

INTERNATIONAL COMMISSION OF JURISTS
COMMISSION INTERNATIONALE DE JURISTES • INTERNATIONALE JURISTEN-KOMMISSION
47, BUITENHOF • THE HAGUE-NETHERLANDS • TELEPHONE 182105
CABLE ADDRESS: INTERJURISTS

ENCLOSURE TO LETTER OF SEPTEMBER 2, 1957

Survey of the Hungarian System of Summary Trials

I. The Law and its Enforcement.

The main features of the system of summary trials are contained in the consolidated legislation of June 15, the text of which is given in Section III below.

1. Summary Courts. There are three kinds of Summary Courts, called People's Courts. People's Courts attached to County Courts consist of a professional judge and two lay judges; the latter are elected by the supreme political body, that is the Presidential Council of the People's Republic, i.e., by those at present in political control in Hungary. These lay judges have the same rights of voting as the professional judge and can overrule him. The People's Court of the Supreme Court consists of one Judge and four lay judges, similarly appointed and with the same powers of overruling the professional judge. Military Summary Courts are similarly staffed.
2. Vague Definition of Offences. Many types of offence may be tried summarily; some of these offences are defined in such vague terms that they give the court an extremely wide discretion in interpretation. For example, an accused person can be tried for offences such as "organization against the People's Republic or against the People's democratic order" or "the disturbing or inciting others to disturb the working of an essential undertaking". Essential undertakings are now defined (inter alia) as every agricultural, industrial or commercial establishment which employs more than 100 people.
3. Severe Penalties. The penalty for these crimes is death unless there are extenuating circumstances, but a minimum punishment of five years is in any event prescribed for adult offenders.

Pardon cannot apparently be exercised without a favourable recommendation by the People's Court of the Supreme Court.

4. The Procedure at Summary Trials. An accused may be tried on an oral presentation of the case by the prosecutor without a bill of indictment thereby depriving him of proper notice of the charge and adequate time to prepare his defence. It is for the prosecutor to secure the presence of witnesses; this gives the accused no opportunity in practice to call witnesses for the defence. Finally, the Decree-law of June 15 provides that the accused cannot even be represented by counsel of his own choice but must select his advocate from a list approved by the Minister of Justice.

5. Appeal Courts. The People's Court of the Supreme Court is not only a Court of trial but is also a Court of review or appeal at the instance of the President of the Supreme Court or the Chief Public Prosecutor. Of its five judges only one is required to be a professional lawyer, the other four (any three of whom can outvote the professional judge) are appointed by the Presidential Council of the People's Republic - i.e., by those at present in political control of Hungary. It would appear that this People's Court is not primarily intended as an ordinary court of appeal to which either the accused or the trial prosecutor have access but rather as a tribunal through which the President of the Supreme Court or the Chief Public Prosecutor can control, correct, and if necessary remove to the jurisdiction of the People's Court, the administration of criminal justice in political cases throughout the country. It is also significant that this People's Court is empowered to sentence an accused person previously acquitted or to increase the sentence, although the accused has not made an appeal on his own behalf. There is a further appeal from the People's Court of the Supreme Court to a Presidential Court on the grounds of "legality". The Presidential Court consists of four professional judges and seven lay associates; it has the same power as the People's Court of the Supreme Court to worsen the position of the accused.

6. Reference to Evidence Published by the Commission. A reminder is now necessary of the evidence contained in the publications of the Commission as to the application of these laws in practice. This can be best done by some significant examples: (a) In the first summary published by the Commission in April 1957 covering a period of $3\frac{1}{2}$ months, November to February 1957, there is a record of 128 cases. There are only four acquittals. Some of the accused were sentenced to death and executed for such crimes as hiding arms or organizing revolt. (b) In the Supplement published in June 1957, covering 4 months March - June 1957 295 cases are referred to. There were 2 acquittals. Attention must be drawn to cases where sentences have been increased on appeal. The most characteristic of these were those of Gyula Obersovsky and Jozsef Gali whose sentences of three and one years of imprisonment respectively were increased on appeal to the sentence of death. These sentences have been commuted in the light of appeals from a number of foreign organizations, but this was not fate of others such as Istvan Micsinai whose sentence has been increased on appeal to death penalty and who has since been executed. The total number of cases during this period of about $7\frac{1}{2}$ months prior to June 22, 1957 in which sentences known to the Commission examined was 423. The examination of the charts giving full particulars of these trials and sentences indicates extreme severity of the Summary Courts even having regard to the nature of this emergency legislation. During the 2 months from June 22 to August 22 at least 204 persons have been tried and sentenced with the same harshness. No acquittals are reported.

II. The attitude of Hungarian Authorities as shown by their own statements.

Speeches made and articles written are indicative of the constant pressure of the authorities on the prosecutors and judges to exercise the utmost severity when dealing with political offenders. The statements referred to by the Commission in its past publications and statements made more recently show the continued determination of those in power in Hungary to use their laws with utmost rigour. Dr. Ferenc Nezval, now the Hungarian Minister of Justice, said

as far back as February 15, 1957, 'our jurisdiction must be tough, quick, merciless'. On the same date Dr. Ferenc Muennich, the Minister of the Armed Forces, called for "the application of the weapon of jurisdiction and our laws with the utmost severity". On May 1, Mr. Kadar expressed his belief 'that the criminals must be punished and those who intrigue against the People's Republic and the work of the people must be restrained. We hold that the power, life and peace of the people is the most sacred thing in the world. Consequently our legal organs are actually complying with the requirements of humanity and democracy when they treat the criminals with the utmost severity.' At this time "complaints" began to appear in the Hungarian Press about the way in which the courts were responding to this exhortation to severity. Thus on May 5 the Staff of the Militia Battalion of the Police H.Q. of County Baranya protested against a sentence of acquittal at a trial in Pecs. On May 10 Dunantuli Naplo demanded the removal of the judge who gave this verdict and that the judge himself should be tried. On May 19 Nepszabadsag referred to many complaints and objections concerning the work of the Courts, "What was and in a sense, what is even now the cause of the mistrust in courts? The fundamental reason is the opportunism and liberalism of certain judges in the fight against the counter-revolution" ... In some cases the Courts pass ridiculously mild sentences on the mortal enemies of our people and our system despite the fact that their guilt was stated and their action justly described ... In other cases judges apply extenuating circumstances in an entirely unlawful manner, which make the passing of severe sentences ... impossible ... We must avail ourselves of all means to make our courts work and judge in the spirit of the class warfare of the proletariat. The demand to pass sentences in a spirit of class warfare has never been as opportune as now ... This means ruthless, unbending rigor against the enemies of the people". On May 30 at a meeting of party members reported in Nepszabadsag objections were raised "to the indulgence with which the enemies of the people" were treated.

On June 1, in a speech reported over Budapest Radio, Dr. Nezval announced that "mercy" would be only an exceptional step. This was consistent with a statement made at a lecture by Mr. Bela Biszku on May 27 calling for making sure that violent aspects of

the dictatorship of the proletariat will not be neglected. Nepszabadsag refers on June 2 to complaints made concerning sentences in the cases of political crimes. "Judges are still influenced by the spiritual terror of the counter-revolution ... officials of the Ministry visit Courts regularly and see to it that sentences passed on counter-revolutionaries should comply with the demands of socialist legality". On June 4, Mrs. Imre Juhasz, Member of Parliament in a speech reported in Nepszabadsag said "Quite a fair number of judges have asked to be transferred from the criminal court to the civil court A good many of our public prosecutors have shown procrastination in drawing up indictments and in ordering preliminary arrests". Talking of counter-revolutionaries she said "We cannot show mercy towards them". On June 19 UJ UTON published a letter from the Company of Militia of County Heves protest against the action of a public prosecutor who did not demand a death sentence. "We do not recognize the humane decision of the Court and we file an appeal for aggravation. We cannot recognize that the principal Laszlo Joob ... the leader of the Houved Committee has been sentenced to only 15 years imprisonment "A similar protest is made against other sentences. On June 30 NBZ referring to counter-revolutionaries repeats the demand". Those who violate the law must be punished. On July 10 Dr. Ferenc Nezval at a press conference reported over Budapest Radio said "We must make sure that the Courts keep counter-revolutionary elements and aspirations at bay and mete-out punishment for counter-revolutionary criminal acts." He added, significantly that there had been "an improvement concerning criminal sentences as compared with recent months" but unfortunately the courts had not in all cases recognized the great social danger of those crimes.

On July 17 an article in Delmagyarorszag entitled "Leniency - Why?" starts with these opening words "Counter-revolutionaries have got the jitters, they do not like the pressure of the steady hard fist and the determination of the workers' class ... They had better give up their day dreams straight away because they will not have another opportunity to undermine our system. It is superfluous for them to lament and groan: they will get where they deserve to be, irrespective of where they keep in hiding." Between the middle

and the end of July World Press published unconfirmed reports about a waive of arrests in Hungary. The arrests were said to have started on July 17 and ended on July 23. The most conservative estimates were that 1500 to 2000 people were arrested: some newspapers alleged 10000 arrests. Mr. Marosan in a speech, reported in the Hungarian Press on July 26 and on Budapest Radio on July 31 and August 1, said that the detention of some hundreds of people had aroused indignation in the West. "We do not deny that we have arrested a few counter-revolutionaries who had well deserved it... Why all this excitement? Our organs or internal security are today striking blows at those at whom Rakosi should have struck...We showed patience for a while, but after the CPSU (Communist Party of the Soviet Union) resolution, a number of dubious elements were discovered and began to spread the 'words': 'We start again in October'. Our patience was then exhausted and our authorities did what they should have done in the years 1945 to 1948."