/256).

The following letter and enclosures regarding Johann MAJOR or MAYER are circulated to members of Committee I for consideration at its next meeting.

Reference:  
WOH/15228/20.3272/Legal.  
Tel. No. 2628.

War Crimes Group (North West Europe),  
at: H.Q., B.A.O.R.  
Section: Legal.

4 July 47.

United Nations War Crimes Commission,  
Landsdowne House,  
Berkeley Square,  
Knightsbridge,  
London, W.I.

Subject: Johann MAJOR or  
MAYER.

1. The Polish War Crimes Commission under their reference No./Rep/Br/1291/46/1124/47/DJ dated 22nd May 47 stated that they had taken action to list the above named with you as a war criminal.
2. The charge is that this individual, a farmer living at KEYENBERG, Holzweilerstrasse 65, Kreis ERKELENZ, between 1940 and 1943 persistently maltreated slave workers, and that he was accessory before the fact to the hanging of one Leon JAWORSKI, who, having in July 1942 struck MAJOR in self defence, was delivered into custody by the latter and publicly executed (presumably without trial), in February 1943. Two Polish DPs are named as witnesses.
3. The enclosed statements have now been submitted in defence of MAJOR and it is thought that your Committee may care to consider them.
4. May the statements please be returned to this office in due course.

A.E.E. READE. (Major)  
(for) Group Captain,  
Officer i/c War Crimes Group (NWE).

REGISTERED/UNREGISTERED.  
APQ/SDS.

AEEREA.



1.

Mrs. Mechtilde Major  
Keyenberg, Kreis Erkelenz.

May 5th, 1947.

To  
Military Government H.Q.,  
War Crimes Group  
(North West Europe)  
B.A.O.R.

My husband Johann Major was arrested by Military Government order on the 15th April 1947. As far as I understand he is charged with a war crime committed, it is said, on a pole who has been working with us for 1½ year. My husband, however, is absolutely innocent in this matter. I declare instead of an oath that the pole has been treated in our house very well like our own child. As a proof I enclose a number of testimonials from our nearest neighbours. I further declare instead of an oath that we have not made a charge or undertaken anything against the pole. I therefore should be thankful if you would please rush the investigation and release my husband, as there is much back-work on our farm for which his presence is most urgently required.

(Signed) Mrs. Mechtilde Major.

2.

Translation.  
Declaration instead of an oath.

On the 15th April 1947 my husband Johann MAJOR was arrested. I presume that his arrestment was due to the following incident:

In February or March 1943 a pole who had formerly been working on our farm was hanged in Holzweiler. This pole on the 26th May 1942 had knocked down my husband on our yard from behind with a heavy iron chain (cow chain) seriously injuring him on the back of the head.

The pole had already repeatedly given reason for complaint on account of his violent character. It was already intended to lay him off, but due to his requests he was finally not dismissed. Again on the 26th May 1942 he adopted a threatening attitude towards myself as he was dissatisfied with a slice of white bread forming part of his provision, one side of which had begun to dry. I called my husband who was in the cow house for help. My husband very calmly said to the pole: "Leo stop that noise. If you don't like the sausage bread you go to the acre without it." With these words my husband left the kitchen and the pole was expected to accompany him to the acre. On crossing the yard the pole walking behind my husband caught a heavy iron cow chain and with it struck my husband over the back of the head so that he collapsed streaming with blood. The pole ran away to the open country but was brought to a stand by several people two hours later.

The mean assault on my husband became known in the village very soon and the pole was arrested by a police official whose name I believe was PAULY and who had been informed by the population. The pole was brought to the fire engine house in Keyenberg. As far as

(2 continued)

was known then the pole was taken from Keyenberg to Holzweiler by the police official SPEEN from Immerath by order of the burgomaster and Ortsgruppenleiter BAUMANN from Holzweiler. From there it was said he was handed over to the Gestapo. Neither my husband nor I have informed the police station nor any authorities of the incident. Only one month later my husband was cross-examined on the assault by a Kriminalrat (criminal adviser) whose name was, as far as I remember, BACH.

Then, about 10 months later, this pole was hanged by the Gestapo Aachen in the presence of the Kreisleiter of Erkelenz, the Ortsgruppenleiter BAUMANN of Holzweiler and numerous political leaders, as well as the poles engaged in the district.

Now, after my husband's arrestment people here say: "How is it that the innocent Hermes (my husband) is arrested while it is BAUMANN's fault."

The good treatment the pole has always received from my husband is confirmed by the numerous testimonials from authorities, officials and inhabitants of our community.

My husband, in any case, is absolutely innocent with the execution of the pole and was already interrogated on the incident shortly after the arrival of the Allied troops in the presence of the other poles and remained unmolested until now, as he has not made himself guilty of anything which could have given rise to measures against him.

Keyenberg, April 22nd 1947.

(Signed) MECHTILDE MAJOR.

3.

Translation

Borschemich, 22.4.1947.

Declaration.

I confirm of my own accord to Mr. Major the following:

I was a police official in this district from 1924 to July 1943. In such capacity I received instructions from the local police authorities to forbid Mr. Major his illegal attitude towards his pole. It was generally acknowledged that Major entertained excellent relations with his pole who was treated by him like a member of the family. The pole was lodged in the house, took his meals on the family table and got the same food as the family. His life in Major's house was that of a free man and in every respect worthy of a German worker.

The pole was arrested on the charge of ill-treatment and injuries of body applied to Johann Major. In the short hours I was on guard the pole who, like all foreigners, had confidence in me, asked me repeatedly when he would be permitted to return to his farmer in Keyenberg. Without my asking him he admitted voluntarily that Major had always been good to him and that he felt sorry for the incident and wished to repair it. As far as I know Major was not the man who denounced him or had appeared as witness.

(Signed) SPEEN.  
Polizeimeister a.D.



4.

Translation. Attestation to be presented to the authorities.

Mr. Johann Major from Keyenberg was attended by me on the 26th May 1946 on account of severe injuries of the head (concussion of the brain and severe gash on the back of the head). The wound has been sewn. According to Mr. Major the injury originated from a blow carried out by a foreign worker with an iron chain.

(Signed) MAYS. Dr. Med. E. MAYS,  
Physician. Arst.  
Otzenrath. 20.4.1947.

5.

Translation. Testimonial.

When in 1942 I went to see Mr. Major to present a bill Mr. Major and his wife were absent. The pole was laying the coffee-table. Among other things also a cake was set on the table. When the pole cut it in pieces I asked him: "What are you doing Leo?" He replied laughing: "Here I am like a child in the family".

(Signed) Heinrich GREVEN.

6.

Translation. Testimonial.

The relation between the family Major and the pole was such as if the pole had always belonged to the family. Major also did not change this good relation when he was asked to do so. Major had nothing to do with the hanging of the pole. German workers nowhere were treated better than the pole with Mr. Major.

(Signed) Franz NOHR.  
Farmer, Keyenberg.

7.

Translation. Testimonial.

Mr. Johann Major, Keyenberg, was on excellent terms with the Polish worker; these were certainly nowhere better. He belonged to the family, was treated as a human being, had to eat and to drink same as the family itself, he received from the best as well. The sudden discord was a general surprise and apparently originated from a misunderstanding of the pole. The pole's death was not Major's fault.

(Signed) Anton JANSEN.  
Ortsvertrauenslandwirt.

8.

Translation. Testimonial.

As a neighbour of Johann Major in Keyenberg I confirm what everybody knows in this village that Major has treated his polish worker like a member of the family. The pole was admitted into the family community and took his meals with the family though this was forbidden. The pole lived better than a normal consumer. The relation between him and the family was always very good.

(Signed) Wienand AMEND.  
Farmer, Keyenberg.

9.

Translation. Testimonial.

I know that Johann Major was attacked by a pole who was working with him. He hit him on the head with a chain so that he was injured and remained unconscious. This pole was envied by his comrades because of his long sleeping and little working. Farmer Jakob Vähnen from Keyenberg once said to me that Johann Major makes the poles indignant for work as he allows his pole to sleep too long and to work little.

Keyenberg, 22.4.1947.  
(Signed) Gerh. CLAHSSEN.



I/92.  
23rd July 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Case of Paul KNULL, listed by Poland.  
(5349/P/G/340).

The following letter received from War Crimes Group (North West Europe) is circulated to members of Committee I for consideration at its next meeting.

War Crimes Group (North West Europe)  
at H.Q., B.A.O.R.

Ref: WCG/15228/2/C.2531/Legal,  
Tel. No. 2628.

Section: Legal.

2 July 47.

United Nations War Crimes Commission,  
Landsdowne House,  
Berkeley Square,  
London, W.1.

Subject: Paul KNULL.  
Born: 18 August 1915.

1. I understand that a Polish application for the extradition of the above named internee No. 253925, at present detained in No. 2 War Criminal Holding Centre, FISCHBECK, was sent to LONDON on 5 May 47 for registration with you. The following extract from a letter which this Section addressed to the appropriate authorities here on 18 April of last year may speak for itself:

"A petition addressed to Mil Gov, BRUNSWICK, has been received applying for release of the above named, a printer, of 9 Heinrichplatz, HELMSTEDT, who is stated to have been denounced for maltreating Poles by his wife who wishes to divorce him.

"No evidence is held against KNULL by this branch which accordingly has no objections to his release subject to the usual security considerations."

2. None the less we were notified on 2 July 46 that the Polish authorities had applied for his extradition (unsupported by any evidence). This, of course, was not carried out pending registration with you. Although part of this Group's responsibilities in respect of extradition are being passed to the Legal Division of the Control Commission, I thought that as this is a transitional case, it might be well if your committee were made aware of the fact that the only evidence known to us is the denunciation by his wife whom he married in POLAND and who is now going to be divorced. I do not know whether the Poles will be tendering any prima facie evidence of a more convincing nature in support for their application for registration.

(Signed) A.E.E. READE. (Major)  
For Group Captain,  
Officer i/c War Crimes Group (NWE).

REGISTERED/UNREGISTERED.  
APQ/SDS.  
AEERA/EA.

RESTRICTED

I/93.

6th August 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Case of Günther NIETHAMMER, listed by  
Poland. (4823/P/G/149).

The following letter and enclosure regarding Günther NIETHAMMER are circulated to members of Committee I for consideration at its next meeting.

Dr. jur Walter HASCHE.  
Rechtsanwalt.  
Hamburg 11, Holzbrücke 8.  
Ruf: 34 17 14 Hamburg-Süd.

Hamburg, 19 July 1947.

To:  
United Nations War Crimes Commission,  
Landsdowne House,  
Berkeley Square,  
London, W.1.

Attention: The Lord President.

Subject: Dr. Günther Niethammer, born 28 September 1908, delivered to Poland in November 1946 as alleged war-criminal.

As Counsel for the above mentioned Dr. Niethammer I take the liberty to draw the attention of the Lord President of the United Nations War Crimes Commission to the case of my client. There are special circumstances in this case, I think, which may justify to give it a particular consideration.

Dr. Niethammer is a scientist of high international standing. He is looked up to in Europe as one of the highest authorities in ornithology. I attach some certificates in which this is confirmed and from which it is seen, in addition, that Dr. Niethammer is a person of reproachless character.

During the war Dr. Niethammer thought himself bound to do military service. As he had not been accepted by other formations owing to his advanced age, he finally went to Waffen - SS after he had been assured that he should be detailed to a motorised unit. He was convinced that at Waffen - SS regular military service was done. But, as it were, Dr. Niethammer, after having been given preliminary military training was detailed to the guard-personnel at Auschwitz Concentration Camp in Poland. He immediately protested against this, pointing out that such an unworthy task could not be exacted from him. By his protests he succeeded, after a short while, in being given a longer furlough for scientific work. When his leave was over and he was called back to Auschwitz, he was given, on his urgent request,



the possibility to explore the ornithological world in the environs. He did not take part in the guard-service any longer. Later Dr. Niethammer was charged with the ornithological exploration of the district of the River Weichsel. In connection with this he succeeded in being finally transferred. At first he was busy in ornithology in Greece and later in Bulgaria and Yugoslavia too. Thus, the tragical situation arose that a scientist of high standing and a valuable character was made, by an unlucky combination of circumstances, for a short time to belong, though as a matter of form, to the guard-personnel of one of the most detestable concentration camps. All who know Dr. Niethammer assure from deepest conviction that it was altogether impossible for him to have taken part in any action which could justify a punishment for a crime against humanity. That Dr. Niethammer, himself, had a good conscience results from the following facts: after the war was over Dr. Niethammer applied to Military Government by intermediation of Dr. von Jordans, Director of the Zoological Museum at Bonn, pointing out, by his own free will, that he temporarily had been at Auschwitz. He was advised to go into a camp in order to have his case cleared up.

Enclosed I submit a certificate issued on 5 March 1947 by the Intelligence Section, Bonn, from which results that Dr. Niethammer on his own free will reported on 320 Field Security Section. There will hardly be a better proof for a good conscience.

As a matter of fact Dr. Niethammer was delivered to the Polish Government in November 1946. I have already submitted the exonerating proofs, as attached to this letter, also to the Chief Public Prosecutor at the Highest People's Court at Warsaw, reference no. Prok NTN. 1077/47, i.v. Dr. CYPRIAN, and I have received his confirmation that the documentary proof would be given consideration.

If I once more apply to the United Nations War Crimes Commission all the same, I would ask not to take this as if I have doubted the fairness of jurisdiction in Poland. I have the confidence that the Polish Courts will pass judgment on the principles which are observed by all civilised states, in spite of the special psychological situation of the Polish people.

If I consider the exonerating documents for Dr. Niethammer I can look with confidence to the Trial ahead. But still the decision might be brought about quicker if the United Nations War Crimes Commission, too, would give this case a special turn. If the examination of the case of Dr. Niethammer should confirm that a guilt on his part could not be proved, it is desirable that Dr. Niethammer be sent back to Germany as soon as possible. Dr. Niethammer will be sentenced in Germany in so far he belonged to an organisation which was declared as criminal by the judgment of the International Court at Nuremberg. I am convinced, however, that he is not to be sentenced for a Crime against Humanity, committed against Polish nationals, and that for this reason his return to Germany should be given consideration.

Of all the written evidence attached I would ask to give special attention to the written evidence given by Dr. VON JORDENS and dated 6 February 1947 from which it is seen that numerous British, Belgian, and American scientists stand up for Dr. Niethammer.

(Signed) W. HASCHE.  
The Lawyer.

At the beginning of the war I was employed as an assistant at the Museum A. KOENIG at Bonn. I had had no military training whilst my 4 elder brothers were officers in the reserve and joined the Forces already during the first days of the war. It appeared to me so unjust that I, precisely, the youngest should stay home (two of my elder brothers had already taken part in the first world-war) that I thought it was my duty to volunteer for a front-line-employment. Being a former sports-pilot I put myself to the disposal of the German Air Force. I was not accepted however because the German Air Force had a sufficient number of airmen. Later late in 1939 or early in 1940 I once more offered my services as a pilot, that was on the advice of a man I knew directly to the Ministry of Aviation of the Reich. From them I received a letter dated 6 March in which my application was turned down, i.e. in the following words: "Answering your application dated 31 January 1940, subject training for a pilot or an assistant observer you are informed that, though credit is given to your readiness for the war-effort, it must be refused to take you into training as an aviator owing to your having passed the limit of age." (I am in possession of the original of this letter from "Reichsminister der Luftfahrt und Oberbefehlshaber der Luftwaffe" - Minister of the Reich for Aviation and Supreme Commander of the German Air Force".)

Meanwhile I got an appointment as chief of department at the Museum for Natural History at Vienna, which I overtook on 1 April 1940. There, I tried for the last time to be accepted by the German Air Force, but in vain this time too. Therefore I made up my mind to apply to another of the three services. But I was neither admitted to the ac.ac. nor to the infantry. At the beginning of June I accompanied a friend who joined the ac.ac. at Aspern. With the consent of the o.s. of the company I joined this company, but was sent home the very next day on the protest of the battalion-commander as my transfer was not made in the official way by Wehrbezirkskommando.

Shortly after I was informed by people I knew that Waffen-SS admitted volunteers. As all my endeavours had been vain hitherto I now applied to Waffen-SS for a front-line-employment at which occasion it was expressly promised to me that I should be detailed to a motorised unit. On this application I received an order to report to Oranienburg Concentration Camp in the end of September 1940. When I arrived there on 15 October 1940 I was moved the very same day to Auschwitz Concentration Camp of which I not even knew the name at that time. There I was given preliminary military training in one of the companies and, thereafter, I was sent on Christmas-leave. Although our company had been promised by our superior officers (even up to Oberführer GLUCKS) several times that, after the preliminary training had come to an end, we should be transferred from Auschwitz to a regular unit, we were kept back at Auschwitz, even early in the year 1941, and were employed, the others as well as I, for guard-duty at Auschwitz Concentration Camp in spite of my having applied for service in a motorised unit and in spite of my repeated inquiries to that end. For this reason I at once took my yearly leave of a fortnight which I was entitled to (that was from the end of January to the beginning of February), and thereafter a work-leave of four weeks (I was not allowed a longer leave) in order to continue my work with the Manual of German Ornithology ("Handbuch der deutschen Vogelkunde") at Vienna Museum. When I had to return to Auschwitz at the end of March I suggested to my superior officer to let me do scientific work (in ornithology), in exchange for which I undertook to set up a collection of local birds for the school. This was approved.

From May 1941 I could completely dedicate myself to the ornithological exploration of the district of the Weichsel-Sola, collecting birds also for the Museums at Born and Vienna and being exempt from any



kind of guard-duty. Nevertheless I endeavoured to be given work-leave as often as possible in order to complete my "Manual of German Ornithology". In this I succeeded for several times (September and November 1941 to the end of February 1942).

During such a work-leave I took up contact with the "Kaiser-Wilhelm Institute for Biology at Berlin-Dahlem", director Professor Fritz v. WITTSCHEN who succeeded in having me detailed from Auschwitz to the German Supreme Command of the Armed-Forces (O.K.W.), Scientific Division for the period between 1 April and 31 August 1942. Here I was seconded as a zoologist to a Research-Detachment for Biology for the Peloponnese being busy, from April to July 1942, as ornithologist in Greece. After having returned to Vienna I started my publications about this work.

In September 1942 I had to return to Auschwitz once more and took up my ornithological work there again. But as early as at the beginning of October 1942 I was transferred from Auschwitz, this time finally, as an ornithologist for the Special Team "K" of Dr. Ernst Schäfer.

During the two years, when I was tied to Auschwitz, I had issued to publications about the ornithological world of the district there: Observations about the Ornithological World (Beobachtungen über die Vogelwelt von Auschwitz) in the Annals of the Museum of Natural History at Vienna, Vol. 52, 1941, and Supplement to the Ornithological Observations in Eastern Higher Silesia ("Nachtrag zu den Ornitholog. Beobachtungen in Ost-Oberschlesien"), published as above Vol. 53 1942. In addition I finished the III. and last volume of the Manual of German Ornithology at that time.

In October 1942 I left Auschwitz holding the rank of an SS-Sturmann (equivalent to Lance-Corporal). I had not been promoted there, in spite of, or possibly because of my scientific work, not even after these two years.

At the special team "K" of Dr. Schäfer I now became SS-Untersturmführer (F) - which means "expert officer" - (Fachführer) in December 1942 and was promoted to SS-Obersturmführer (F) on 1 May 1944 on the grounds of my position as a scientist. This rank, however, I held as zoologist exclusively, for the rest I remained SS-Sturmann of Waffen-SS.

Dr. Schäfer gave me leave, to begin with, for the ornithological preparations for an expedition to the Caucasus Mountains. I compiled, only from printed sources, an "Ornithology of the Caucasus" (Vogelwelt des Kaukasus) which was never published in print owing to the lack of my personal experiences and observations. For meanwhile the Caucasus-Mountains were evacuated by the German troops, and the Special Team "K" could not start. The Team however continued to exist and was allowed to do scientific work during that time.

I, myself, used this time to continue my work on the birds collected on Crete and on the Peloponnese, about which I published the following articles:

- (1) "The Breeding Birds of the Peloponnese" ("Die Brutvögel des Peloponnes") in the Journal for Ornithology, 1943.
- (2) "Three new Races of Birds on Crete" ("Drei neue Vogelrassen auf Kreta"), in Gazette of the Academy of Science (Anzeiger der Akademie der Wissenschaften) at Vienna, and
- (3) "About the Ornithological World of Crete" ("Über die Vogelwelt Kretas"), in the Annals of the Museum of Natural History at Vienna, Volume 53, 1942.

At that time I sent a special copy of the latter publication to a British colleague who had been on Crete and now was a prisoner of war at Eichstedt-Camp, Franken, Germany, (2nd Lieutenant Buxton). My publication came to England via Lt. Buxton and the Red Cross where it was commented in an ornithological Review.

Several minor publications of zoology followed. Eventually at the beginning of the year 1945, I published a larger work of about 100 pages which was in its main parts based upon the observations made by the late zoologist Rud. Zimmermann: "The ornithological world of the District of Lake Neusiedel" ("Die Vogelwelt des Neusiedler-See-Gebiets"), published 1944 as a special volume of the Annals of the Museum of Natural History at Vienna.

In May 1944 when the special team "K" was to be dissolved I was transferred to Berlin as zoologist to the Institute of Hygiene of Waffen - SS where I was given the task to collect snakes in Bulgaria for the production of serum against snake-bites for the German and Bulgarian Forces. Besides, I collected in Bulgaria, during the summer 1944, small mammals and birds. I wrote two essays, apart from minor publications, about the results, a work which kept me busy until Christmas 1944.

"Zur Systematik bulgarischer Säugetiere"  
"Zur bulgarischen Vogelkunde".

Both publications were not published in print any longer,

In January 1945 I was sent to Trieste in order to examine the caves of the District of Karst with regard to its fauna and to find out their suitability for the accommodation of troops and the storing of provisions for the troops.

In April 1945 I was to report to Berlin but I could not get there as the way was blocked in the meantime by American and Russian troops.

I therefore reported to a unit of the Wehrmacht in Saxony (269 Division, Regt. Althoff which was originally a unit for smoke screening but which was employed here as infantry). From 22 April to 8 May I took part in the fighting against Americans and Russians in the district of Mittweider-Döbeln-Mügel. After the armistice I drove to western Germany on a bicycle.

Outside Germany (in Greece and Bulgaria) I always had purely scientific tasks like during the whole of the war with the above mentioned exceptions (military training and, in total, about 6 weeks, guard-duty and fighting at the end of the war).

I joined the N.S.-Party in 1937. This was approved not only by my next higher superior, Dr. v. JORDANS (now director of Bonn Museum) but he found it justified, in the interest of a prosperous development of the work at the Museum. Besides I was a member of the NSKK from the end of 1933 to 1936, but was discharged owing to constant absenteeism. Therefore I only was an NSKK-Sturmann. Within the party I had no office whatever, not even as a deputy. I had not even a ticket of membership.

Twice it was suggested to me to apply as an expectant for a commission at Waffen-SS (SS-Officer), under the condition that I went out of the church. I refused. Likewise I was told at the



SS-Oberabschnitt Nieder-Donau, when I applied, in 1940, for admittance to Waffen-SS, that I should be taken over by the General SS after the war in view of my standing as a well-known scientist, and that I was considered an applicant up to then.

As a former airman I should be taken over by the NSFK. Here, however, I have never been on duty nor have I paid fees so that I do not know whether it has come off at all.

I have never had anything to do at all with other organisations of the party (with the exception of DAF and NSV).

(Signed) Dr. Günther NIETHAMMER.

It is hereby certified that the above is a true translation of the German original.

HAMBURG 19 July 1947.

(Signed) E. PINCKERNELLE.

(Numerous certificates regarding the character, work and activities of Günther NIETHAMMER have also been submitted.

In view of their number it was decided not to reproduce them for the time being, but all points of material interest will be reported in the meeting by the Secretary to the Committee).

1/9.

CONFIDENTIAL.

6th August, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

The Future of CROWCASS.

The following correspondence and memorandum on the future of CROWCASS, received from the Director of CROWCASS, are circulated to members of Committee I for their consideration at its next meeting.

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THE CENTRAL REGISTRY OF WAR CRIMINALS AND SECURITY SUSPECTS.  
Allied Control Authority.

APO 742

U.S. ARMY.

22 July, 1947.

Dear Colonel Ledingham,

I have been instructed by H.Q. Legal Division to go ahead, on a 'Four Power' basis, with the discussion of the future of CROWCASS, and propose to put a copy of the paper I prepared on the subject before the Permanent Commission on CROWCASS within the next two weeks.

Before doing so I should be most grateful if I could have your views on the matter and in particular the latest news on the future activities of The United Nations War Crimes Commission.

Yours sincerely,

(Signed) C.V.J. LEWIS.

Col. G.A. Ledingham, D.S.O., M.C.,  
The Secretary General,  
United Nations War Crimes Commission,  
Landsdowne House,  
Berkeley Square,  
London, W.I.



-2-

THE CENTRAL REGISTRY OF WAR CRIMINALS AND SECURITY SUSPECTS.

Allied Control Authority.

APO 742 U.S. ARMY.

17 June 1947.

Dear Colonel ,

Attached is copy of a report I was requested to make on the possible future of CROW/CASS.

It was actually drafted before I received copies of the minutes of the April 24th meeting of the United Nations War Crimes Commission.

You will notice that the report was made to British Legal Division and not to the Quadripartite Permanent Commission on CROW/CASS.

I will keep you informed of the action taken by British Legal Division and subsequent developments.

Yours sincerely,

(Signed) C.V.J. LEWIS.

Colonel G.A. Ledingham, D.S.O., M.C.,  
The Secretary General,  
United Nations War Crimes Commission,  
Lansdowne House,  
Berkeley Square,  
London, W.1.

THE CENTRAL REGISTRY OF WAR CRIMINALS AND SECURITY SUSPECTS.

Allied Control Authority.  
APO 742 U.S. ARMY.

CONFIDENTIAL

SUBJECT: REPORT ON CROWCASS.  
OBJECT: TO DETERMINE THE FUTURE OF CROWCASS.

TO: H.Q. Legal Division,  
C.C.G. (BE),  
BERLIN.  
B.A.O.R.

17 June 1947.

(I) BACKGROUND.

CROWCASS was set up under SHAEF to be a main registry and information agency to assist War Crimes Investigation and Security Services. It eventually had, in Paris, a staff of 10 officers:- 1 Colonel, 1 Lt. Col., 1 Major and 1 Capt.- American, 1 Lt. Col., 1 Major and 2 Captains - British, 2 French Police Officers and 350 French employees.

Shortly after recommencing operations under the Legal Directorate Allied Control Authority in Berlin it built up a staff of 6 Officers:- 1 Lt. Col. 1 Major American; 1 Lt. Col 1 Major and 2 Captains British; 12 other Ranks (American and British) and 185 German employees. Once the Back-Log of some 70,000 documents had been cleared the policy was to reduce staff by means of streamlining operations, and improved methods of processing incoming reports and information.

Despite an average inflow of some 12,000 documents a month it has been possible to reduce the staff to 3 Officers:- 1 Major, 1 Capt. British and 1 Capt. American, and 9 other Ranks (5 British and 4 American) and 80 German employees. There are in addition American and French liaison officers with small staffs attached. These liaison officers have proved to be very valuable and have greatly helped CROWCASS and the War Crimes Groups they represent.

(2) WAR CRIMES POLICY.

The target date set by the American and British Military Authorities for the conclusion of War Crimes trials, is Dec 31st 47 with a possible extension of 3 months to Mar 31st 1948.

The United Nations War Crimes Commission is also contemplating the closing down of its major activities in late 47, or early 1948. This is at present under discussion by the United Nations War Crimes Commission and it is hoped to get a definite answer in the near future. The United Nations War Crimes Commission are also holding discussions with the United Nations Organisation on the eventual use and disposition of the United Nations War Crimes Commission and its dossiers.

As the War Crimes Groups of the American and British authorities and the United Nations War Crimes Commission are the three main using agencies of CROWCASS (accounting for 75% of the Organization's work) it is thought that the eventual disposition of CROWCASS records should be



seriously discussed now. This should be done in order that, before the withdrawal of British and American military personnel who now operate CROWCASS, the records may be set up in such a form that they are readily available for easy reference and that copies of its records are placed in the hands of such organizations as may be deemed necessary.

(3) PRESENT STATE OF CROWCASS RECORDS.

First let us review the present state of CROWCASS records and its accomplishment to date. These are made up of:-

(a) RECORDS (b) PUBLICATIONS and (c) CORRESPONDENCE.

(a) RECORDS WANTED NAME INDEX 69,000 names

(which includes names of all persons of all nationalities wanted, or who have been wanted for War Crimes purposes as perpetrators, suspects, witnesses or for interrogation)

WANTED REPORT FILING 47,000 reports

(the reports on which the name index is based).

DETAINED NAME INDEX 140,000 names

(which includes names of all persons who are known to have been detained for War Crimes purposes, or as members of criminal organizations, and the names of persons who have subsequently been tried, sentenced, acquitted released or who have died. Also information slips re the location of persons of War Crimes interest)

DETENTION REPORT FILING. 105,000 reports

(the reports on which the name index is based).

SECURITY SUSPECT NAME INDEX 140,000 names

(Names of all persons who at one time or another were considered a security threat)

LIBRARY

(Containing all published lists and a variety of reference books)

(b) PUBLICATIONS

WANTED LISTS

15

(Containing approx. 65,000 names)

These have now been published in CONSOLIDATED form in a list, which contains the names of all persons known to be still wanted for War Crimes purposes, and consists of:

- |         |   |              |
|---------|---|--------------|
| Part I  | Germans only in two volumes<br>A - L and M - Z                            | 36,000 names |
| Part II | Other Nationalities listed<br>alphabetically and by Nations<br>containing | 2,500 names  |

(Supplementary lists of additions and amendments are in preparation).

DETENTION LISTS

17

(Containing approx. 125,000 names)

These contain the names of all persons known to have been in detention at one time or another in connection with War Crimes or as members of criminal organizations.

(Supplementary Lists are in course of preparation).

(c) CORRESPONDENCE.

- |      |  |                |
|------|--|----------------|
| (I)  | Files of letters in Chronological/<br>Numerical order                              | 15,000 letters |
| (II) | Card Index in alphabetical order to<br>provide cross-references to the<br>letters. |                |

CROWCASS has informed Wanting Authorities of the location of 4,500 persons definitely, and 5,500 persons possibly identical with the subject of their Wanted Reports.

Since recommencing operations in Berlin, CROWCASS has processed 195,000 documents.

CROWCASS records are complete and up to date, and the organization is dealing with all incoming requests, reports, information letters, etc., which as previously stated average 12,000 a month, without building up any Back-Log.

(4) FUTURE OPERATIONS AND OUTLOOK.

The tempo, at the moment, is high and will probably increase over the next few months, as the British and American authorities increase the pressure of their operations to clear up War Crimes trials and investigations. The French Authorities are also now carrying out an extensive programme in connection with War Crimes which includes



screening all their P.O.W. against the CROWCASS Consolidated Wanted List. This will add to the inflow of work, but, together with the efforts of the British and American Authorities, should reduce the number of persons wanted for War Crimes very considerably. (The Soviets do not use CROWCASS at present and it is doubtful whether they ever will).

CROWCASS will follow up its' Consolidated Wanted List with SUPPLEMENTS at regular intervals giving additional names of persons wanted and amendments to the Consolidated Wanted List in the form of names of persons since detained, no longer wanted or otherwise disposed of. Then in October it is hoped to publish a further Consolidated Wanted List which would be the last but one.

The final Consolidated Wanted List should be published in Jan 1948.

Detention Lists will also be published from time to time as necessary.

Normal information will continue to be provided to all using agencies and War Crimes Groups of all Allied Nations, the United Nations War Crimes Commission, Office Chief of Counsel for War Crimes, Nurnberg, Intelligence Divisions/Branches, Public Safety (Special Branch), I.A., and C. Divisions, Combined Travel Board, and other interested Authorities.

It is anticipated that by the end of 1947 or early 1948 the major work of CROWCASS will have been accomplished and it will be possible to set it up in a smaller form with a very small staff to provide such information as will be required in the future. The best form would probably be a single alphabetical card index containing all the names now separately contained in the CROWCASS Wanted and Detained Name Index.

#### (5) QUESTIONS FOR CONSIDERATION.

The main questions which arise are these:-

- (1) To which organization or authority should the present CROWCASS records be handed?
- (2) Should the records be microfilmed and handed to the four occupying authorities and the United Nations War Crimes Commission?
- (3) Should not the present records be handed to the United Nations War Crimes Commission for eventual disposal to U.N.O. together with their files and dossiers?

#### (6) FACTORS.

The following are the factors that must be taken into consideration,

- (a) The United Nations War Crimes Commission hold all the evidence in connection with War Crimes. CROWCASS holds the

names reports containing details of the persons wanted and detained.

- (b) The documents held by the United Nations War Crimes Commission and CROWCASS together constitute the only complete record and dossiers of persons who are or were wanted for War Crimes.
- (c) It is considered that those War Criminals still at large in the world constitute a threat to the peace and safety of the world. Therefore it is felt that the eventual home for CROWCASS records should be in the United Nations Organization as they must be finally responsible for insuring that the world is rid of persons who because of their criminal activities in connection with War Crimes, Crimes against Peace and Crimes against Humanity are a menace to U.N.O. and all its activities in pursuit of World Peace.

(7) CONCLUSION.

In conclusion it is our opinion that:-

- (a) CROWCASS records in their present form, possibly together with the United Nations War Crimes Commission dossiers, should be handed over to U.N.O. in 1948.
- (b) CROWCASS should set up a single alphabetical card name index for use of the Allied Control Authorities in Germany.
- (c) Zone Commanders in particular and all Allied National War Crimes Authorities should be pressed to inform CROWCASS as quickly as possible of the names of all persons wanted and detained by them so that CROWCASS may be of the greatest possible service to all in expediting the conclusion of War Crimes Investigations and trials.

(Signed) C.V.J. LEWIS.  
MAJOR.  
Director.



RESTRICTED

Charge 3769/Y

I/95.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Case of General von STOCKHAUSEN, wanted by Yugoslavia.

The following further evidence received from General von STOCKHAUSEN's lawyer is circulated to members of Committee I for their consideration at its next meeting.

COPY.

Medical Certificate.

Towards the end of September, 1946, General Humold von Stockhausen was sent to the military hospital II in Munster-Lager and from there on 30th November, 1946, to the military hospital G-Camp in Munster-Lager for stationary treatment until his transfer to Neuengamme Camp towards the middle of April 1947.

His case was the effect of a fracture of the basis of the skull and dangerous concussion of the brains by an accident in a motor-car in November, 1945.

He complained of sleeplessness, general unrest and faintness with headaches and giddiness.

There was objective proof for a strong hypersensibility, disturbance of memory, considerably impaired concentrative power and disturbances of the balance with rotating giddiness.

After an interrogation of several hours an absolute mental and physical exhaustion could be noticed with Herr. v. St.

On the strength of this condition after illness Herr. v. Stockhausen is not considered to be in a position to take part with full, clear consciousness and responsibility in interrogations which are difficult and which extend over long hours.

Hamburg-Neugraben, 25th June, 1947.

For correctness of Copy.  
sgd. Dr. Neumüller.

sgd. Signature,  
Dr. med. STAHM.

It is herewith certified that the above is a true and correct translation of a document written in the German language.

(Signed) Werner Brückmann, Dr.  
Sworn Interpreter.

Hamburg, 30th July, 1947.

Wilhelm von PEZOLD.

Alsdorf, 12th June, 1947.  
Rathausstr. 36.  
Tel. Alsdorf 590.

Affidavit.

I am cognizant of the significance of an affidavit.

For use before courts or public authorities I affirm the following in lieu of an oath:

In 1941 I was an Oberleutnant and Ordonnanzoffizier in the regimental staff of the Regiment "Grossdeutschland". In April 1941 the Regiment belonged to the XXXI Panzerkorps. The SS-Division "Reich" was part of the above-named Korps as 2. Division.

After the marching into Yugoslavia the Korps occupied the Banate. Our Regiment lay in the area from Kikinda to the Danube. The regimental centre of command lay in Pancevo.

During the first days of the occupation of Pancevo several sentries of the SS-Division "Reich" were shot at night. The SS - if I remember correctly - thereupon arrested 16 Zetnik-leaders in Pancevo. A court-martial of the Division "Reich" passed the sentence of death on these 16 prisoners. The condemned persons were also executed.

Neither one of the members of the Regiment "Grossdeutschland" nor its commander, Col. von Stockhausen had anything to do with this matter. According to my conviction Col. von Stockhausen did not have the possibility either to prevent the measures ordered by the SS-Division "Reich" or to influence the course of the events in any way.

The Regiment "Grossdeutschland" was transferred to the area Troppau Sudetengau towards the end of April, 1941.

(Signed) von PEZOLD.

It is hereby certified that the above is a true and correct translation of a document written in the German language.

Hamburg, 30th July, 1947.

(Signed) Werner Brückmann, Dr.  
Sworn Interpreter.



FUNK, Otto.

Brekling, 20th July, 1947.

Affidavit.

By request, I am making the following voluntary affidavit,

In April, 1941, the XXXXI Panzer-Korps occupied the Banate after the invasion in Yugoslavia. The Regiment Grossdeutschland had occupied the area from Kikenda to the Danube. The regimental centre of command lay in Pancevo. In the occupation of the Banate the 2nd Division of the XXXXI Panzer-Korps, the SS-Division, "Reich" overlapped with the Regiment "Grossdeutschland" but with its bulk held the Western Banate.

In Pancevo there were also parts of the SS Division "Reich".

During the first days of the occupation of Pancevo several sentries of the SS Division "Reich" were shot at night. As far as I remember, about 16 Zoetnik-leaders in Pancevo were arrested as a retaliating measure. A court martial of the SS-Division "Reich" passed the sentence of death on these Zoetnik-leaders.

As far as I remember 9 persons (among them 1 woman) were hanged and seven persons were shot.

To my knowledge, the then commander of the Regiment "Grossdeutschland", Colonel von Stockhausen had nothing to do with this matter. The arrests and court-martial were carried through by the SS Division "Reich". As far as I remember the execution was carried out by the so-called "Volksdeutsche Polizei".

In the last days of April 1941 the Regiment "Grossdeutschland" was transferred to the area Troppau/Sudetengau.

I was at that time with the staff of the Regiment "Grossdeutschland" as a technical advisor.

(Signed) Otto FUNK.

The above signature given before me is herewith confirmed,  
Brekling, 21/7/47.

(Signature) Amtsvorsteher,  
(L.S.)

It is herewith certified that the above is a true and correct translation of a document written in the German language.

Hamburg, 30th July, 1947.

(Dr. Werner Brückmann)  
Sworn Interpreter.

1/96

14th October 1947

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Case of Oberst HESSELMANN, listed  
on 'S' by France.

The following correspondence and documents received  
from the Foreign Office are circulated to members of Committee  
I for consideration at its next meeting, in conjunction with  
French Case No. 1186.

FOREIGN OFFICE,  
S.W.I.

6th October 1947.

Our Ref: OL2925/8693/180

My Lord,

I am directed by Mr. Secretary Bevin to refer to the case of the German Colonel Hesselmann, who was arrested in the British Zone of Germany on 13th February, 1947, because his name was included on the United Nations War Crimes Commission lists on a charge brought by the French Government in connection with the murder of the French General Mesney, who had been abducted from the Konigstein Prison Camp of which Hesselmann was Commandant. Hesselmann was handed over to the French authorities in accordance with the established procedure on 25th February 1947. It is understood he died in custody in the French Zone on 25th March 1947.

Representations were made to H.M. Government regarding Colonel Hesselmann by Lord John Hope M.P. in the House of Commons on 6th August 1947, and an undertaking was given by the Under Secretary of State for Foreign Affairs that any evidence, which Lord John Hope could produce, as to the character and innocence of Colonel Hesselmann, would be forwarded to the United Nations War Crimes Commission, with a request that the case should be reconsidered.

Enclosed are a copy of an affidavit made by Colonel Hesselmann's widow, stating that he was ill in hospital at the time of the death of General Mesney, and an affidavit by the Earl of Hopetoun, testifying to Colonel Hesselmann's good treatment of prisoners of war.

I am to request that the United Nations War Crimes Commission should, in the light of this evidence, reconsider the case of Colonel Hesselmann, and if satisfied as to his innocence, remove his name from the lists.

I am, my Lord,

Your obedient servant,

(Sgd) J.L. SIMPSON.

The Rt. Hon Lord Wright,  
United Nations War Crimes Commission,  
Lansdowne House,  
Berkeley Square, W.1.



Erste Ausfertigung!

Urkundenrolle Nr. 527/1947.

Verhandelt  
zu Bielefeld am 4. September  
1947.

Vor mir, dem unterzeichneten  
Assessor Erich NEUMANN,

als amtlich bestelltem Vert-  
reter des Notars Dr. Rudolf  
Nierhoff in Bielefeld,

erschien heute:

die Witwe des Obersten Martin Hesselmann, Christel geb.  
Zölch in Bielefeld, Beethovenstr. 11.

Die Erschienene ist mir von Person nicht bekannt. Sie wies  
sich durch ihren Personalausweis AT Nr. 785808 EAA der Stadt  
Bielefeld aus.

Sie ersuchte mich, eine eidesstattliche Versicherung aufzunehmen.  
Auf die Bedeutung einer solchen hingewiesen, erklärte sie sodann:

Mein am 22.3.1947 in Wittlich/Mosel gestorbener Ehemann war bis  
zum Unsturz Kommandant der Festung Königstein/Sachsen. Ich  
habe mit ihm zusammen auf der Festung gelebt. Im Januar 1945  
begab sich mein Mann in das Lazarett nach Bautzen/Sachsen, um  
sich wegen seines chronischen Magenleidens einer ärztlichen  
Untersuchung zu unterziehen. Dieser Aufenthalt hat 14 Tage  
gedauert. In die Zeit seiner Abwesenheit fiel der Tod des  
französischen Generals Mesny, der von Königstein in ein anderes  
Lager transportiert wurde. Uns wurde damals gesagt, er sei auf  
der Flucht erschossen. Dass mein Mann damals nicht in Königstein  
war und auch mit diesem Abtransport nichts zu tun hatte, weiss ich  
ganz genau, da ich in Königstein geblieben war.

Das, was ich hier erklärt habe, können auch noch bekunden

1. der frühere Oberst Otto von Nordheim,  
der mit meinem Mann zusammen im Lazarett in Bautzen lag,
2. der frühere Hauptmann Josef Scholz,  
der auf der Festung war.

Die Adressen der beiden Herren sind

zu 1): Gümse bei Dannenberg/Hann. Bhf. Dannenberg-Ost.

zu 2): Bergdorf 20 über Bückeburg.

Diese Angaben entsprechen der Wahrheit. Ihre Richtigkeit  
versichere ich an Eidesstatt.

Ich bitte mir eine Ausfertigung und eine Abschrift dieser  
eidesstattlichen Versicherung zu erteilen.

.....

Diese Verhandlung wurde der Erschienenen vorgelesen, von ihr genehmigt und, wie folgt, eigenhändig unterschrieben:

gez. Christel Hesselmann geb Zülch.

gez. Erich Neumann.

(The substance of the above declaration made by the widow of Martin HESSELMANN on 4th September 1947 in an affidavit made in the office of Dr. Rudolf Nierhoff, solicitor - (Notar), at Bielefeld, can be summarised as follows:

- Her husband was in command of the Fortress Koenigstein, in Saxony, until the end of the war.
- She lived with him in the said fortress during the whole period of his command
- In January, 1945, her husband went to the hospital at Bautzen for examination and stayed there 14 days.
- The death of General Mesny took place in his absence while in the hospital. Both the husband and wife were subsequently told that the General had been killed while trying to escape on the occasion of his transfer from Koenigstein to another camp.
- She contends that her statement can be corroborated by two other German officers, one of which was with her husband in the hospital and the other in the Fortress at the time of the killing of General Mesny.)

IN THE MATTER OF OBERST HESSELMANN.

I, Charles William Frederick Earl of HOPETOUN, M.C. of Hazel Hall, Peaselake in the County of Surrey, England, make Oath and say as follows:

1. Oberst Hesselmann was not a Nazi. While he was in command of the prisoner of war camp in Germany where I was detained, he treated me well and always showed great courtesy.
2. As my own experience of this Officer only consisted of being under his charge for a month at the end of the war I got an opinion of him from the French Generals who had been under his charge for a number of years. Their Senior officer informed me that they had no complaints of his treatment; that they had

.....



been treated extremely well by him and that they had no cause  
to complain of his behaviour at any time.

SWORN at 11 Arundel Street Strand  
in the County of London  
this 15th day of September 1947. }

HOPETOUN

Before me,

C.H. IZOD.

A Commissioner for Oaths,

1/97.

28th October, 1947.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Case of Dr. Hans BAUER, listed on 'A'  
by Yugoslavia.

The following correspondence regarding Dr. Hans  
BAUER is circulated to members of Committee I for considera-  
tion at its next meeting.

Primrose 3667

144 Adelaide Road,  
London,  
N.W. 3.

6th August, 1947.

The Under Secretary of State,  
(War Crimes Section),  
The Foreign Office,  
Downing Street,  
London, S.W.1.

Sir,

1. I have the honour to submit this my Deposition for your consideration of the case of Doctor HANS BAUER (P.O.W. 271.661.373) one numbering amongst those demanded as War Criminals by the Yugoslavian Authorities.

2. As former agent of the Deuxième Bureau, apprehended in Vienna by the Geheimstaatspolizei of the 7th. of July, 1939, and subsequently sentenced to death by the Volkgericht on the 21st. of January, 1941: I beg to testify to the chivalrous and humane treatment I received at the hands of the said Doctor Hans Bauer, then Obersturmbahnführer.

(a) On the 12th. of April, 1945, Dr. Bauer effected the liberation of eighteen political prisoners under sentence of death, this, in contravention of explicit orders from Herr Himmler's chief adjutant, von Alvensleben.

(b) On the 13th. of the same month, he attempted in company with myself and one Feldwebel Hoeller to reach Lösschen KZ in order to disband the guard.

(c) Finally, in consideration of my not very robust physical condition, he drove me from

.....



Torgau to Halle where I was within a few hundred yards of the advanced units of the United States Forces.

3. In amplification of the above, may I point out that the party of eighteen, amongst whom I numbered, was comprised of various nationalities - 2 Frenchmen, 4 Norwegians, 6 Czechs, 5 Germans and myself - but one and all had been convicted for major activities against the Reich. In short, we were not of the category of prisoner whose execution could have been regarded as a contravention of the Hague Convention. I stress this point for obvious reasons.
4. The fact that he took the trouble and risk of helping me to reach the safety of the Allies' Lines, although a small point in itself, is I think, proof of a nature not content with complying with the bare essentials of humanity, but one disposed and determined to aid the helpless.
5. In conclusion, may I point out that Doctor Bauer was not a member of the SS. by choice, but was drafted into it; a circumstance resulting in his present predicament but a circumstance, none the less, to which I and my seventeen companions owe our lives. And I am persuaded that numerous Yugoslavs are indebted in the same respect to that Fate which set Doctor Bauer in a position to exercise his authority in the cause of mercy.
6. The adjoining letter is a testament that Doctor Bauer's humane activities were extended to Yugoslavians and though anonymous, its veracity appears to be corroborated by my personal experience. The fact that its originator preferred to remain incognito is readily understood when existing conditions in Yugoslavia are taken into consideration.
7. I trust you will find in the above statement sufficient evidence to commend this prisoner to your clemency and outweigh such charges as the Yugoslavian authorities elect to make in order to effect his extradition.

I have the honour to be,

Sir,

Your obedient servant,

(Sgd) H.W.A. Oloff de WET).

Encl.

Abschrift:  
In den Namen wurden nur die Anfangsbuchstaben angeführt die Orte ganz ausgelassen.

22.2.1947.

Liebe Frau Bauer:

Durch Zufall habe ich in einem Gespräch erfahren und nehme sofort Anlass mich nach Ihrem Gatten zuerkundigen, welcher zur Zeit seiner Dienstzeit in Oberkrain and in Gilli unsagbare Hilfe meinen Landsleuten entgegenbrachte. Ich kann

ihm diese edlen Taten niemals vergessen und bin ich überzeugt, dass dies auch die Betroffenen wie F., welcher über seine Veranlassung aus Mathausen entlassen wurde, ebenfalls C.S. und L. wurden über seine Intervention aus dem Gefängnis freigelassen und sehr viele, deren Namen ich mich gegenwärtig gar nicht erinnern kann wurden durch seine Intervention aus dem Gefängnis Vigaun in Oberkrain entlassen. Kurz gesagt Ihr Herr Gemahl war und bleibt für mich ein edler Mensch und bin ich gerne bereit falls es notwendig sein sollte ihm auf irgendeine Art zu helfen, insoferne es in meinem Machtbereich stehen sollte.

Wie geht es Ihrem Söhnchen, von dem mir Ihr Herr Gemahl immer soviel erzählte? Hoffentlich geht es ihm gut.

Ich werde bei meiner nächsten Reise nach Klagenfurt nicht verabsäumen, Sie zu besuchen, nur bin ich hier leider sehr stark in Anspruch genommen. Ich danke nur dem Herrgott, dass ich noch gesund bin.

Es wird mich wirklich freuen, von Ihnen recht bald Nachricht, sowohl vom Ergehen Ihres Herrn Gemahls als auch von Ihrem und Ihres Sohnes zu bekommen und grüsse ich Sie indessen auf das Herzlichste.

Ihre ergebene

J.



I/98

1 December, 1947

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE I

Case of Johann MAJOR or MAYER

listed by Poland

(5164/P/G/256)

In connection with the above case which is now under re-consideration by Committee I, the following letter received from the Polish Representative, together with the documents enclosed thereto, are circulated to members for examination in conjunction with Doc. I/91.

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Polish Delegation to the  
United Nations War Crimes Commission

47 Portland Place,  
W. 1.

Ref. No. 3071/47.

14th November, 1947.

Dear Sir Robert,

Referring to the case of Johann Major or Mayer listed by Poland (5164/P/G/256) and dealt with in Document I/91, dated 23rd July, 1947, I have recently received from the Polish Mission for War Crimes in the British Zone of Germany full affidavits of the witnesses Wladyslaw Pec and Eugeniusz Cybulski, which I am enclosing together with the official report of the execution of the victim, Leo Jaworski.

As can be seen from the available affidavits, it seems clear that it was certainly due to the influence of the accused and his desire for revenge that the execution took place, although the public opinion even of the German population was against such a measure. It is difficult at present to discover how much truth there is in the statements of the witnesses for the defence, quoted in the Document I/91. Surely it is the duty of the court to decide this charge, taking into account all material in favour of the accused, as well as against him.

It must be emphasised also that the conditions of slave labour in Germany were such that the fate of the enslaved workers depended absolutely on the employer.

In view of the above information and the affidavits enclosed, it seems reasonable for the Commission not to reconsider this case, but to retain the name of the accused on its lists.

I should like to point out also that the Polish government is not interested in the extradition of Mayer and will be satisfied if his case is heard before any other court, as long as punishment is assured for this alleged war criminal, should he be pronounced guilty of the execution of the Polish slave worker Jaworski.

Very sincerely yours,

(Signed) MARIAN MUSZKAT

Encl.

COPY

Polish War Crimes  
Liaison Group

Paderhorn,  
8th January, 1946.

Interrogating officer: Lt. Roman Witecki.  
Investigating Judge:

Witness PEC, Wladyslaw, age 30, nationality Polish, religion Roman Catholic, farmer, at present living at Paderborn Armoured Barracks, Block 3/114, residence in Poland village Szozegom, Sandomiers District.

After having been informed of the criminal responsibility of submitting false evidence and upon taking oath in accordance with the legal procedure, the witness stated the following:

From 8th May 1940, until September 1944, I worked as a forced labourer in Germany with a German Hurz Heinrich, village Keyenburg 40, Erkelenz District.

At the same village a Pole named JAWORSKI Leon was working. He was aged 30, came from Warsaw, and arrived for forced labour four months after me. He was employed on the farm of a German, Johann MAYER, at 65, Holzweihler Street, Keyenberg. The said German was a very active member of the Nazi party and cruelly persecuted all foreigners, Poles in particular. He treated Jaworski as a slave, provided insufficient food, forced him to work regardless of the condition of his health and ill-treated him constantly. Because of the very hard conditions, Jaworski wanted to leave Mayer and to look for another employer.



During the harvest period, I should think in July 1942, I saw Mayer beating Jaworski in the yard. Holding Jaworski by the throat, he beat him on the face and body. Being perfectly innocent and trying to protect himself, Jaworski got hold of a chain and waved it in order to keep Mayer at a distance. Mayer, together with his brother-in-law, kept on attacking Jaworski, using big thick sticks. Seeing his attackers coming closer, Jaworski hit Mayer over the head with the chain. As a result of this blow Mayer received a wound on his head. During the fight Mayer's wife tried to keep Jaworski away and pushed him. After having struck Mayer over the head with the chain, Jaworski fled to the fields but was followed by Mayer and his brother-in-law. When they caught Jaworski, they beat him up murderously, so cruelly that Jaworski gave in and ceased to offer any resistance. I saw Jaworski, his face bleeding and both his hands bruised and swollen, being escorted by Mayer and a policeman. Jaworski was first taken to the police station and then to a prison in Aachen. Ever since then nothing was heard of him.

After eight months, I believe it was in February 1943 and anyhow in winter 1942/43, all German farmers who employed Polish workers were notified by the Police that all Poles had to report to the Sheriff's office, from where we were taken by the police to Holzweihler, situated 4 kms. from the Keyenberg village, where we saw in a field behind the village, a gallows and a body hanging on it. I saw at once that the man hanging was our friend Jaworski. There were about 1,000 of us gathered and we listened to the verdict read out to us. It was read in Polish, and said that Jaworski had been sentenced to death by hanging because of the serious injuries which he inflicted on Johann Mayer who had twelve wounds, and because of the defeatist propaganda spread by Jaworski in which he had said that Hitler would be defeated.

After the verdict was read out to us, one of the Germans said that any Pole who attacked his employer or who indulged in politics or read leaflets would share the fate of Jaworski. The verdict having been read out and the above speech having been completed, one of the SS men picked out four Poles (I was one) and ordered us to take Jaworski down from the gallows and bury him. Being terribly upset, I cried, and was kicked twice by an SS man, who also drew out a pistol because I said something in Polish. The coffin with Jaworski's body was loaded on to a lorry which made off in an unknown direction, and we were ordered to disperse and return home.

I am not aware of any trial having been conducted against Jaworski nor do I know about Jaworski having been sentenced to death by any court of law.

At my employer's (Hurz Heinrich) there was much talk about the decision of the whole village to ask for the release of Jaworski and his transfer to another employer. Johann Mayer was the only one who opposed that decision and who insisted on Jaworski's execution.

The record having been read, it was approved and signed.

(Pec Wladyslaw)

Witness Cybulski Eugeniusz, age 24, of Polish nationality, Roman Catholic, at present at Paderborn Armoured Barracks, Block 3/70, a resident of Tarnopol, in Poland.

After having been notified of the penal responsibility for giving false evidence and upon being duly sworn, the witness stated the following:

I was deported by force to Germany in May 1942, and was compelled to work with a certain German in the village Keyenberg, Erkelenz, beyond the Rhine, where I worked until 1944.

The evidence submitted by Peć Wladyslaw has been read out to me and I accept it as the same as my own, with the only reservation that I did not take down the late Jaworski from the gallows. I, too, have been told by somebody of the decision taken by the inhabitants of the village Keyenberg about Jaworski's release. Mayer was generally hated by his countrymen because he was a fanatical Nazi and a man without scruples.

The minutes having been read were duly signed.

I certify herewith that the signature was written personally by the witness Cybulski Eugeniusz in my presence.



I/99

2 December, 1947

UNITED NATIONS WAR CRIMES COMMISSION

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COMMITTEE I

Information on the "Standgerichte"  
in occupied Poland

The following letter and documents received from  
the Polish Representative are circulated to members of  
Committee I for their information.

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Polish Delegation to the  
United Nations War Crimes Commission

47 Portland Place,  
London, W.1.

Ref. No. 3094/47.

18th November 1947.

Dear Sir Robert,

I should like to refer to the question of the character of the hitlerite Standgerichte (military courts) which were established in occupied Poland. This point was raised during the examination by Committee I of several Polish charges concerning judges and prosecutors active in these courts..

As you requested, I am enclosing a copy of a declaration on the subject made by the Main Commission for Investigation of German War Crimes in Poland, dated 6th October, 1947. I am sending you also some extracts from the proceedings in the case of the governor Greiser before the Supreme National Tribunal for War Crimes, showing the methods of German administration of justice in Poland.

I do not think it necessary to quote affidavits, statements and exhibits already presented in the Nuremberg Case No. 111, concerning the hitlerite lawyers and giving a full picture of hitlerite law and justice.

Yours very sincerely,

(Signed) M. MUSZKAT

Sir Robert Craigie,  
Chairman, Committee I,  
United Nations War Crimes Commission.

Enclos.

The Main Commission for Investigation  
of German War Crimes in Poland.

41, Aleje Jerozolimskie,  
Warszawa.

No. 2702/47.

6th October, 1947.

DECLARATION

In the course of an investigation of the criminal activity of the German invaders during the war 1939 - 1945 in Poland the Main Commission for Investigation of German War Crimes have collected the following documents: -

1. Order of the former governor Frank of 31st October, 1939 (Verordnungsblatt des G.G. fuer die besetzten Polnischen Gebiete 1939, No. 2, page 10).
2. The Verdict of the Supreme National Tribunal of 3rd March 1947, against Ludwik FISCHER et consortes, case 3/46.
3. Statements of witnesses Tadeusz CYBULSKI and Stanislaw ARNOLD, submitted during the trial before the above-mentioned Tribunal.
4. Statements of "The Institute of National Remembrance" attached to the Council of Ministers, submitted in writing on 24th October, 1947, No. IPN II/4/27/47.

In accordance with the above-listed documents the Commission states the following:-

1. The German police military courts (Standgericht) were introduced by Frank's order, dated 13th October, 1939 (Verordnung zur Bekämpfung von Gewalttaten in Generalgouvernement - Verordnungsblatt des Generalgouverneurs für die besetzten Polnischen Gebiete - 1939 - No. 2 - Page 10).
2. The German police military courts operated in the area of the G.G. In accordance with the criminal law which applied to both Jews and Poles in the annexed territories, the Governor (Super-President) could if he so chose, introduce military courts also in the area administered by him.
3. The German police military courts did not observe the usual legal procedure and thus:-
  - a) Indictment was not served on the accused, nor was he otherwise notified of the charge.
  - b) Counsel for the defence was not allowed at the "trial", nor was the accused permitted to defend himself in accordance with the normal procedure adopted at trials.
  - c) There were cases when "sentences" were passed without any preliminary investigation, that is to say, without submitting documentary proofs of guilt or examination of witnesses, or submission or reading during the trial of any records relating thereto.



4. The only regulation adhered to by the German Military courts was the following: "The names of judges, of the accused and of the witnesses upon whose evidence the sentence has been passed as well as the definition of the crime committed and date of sentence passed and executed should be taken down in writing".

Taking the above facts into consideration the Commission states the following:- Being deprived of legal character because of the procedure adopted, the German police courts which operated in the territory of Poland during 1939-1945, are considered illegal in the light of the law.

THE EXTRACTS FROM THE CASE OF GREISER BEFORE  
THE SUPREME NATIONAL TRIBUNAL.

3. The Penal Law Against the Poles.

The Council of Ministers for the Defence of the Reich, considering the adoption of penal sanctions as envisaged in the decree of 6th June, 1940, and as introduced in the "annexed territories" inadequate, issued on 4th December, 1941, a new decree concerning penal law against both Poles and Jews for the "Eastern Annexed Territories". The essential part of this law envisaged the death penalty (and, only in minor offences, loss of freedom) for Poles and/or Jews who showed a hostile attitude towards Germany through instigation to hatred and in particular through either usage of unfavourable expressions relating to Germany, or tearing down proclamations of German authorities, or through any other action which might harm the respect of the German Reich and German nation. Loss of freedom was enforced through confinement in either an ordinary penal camp for ten years or a special camp for 15 years. Rigid discipline and long hours of unpaid work (one or two hours longer than in hard labour) were introduced in those camps. One Sunday of each month was an "austerity" with a hard bed and no food.

In respect of the criminal procedure the following principles were adopted. The courts as well as the prosecutors were at liberty to create the procedure, at their discretion, on the lines of the German legal procedure. The decree deprived the Poles of the right to representation at a trial and prohibited the submission of either an appeal or a personal charge.

The Executions.

In the whole area ruled by Greiser executions without trial were constantly carried out among the local population. There is hardly a place which does not bear evidence of such executions or is free from the graves of murdered persons. Those facts were proved beyond doubt by an inquiry conducted by the Main Commission for Investigation of German Crimes in Poland.

The main personal responsibility for issuing orders to this effect rested with Greiser.

Greiser's letter, reference No. 2062/41, dated 22nd July, 1941, marked "Secret Matter of the Reich", which laid down the formal basis of his personal legal competence in this respect provided legal sanctions for the actual position already existing. In this letter, addressed to all his subordinate high-ranking officials, Greiser stated the following:-

1. Hitler has ordered that in respect of the administration of justice Greiser be given special authority to whatever extent may be specified by Greiser himself.
2. In compliance with this order, the Minister of the Reich, Dr. Lamers, issued an instruction to all his subordinate departments to the effect that, in accordance with Greiser's wish, the latter was given the right to set up military courts.
3. In view of the above, in case of an offence or a crime committed against the German reconstruction effort in the Warthegau area, Greiser was to decide whether the case to be tried by a military court. He, therefore, ordered that, in case of sabotage on political grounds, a report should be submitted directly to him for decision as to the procedure to be adopted.
4. The military courts thus set up were at liberty to pass either a death sentence or a sentence of deportation to a concentration camp, whereupon Greiser, through a direct oral or a telephonic "procedure of appeal" would be free to exercise his right and either commute the death sentence into a deportation sentence or vice versa.
5. From that date onwards Poles sentenced by military courts for political offences committed in Greiser's area, were subject to the law as administered by him,
6. If for any political reason, Greiser should consider the execution of death sentence by hanging passed by an ordinary or military court necessary, he would issue the relevant instructions.



I/100.

2nd January 1948.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Cases of extradition in which opinion has been asked for by the Legal Division, B.A.O.R., (Yugoslav case 4194, Polish case 5074, Netherlands case 3382).

The following correspondence is circulated to members of Committee I for their information and consideration at its next Meeting.

I. YUGOSLAV Case 4194.

12 December 1947.

SUBJECT: Application for extradition  
of alleged war criminal,  
KRUSE, Otto, Born 20.1.20.

1. Application was made for the extradition of the above named German national to Yugoslavia on the 1st August, 1947. This man is listed on UNWCC List No. 45/serial 302 and is accused of mass murder and other crimes from March to September 1944 at Srem and Bosnia. Authority for extradition was therefore given on the 13th August, 1947, but this man has not yet been taken away by the Yugoslav authorities.
2. During November several letters were received from a German lawyer acting on behalf of the accused asking for specific details of the offence charged in order that defence statements might be submitted and asking that this man should not be extradited until the defence had been fully represented. In view of this, the authority for extradition was held in suspense and the accused will not be taken away by the Yugoslav authorities in the meantime.
3. The accused was said to be an SS Obersturmfuhrer who was operating in Yugoslavia with the 13th SS HANDZAR. There is evidence from a comrade of KRUSE saying that they were together in the same unit in 1944 from the spring until the autumn and that during that time there were no illtreatments either of civilians or of prisoners and also that their unit did not commit any arson nor was it ordered to fire upon any villages.
4. As there is a certain amount of doubt in this case, and as the charge is expressed in very general terms, it would be appreciated if you would forward to this HQ any details you may have as to the particular part played by this accused during the period March - September 1944 and also to express your opinion as to whether you consider that a prima facie case was made out.

(Sgd) J.K.A. ROBERTSON  
for Chief, Legal Division.

...

II. POLISH Case 5074.

10 th December 1947.

SUBJECT: Extradition on behalf of  
Poland of alleged war  
criminal.  
SCHWEEN, Walter, Born 2.3.98.

1. An application was received from the Polish authorities for the extradition of the above named German subject to Poland as a war criminal. He is listed on UNWCC List No. 57/1058. The particulars of the alleged crime submitted to this HQ are as follows:

"Complicity in illtreatment and other crimes committed by him about October 1939 to January 1945 at Warsaw in Poland. All the evidence was said to be in the possession of the Polish Ministry of Justice. He was a Kriminalsekretär in the Gestapo".

2. Acting on the fact that this was a listed case of a war crime committed in Poland, authority for extradition was granted on the 21st October, 1947.

3. Certain petitions have now been received from a German lawyer on behalf of SCHWEEN in which he denies taking part in any illtreatment but does admit that he was in Poland at Warsaw during the years 1939 to the middle of July 1944. The date of his leaving Poland might affect the decision as to whether a prima facie case has been made as there is nothing to show what particular part this man played in illtreatments nor any specific dates of wrongful acts mentioned.

4. It is requested that you will inform this HQ if there are any explicit facts alleged against this man committed before July 1944 at Warsaw in Poland. It would be appreciated if you would forward to this HQ any summary of the case you may have, giving these details and advising whether, in your opinion, a prima facie case was made out. In the meantime, the authority for extradition in this case is being suspended.

(Sgd) J.K.A. ROBERTSON.  
For Chief, Legal Division.

Copy to: War Crimes Group (NWE).H.Q., D.A.O.R.  
(SCHWEEN is now at No.2 W.C.H.C. Please suspend the operation of the authority for extradition until further notice).

III. NETHERLANDS Case 3382.

18 December, 1947.

SUBJECT: Application for extra-  
dition of alleged war  
criminal.  
DUES, Theodor.  
List 40. Serial 86.

1. Application has been made by the Netherlands authorities for the extradition to Holland of the above named German subject. The alleged war crime is as stated below and took place in the British Zone of Germany. The witnesses are in Holland.

...



"Having in his employ forced labourers of Netherlands nationality at his factory in Wessum (Westphalia) he caused several of these men to be arrested by the German police during the years 1943 and 1944, when they stayed away from work because of illness etc. and sent to concentration camps".

2. From these particulars it would appear doubtful that a War Crime has been committed. The mere fact of reporting idle workers to the German Police may not in itself disclose a war crime and would appear to have been the proper channel in submitting complaints against his workers.

3. From the evidence at your disposal it is requested that you will give your opinion on whether you consider a war crime has been committed in this case as defined in Control Council Law No. 10.

(Sgd) J.K.A. ROBERTSON.  
for Chief, Legal Division.

I/101.

22nd January 1948.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

Cases in which extradition has been  
refused by the Legal Division, DAOR  
(Netherlands Case, 4623, Polish Case  
3020).

The following correspondence is circulated to members  
of Committee I for their information and consideration at its  
next Meeting.

I. NETHERLANDS Case 4623.

23 December, 1947.

SUBJECT: Refusal of extradition  
of war criminal.  
KNUTH, Fritz, d.o.b. 21.4.95.

1. An application was made on behalf of the Netherlands authorities for the a/m German subject to stand trial in Holland as a war criminal. He was listed on UNWCC List (35) 53 serial 232, and was accused of pillage and looting of machines.

2. Owing to further defence statements being received it was decided that at the moment no war crime was disclosed against the a/n subject despite the fact that he was listed with UNWCC. KNUTH was therefore released without prejudice to any action of which he may be liable under civil or criminal law in Germany. The matter was already the subject of certain restitution claims already filed against this man by the Netherlands Government.

(Sgd) J.K.A. ROBERTSON.  
for, Chief Legal Division.

II. POLISH Case 3020.

SUBJECT: Application for extradition of  
alleged war criminals in favour  
of Poland, BRINKORD, Heinrich,  
Born: 7. 9. 82.  
ZELLNER, Leo. Born: 16.4.99.

3 January 1948.

1. Applications were submitted through War Crimes Group on behalf of the Polish authorities for the extradition of the above named German nationals to stand trial in Poland as alleged war criminals. BRINKORD was listed UNWCC 32/serial 408 and ZELLNER

.....



under List No. 32/serial 418. The alleged crimes were said to have been committed in the British Zone of Germany.

2. These cases were passed to the Director of Prosecutions to consider with a view to trial before Control Commission Courts but on the available evidence the Director of Prosecutions decided that there was no prima facie case. The Polish authorities were invited to submit statements of evidence and later further evidence was received. A mass of defence evidence was also submitted and both these cases have been most carefully considered and referred for the decision of the Military Governor and Commander-in-Chief. D.C.O.S. (Exec.) acting in the name of the Military Governor and Commander-in-Chief has now decided that it is not considered that the extradition of either of these men is justified by the evidence produced. As no prima facie case of a war crime has been disclosed the D.C.O.S. (Exec.) has further directed that both these men should be released.

3. War Crimes Group are therefore requested to take action to effect the release of these two German nationals in conjunction with Intelligence Division subject to the usual denazification procedure. ZELLNER is at present held at No. 2 W.C.H.C. Fischbeck and BRINKORD is in No. 6 C.I.G.

4. Allied Liaison Branch are requested to inform the Polish authorities of this decision. A copy of this letter is addressed to the Foreign Office with the request that this decision is communicated to the United Nations War Crimes Commission.

(Sgd) J.K.A. ROBERTSON.  
for Chief, Legal Division.

Copies to:

Intelligence Division (A.1. Sub-Section)  
Director of Prosecutions, Legal Division,  
Deputy Chief, Legal Division.

I/102.

9th February 1948.

UNITED NATIONS WAR CRIMES COMMISSION.

COMMITTEE I.

(Cases in which extradition has been  
refused by the Legal Division, EACR.  
(Yugoslav Case 1146; Greek Case 4586;  
Polish Case 4881; Polish Case 4594.)

The following correspondence is circulated to members  
of Committee I for their information and consideration at its  
next Meeting.

I. YUGOSLAV Case 1146.

SUBJECT: Application for extradition of  
alleged war criminal:  
NOLCKEN von Eugen, 20.8.05.

13th January, 1948.

Ref: WOG/2028/X/A of 15th September 1947.

1. Application was made on behalf of the Yugoslav authorities. This man was listed by UNWCO in List 13, Serial 909.
2. The above named subject was arrested and placed in No. 2 W.C.H.C. Fischbeck on 3rd October, 1947. He has since been interrogated and it transpires that this is a case of mistaken identity. This man was never in the Siberian Regiment nor was he a Lt. Col. He was also never in Yugoslavia.
3. It has been decided by D.C.O.S. (Exec.) that the above named will now be released and extradition authority is refused. Please inform the Yugoslav authorities.

(Signed)

for Chief, Legal Division.

II. GREEK Case 4586.

SUBJECT: Application for extradition of  
alleged war criminal:  
General Oberst Karl STUDENT.  
Born: 12.5.90.

15th January 1948.

Reference: your WOG/15228/2/C.2117/Legal dated the 17th November, 1947.

1. Application for extradition to Greece of the above named German subject was submitted by you. This case was listed with UNWCO List No. 53, serial

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(GREEK Case continued)

2. The case has now been considered in all its aspects and D.C.O.S. (Exec.) has decided that this case should be refused. Please inform the Greek authorities.

3. D.C.O.S. (Exec.) has further decided that STUDENT should be released forthwith. He is said to be at Rothenburg Hospital attached to No. 3 C.I.C. and Intelligence Division are requested to arrange his release at the earliest possible moment in view of his health.

(Signed)

for Chief, Legal Division.

III. POLISH Case 4881.

SUBJECT: GOTHARD, Herbert.  
Born: 24.2.99.

24th November, 1947.

Reference: your WOG/1624/X/A dated the 17th October, 1947, and further correspondence.

1. A reply has now been received from the D.C.O.S. (Exec.) to this HQ's letter of even reference dated the 11th November 1947. D.C.O.S. (Exec.) has replied that the decision of the competent authority is that there is no case for extradition and that Dr. GOTHARD should be released. (Authority ZECQ/010113/Sec/G, dated the 18th November, 1947). You are requested to take the necessary action to effect his release and to consider cancelled the original authority for extradition granted on the 14th August, 1947.

2. The above named was listed with UNWOC as a war criminal in favour of Poland List No. 56 Serial 268 and he was alleged to have taken part in wanton destruction of property. The Polish application defined the property as "Jewish libraries and works of art of historical value." Dr. Gothard claims Latvian nationality and that he is a displaced person. He says he was in Vilna only for 6 days during the war where the alleged crime was committed. Numerous testimonials and defence statements have been submitted.

3. As a result of this investigation the Polish Military Mission stated that they were not now very interested in the case. The case was then submitted to the Director of Prosecutions who has decided that there is no prima facie case for trial before a Control Commission Court. As a result, therefore, the above decision to release this man has been made and it will now be possible to delete his name from the UNWOC List.

(Signed) J.K.A. ROBERTSON.

for Chief, Legal Division.

IV. POLISH Case 4594.

15th January, 1948.

SUBJECT: Application for extradition  
of alleged war criminal;  
THAERIGEN, Gunther. 12.7.13.

Reference: your WOG/1610/C/A dated the 22nd July, 1947.

1. You were asked to suspend action regarding handing over this man to Poland in this HQ's letter of even reference dated 4th December, 1947, so that new evidence could be considered. This case was listed with UNWOC List No. 53, serial 501.
2. D.C.O.S. (Exeo.) has now decided that this case should be refused for extradition. Please inform the Polish authorities.
3. The above named German subject may now be released subject to normal security clearance.

(Signed)

for Chief, Legal Division.