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Miscellaneous Memoranda on War Criminals

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Austria

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The text of the Renner government's new constitutional law on war criminals issued 27 June, is now available. Like its earlier law on de-Nazification, this measure is sweeping in its definition of categories to which it applies, severe in its scale of punishment, but at the same time generous in the discretion it gives to the People's Tribunal, set up in accordance with the earlier law of 9 May.

It establishes the following categories of persons subject to prosecution by the tribunal:

a. War criminals proper, defined as those persons who have committed acts contrary to human decency, to generally recognized principles of international law, or to the laws of war, against members of the armed forces or civilians of enemy countries or occupied territories.

b. High functionaries of the Nazi Party, such as Gauleiters, Reich Governors, and leaders of the SS (including Staffen SS) from colonel upwards. While punishment of ordinary war criminals may vary between ten and twenty years of penal servitude and the death penalty, depending on whether or not the offense in question resulted in death, the death penalty is mandatory for members of category (b), who are called "initiators and ringleaders of these crimes."

c. Likened to actual war criminals are the so-called "war-mongers" those, that is, who incited or helped to propagandize the war.

d. In establishing the fourth category, the law reverts to the pre-1938 period. It defines as high treason punishable with death any act of those who, having held leading or influential positions, used them "alone or jointly with others for steps toward an alteration by force of the form of government in Austria in favor of the NSDAP."

The property of those in any one of these categories is to be forfeited. But, as in the case of the death penalty, this order may be mitigated in cases "deserving particular consideration."

The law seems definitely to have been framed to leave no legal loopholes through which any major Nazi might escape punishment for his political activities after 1933. The Department of Justice is charged with the execution of the law. Owing, however, to the present restriction of the Renner government's scope of authority, the law cannot be applied throughout Austria unless it is specifically implemented in the various occupation zones.

1.OVI: European News Digest, 29 June 1945, quoting Austrian radio of 27 June.

Czechoslovakia

The promulgation on 11 July 1945 of a presidential decree on the punishment of war criminals marks the beginning of the purge trials in Czechoslovakia and has been hailed by the Czech press as an important step clearing the way for the reconstruction of the Republic. The decree essentially conforms to the principles laid down by the Czechoslovak Government-in-Exile with regard to the definition and punishment of war criminals. Its scope allows for the arraignment of all persons who in any respect acted contrary to the interest of the Czechoslovak state or committed acts of violence against the Republic or against the population since 2 May 1938, the date of the first mobilization order of the Republic. The decree's provisions are not valid in Slovakia, where special regulations issued by the Slovak National Council on 1 May 1945 are in force. No particulars on these are available, but the Czech and Slovak measures are understood to be essentially the same.

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According to the text of the decree a National Court will be set up in Prague to judge top officials while special People's Courts in the districts will try lesser war criminals. The National Court will be composed of a president, two deputies, and a senate of seven members. The president, his deputies, and the chairman of the senate will be appointed by the Government from the judiciary. The members of the senate, as well as the public or national prosecutor, will be laymen, appointed by the Government upon the suggestion of the Ministry of Justice.

The National Court will function both as a criminal and as an honor court. As a criminal court it will pass judgement on "the state, the president, and the governments of the so-called Protectorate, members of the leadership of the Vlajka [the German-sponsored fascist political group which operated from 1939 until 1943] the board of trustees for the education of youth [better known under the German occupation as the Kuratorium, which was to become a sort of Czech Hitler Youth], the Czech League Against Bolshevism [established in February 1944 with the express purpose of disseminating anti-Soviet propaganda], the National Trade Union Council [NOUZ, a Nazi-sponsored trade union in which membership was not compulsory], the Association of Agriculture and Forestry [an organization established for the exploitation of Czech agriculture rather than for the indoctrination of the Czech farmers], journalists who served the invaders in the daily press, and other persons who in view of their leading position in public life should have set an example to other citizens."

The above groups, "even if they did not commit punishable crimes but did not act like faithful citizens of the Czechoslovak Republic after 21 May 1938," will be tried by the National Court as a court of honor. If found guilty, they will lose their "political rights and will be excluded from political life."

The special People's Courts will be composed of a senate of five, headed by a professional judge. They will presumably try all other war criminals not falling under the jurisdiction of the National Courts. Their procedure will be the same as that of courts martial. Proceedings may not last longer than three days; if they do

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1.FCC: Ticker, quoting Prague Radio of 11 and 12 July 1945; FCC: Daily, 13 July 1945

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the case must be turned over to an ordinary court. The trials before both types of courts are to be public and oral. Both courts may impose the death penalty, provided that a majority of the members favors it. Death sentences are to be carried out within two hours, and no appeal is possible.

The categories of war crimes and the types of punishment set by the decree may be summarized as follows:

a. Persons who committed a crime against the state (that is, performed acts which led to attacks endangering the security of the state), gave away state secrets, committed military treason, or perpetrated acts of violence against the constitutional authorities will be given prison terms ranging from twenty years to life. They may also be sentenced to death.

b. Persons who propagated or supported fascist or Nazi movements or who approved or defended the enemy government in the press, over the radio, in the theater, in films, or at public meetings will be punished by five to twenty years of penal servitude. Under aggravating circumstances the death penalty may even be imposed.

c. Persons who, in the service of Germany or its allies or movements hostile to the Republic, committed public violence, kidnapped, enslaved, murdered, or killed are to be punished by death.

d. Persons who in the interest of the German war effort ordered Czechs to perform forced or compulsory labor will be punished by five to twenty years of imprisonment.

e. Persons who through any administrative decision, decree, or court sentence caused death or deportation of any inhabitant of the Republic will be punished by death.

f. Persons who as a result of political or racial persecution enriched themselves at the expense of the state or of individuals on whom the damage was inflicted will be punished by five to ten years of penal servitude.

g. Persons who at a time of increased danger to the Republic were informers in the service of the enemy will be punished by five to ten years of penal servitude; if the circumstances are particularly odious, they will be executed.

h. Officials of the NSDAP, the Sudetan German Party, Vlajka, and similar organizations will be punished by penal servitude of from five to twenty years.

In all cases persons who are convicted will lose their civic rights, will serve part or all of their property to the state.

It is not clear from the text of the present decree how the Czechoslovak Government intends to try top German leaders who committed crimes in Czechoslovakia. It is possible that before issuing definite instructions the Government will wait the decision of the United Nations War Crimes Commission as to methods and procedure. On the other hand, for purposes of trial, the Czechs may well define certain Sudetens, such as Karl Hermann Frank, as being Czechoslovak citizens.

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FINLAND

Purge of army command gets under way: Information received during the past week tends to confirm the assumption that the replacement of General Heinrichs by General Lundquist as Commander in Chief of the Finnish Defense Forces was not unrelated to the recent discovery of a planned officers' putsch. News of the arrest of thirty-four or more "leading officers"<sup>1/</sup> indicates that a general purge of the Army command is getting under way in Finland.

According to an entirely reliable source, the affair of the arms dumps, far from being a trumped-up charge, was a serious and widespread plot, as a result of which the Paasikivi government, and particularly the Finnish Army, have rendered themselves vulnerable<sup>2/</sup> to attacks from the Russian supported Left. A Scandinavian source asserts that General Heinrichs allegedly knew what was going on and was subsequently "cashiered" for not taking steps to nip the plot in the bud.<sup>3/</sup> From another quarter comes news of the resignation of Lt. General Airo, also as a result of the arms dumps scandal. <sup>4/</sup> The reported arrests <sup>5/</sup> of additional officers -- captains, majors, lieutenant colonels, and colonels -- indicates that recent Soviet warnings to "clean house" in time have had their effect in the Paasikivi government.

1. New York Times, 18 July 1945; Swedish Home Service, 17 July 1945 (FCC: Daily, 18 July 1945).
2. OSS #3055, 13 July 1945.
3. Norwegian Home Service, 15 July 1945; FCC: Ticker, 15 July 1945).
4. OSS # 3055, 13 July 1945.
5. New York Times, 18 July 1945; Swedish Home Service, 17 July 1945 (FCC: Daily, 18 July 1945).

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HUNGARY

The resignation under Communist pressure of Agoston Valentiny, Social Democratic Minister of Justice, combined with the arrest of another high official of that Ministry, measures against a provincial Social Democratic editor, and the expulsion of six high-ranking judges from the Army, suggests the possibility that a large-scale political purge may be imminent. Such a purge would apparently be directed against anti-Soviet leftists as well as recalcitrant adherents of the old regime.

In a cabinet meeting held on 27 June, Agoston Valentiny, the Social Democratic Minister of Justice, proposed the establishment of a special police corps under the jurisdiction of the Ministry of Justice in order to facilitate the preparation of cases to be tried by the People's Courts.<sup>1/</sup> Behind the proposal was obviously the dissatisfaction of non-Communist circles with the control of the Communist Party over the State police. The Cabinet adopted Valentiny's suggestion <sup>2/</sup> and, by a vote of eight to four <sup>3/</sup> passed it as a decree.

The Communists, who had been overridden, published a scathing attack on Valentiny in their chief press organ. Valentiny's decree, wrote Szabad Nep, is "reactionary, root and branch.... [it is] part of the reactionary persecution to which the democratic police have been subjected.... [its] purpose: to frustrate energetic police measures against the Fascists and reactionaries. The Minister of Justice has unfortunately joined the reactionary persecution of the democratic police and is trying to slow down the energetic struggle against Fascism. The Minister of Justice, and the majority of the Government, are apparently trying to organize a counter-police.... Against this reactionary decree we declare the fiercest struggle."<sup>4/</sup> The efficacy of Communist opposition to Valentiny's suggestion may be measured by the fact that the decree, although passed by the Cabinet Council, was never published in the official gazette.

One week later, on 6 July, Dr. Dezso Farnos, Administrative Secretary of State in Valentiny's Ministry of Justice, was arrested in the building of the Ministry by the Communist-controlled <sup>5/</sup> political police.<sup>6/</sup> At almost the same time, the Social Democratic editor of the provincial Tiszanthali Nepszava was jailed for three days and then removed from control of his paper, for criticizing the verdict passed in Moscow on the anti-Lublin Poles.<sup>7/</sup> Finally, on 8 July, the Social Democratic Nepszava announced the impending resignation of the Minister of Justice himself, explaining that a recent suggestion made by Comrade Valentiny in one of the latest Cabinet meetings had made it plain that there were basic differences between him and the Party on legal questions.<sup>8/</sup>

The portfolio vacated by Valentiny was then given to another Social Democrat, Istvar Ries, who is apparently not objectionable to either the Communists or the left-wing Social Democrats, whose cooperation with the Communists is said to have been responsible for unseating Valentiny.<sup>9/</sup>

1. Szabad Nep, 29 June 1945; OSS #2972, 3 July 1945.

2. OSS # 2972, 3 July 1945.

3. It was only by a majority of two, according to the Communists. Szabad Nep, 29 June 1945.

4. Ibid.

5. OSS #2906, 5 July 1945.

6. Kis Ujsag, 7 July 1945.

7. OSS #2900, 5 July 1945.

8. Nepszava, 8 July 1945.

9. OSS #2972, 3 July 1945

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Within a week after Nepazava's announcement of Valentiny's resignation, the Budapest press published news of a military purge, consisting of the demotion and expulsion of 6 high-ranking judges and 19 senior officers from the Army.<sup>1/</sup> It appears, then, that the "cleansing" of southeastern Europe urged by the Russian radio <sup>2/</sup> is to include both "Mensheviks" and recalcitrant hold-overs of the Horthy and Szalasi governments.

1. OWI:European News Digest, 17 July 1945, quoting Tass, 14 July 1945. Also Kossuth Nepe, 5 July 1945 and 10 July 1945.

2. FCC:Daily, 6 July 1945, quoting Soviet Overseas Service, 5 July 1945; OWI:European News Digest, 17 July 1945, quoting Moscow Broadcasts in Hungarian, 12 and 16 July 1945.

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### SOVIET INTEREST IN FINNISH WAR CRIMINALS

A little over a year ago ( June 26, 1944), President Ryti of Finland signed an agreement with the German Foreign Minister, Ribbentrop, to the effect that Finland would collaborate more closely with Germany, and would not sign a separate peace. 1/

With the anniversary of this agreement perhaps jogging their memories, twenty-five members of the Finnish Diet last week addressed a written question to Premier Paasikivi concerning the present activities of the persons responsible for involving Finland in war with the USSR. Stating that such compromised persons continue to hold prominent positions in the army, in educational institutions, and in business enterprises, the Diet group, composed of members of the Democratic Union, the Social Democrats, and the Swedish People's Party, urged the government to take prompt action to remove such persons from places of influence. 2/ In reply, Paasikivi stated that a committee had been formed in February to investigate Finnish foreign policy during the war years, and to investigate the records of particular persons. Since the committee had been so slow, Paasikivi promised that the government itself would now take up the investigation.

Commenting on this development, the Moscow radio broadcast the following: "Punishment of war criminals is not only important, but urgent. Without such punishment... it will be impossible to establish a democratic order in postwar Europe... The fascist elements [in Finland] have by no means laid down their arms... in quite a few cases they received arms straight from army dumps. And the Finnish fascists were campaigning viciously against the Soviet Union... To purge Finland of the fascists and to punish war criminals is indeed an urgent matter on which will depend the peace, security, and welfare of Finland and her place in the postwar world." 3/

In connection with the supplying of arms to dissident elements, a report has been received that the Soviets have sent the Finnish government two notes, the second one strongly worded, regarding the discovery of arms caches in Finland. 4/

Since the Soviet Union had previously urged on other governments the rapid punishment of war criminals, Russian comment on war criminals does not necessarily reflect the adoption by the USSR of a more stringent policy toward Finland. If such a change is in the offing, however, the Soviets conceivably could use the war criminal issue to introduce the policy. It is possible, of course, that Soviet pressure may have been responsible for the raising of the issue by the Finns in the first place. The fact that the most comprehensive reporting on the subject comes from Moscow highlights Soviet interest on the problem.

1. Cf. Situation Report, 8 July 1944.
2. FCC Teletype, 6 July 1945.
3. FCC Teletype, 6 July 1945.
4. D Source, OSS # 2913.

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