

Radio Free Europe/Munich
Evaluation and Analysis Department
Background Information USSR

3 May 1961

"JUSTICE" FROM THE SOVIET TRADE UNIONS?

An article in the April issue of Soviet State and Law (No. 4, 1961) discusses the past and present of the "comradely courts" in the USSR, and indicates some of the current heresies which they have evoked. The historical section is interesting in that it claims that in 1938, more than 45,000 "comradely courts" were operating in the RSFSR alone. It admits that by 1941 they had virtually gone out of business, and argues that one of the reasons for their disappearance was the imperfection of legislation. There was no single law to regulate their work and to lay down exactly who should run them. They were largely left to themselves, and soon withered on the vine.

The parallel with the present situation is clear to those familiar with the Kangaroo courts of today.

After three years of intermittent propaganda and spasmodic operation, Khrushchev's "comradely courts" still lack a legal basis for their activities, which at present depend on a Draft Statute.¹ Moreover it is still not certain precisely who is responsible for organizing them, and it is now suggested by Soviet State and Law that the trade unions should fulfill this function.

The article discloses that as in the early twenties, there is a "Trotskyite" minority of officials of the comradely courts who are dissatisfied with the present limitations on their powers to inflict penalties. This group finds the Draft Statute too "soft" for its liking, and would like to have the right to impose fines, believing that a fine is the most realistic and effective sanction.

V.M. Savitsky and N.M. Keizerov, the authors of the article, warn that this view is a "profound error", because the comradely courts are not intended to act as punitive organs, but as collective critics, obtaining their results by public discussion and condemnation, by the exercise of massive moral pressure.

Another deviation in the current practice of the "comradely courts" is a tendency to imitate the judicial trappings of the people's courts by issuing a summons, warning witnesses against giving false testimony and even holding sessions in camera, thereby defeating the main "educational" purpose which

¹Published 12 November 1959 by Soviet News.

Khrushchev had in mind when he reinaugurated them. Some comradely courts have erred by allowing public prosecutors and public defense counsel to take the floor, but this is said to be wrong because "in a comradely court, anyone who so desires may act as defense counsel or prosecutor." To appoint individuals for the conduct of the prosecution or defense would

"fetter the initiative of the citizens and make them into passive spectators, ultimately distorting the very essence of the court as a body run by the public itself."

However it is clear from the article that a widespread rightist deviation counterbalances the neo-Trotskyite heresy described above, in that in many cases "the public" appears to be completely uninterested.

"There are comradely courts which exist only on paper, in reports, but they do no actual work and the staff of the factory do not even suspect their existence..."

Savitsky and Keizerov claim that the reason for this state of affairs is "insufficient guidance from the local trade union organizations", which should initiate the courts at every factory, institution, higher educational establishment etc.

This somewhat unusual responsibility for the unions is given an aura of doctrinal respectability by a rare quotation from Lenin:

"The most important role in these (comradely) courts is played by the trade unions." (Collected Works, Vol. 32, p. 22).

Moreover local union committees are advised to select and recommend their own candidates for staffing the courts, since where this is not done

"people are often appointed who cannot be trusted to perform this honorable and responsible duty, and they can only discredit the courts in the eyes of the collective."

The authors admit that at present few cases are brought before the comradely courts by the unions, and that most of them are heard at the behest of management. To encourage the unions to take over the organization and staffing of the courts, as Soviet State and Law is doing, will clearly not be likely to foster the popularity of the unions among the workers. The unions are being asked to try their own members on occasions when in a majority of cases they will inevitably appear as the agents of management rather than as defenders of the workers. If they accept such a role it will be harder than ever for them to show that they are not mere appendages of the state. But if they do not, what other body remains which

can afford to accept the responsibility of staffing and controlling the comradely courts? This problem was unsatisfactorily solved in the 1919 decree² which inaugurated the comradely courts by appointing a triumvirate of judges consisting of a representative of management, a union representative and a representative of the "collective" elected at a general meeting. The Leninist pattern had the obvious disadvantage that it appears to admit officially that the union leaders are not the true representatives of the workers. The proposals of Soviet State and Law for increasing trade union authority over the Khrushchevian comradely courts do nothing to resolve the dilemma of forty-two years ago.

r.r.g.

²Signed by Lenin, 14th November 1919.

Appendix: Draft: Principles of Civil Procedure in the USSR
and the Union Republics
(Sovetskoye gosudarstvo i pravo, No. 7, July 1959)

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See also:

Background Information, October 13, 1959, p. 6.
Background Information, December 1, 1959.
Background Information, January 30, 1960.

Draft: PRINCIPLES OF CIVIL PROCEDURE
IN THE U.S.S.R. AND THE UNION REPUBLICS

Sovetskoye gosudarstvo i pravo
No. 7, July, 1960

I. General Provisions

Art. 1. Aims of Civil Procedure. The aim of Soviet civil procedure is to ensure the correct administering of justice in civil cases in order to safeguard the socialist system of economy and socialist property and the defense of the political, labor, housing and other personal and property rights and law-protected interests of citizens, and also the rights and law-protected interests of state institutions, enterprises, collective farms and other cooperative and public organizations.

Civil procedure should help to strengthen socialist legality and ensure the precise and undeviating execution of laws by all institutions, enterprises, organizations, officials and citizens, and also educate citizens in a spirit of a solicitous attitude toward socialist property, observance of labor discipline and respect for the rules of socialist society.

Art. 2. Procedure for Proceedings in Civil Cases. The republics adopt codes of civil procedure on the basis of the Union-republic Constitutions and in accordance with these principles.

The procedure for proceedings in civil cases is determined by these Principles and the legislation of the Union republic on the territory of which the case is heard, individual procedural actions are taken or a court decision is executed.

Legal proceedings in civil cases are conducted under the laws in effect at the time of the hearing of a case.

Art. 3. Jurisdiction of Courts in Civil Cases. The courts hear cases involving disputes arising from civil, family, labor and collective farm legal relations if one of the parties in the dispute is a citizen or a collective farm, except in instances where this type of dispute has been assigned by law to the jurisdiction of administrative or other agencies.

The courts also hear cases involving complaints of citizens about irregularities in voters' lists; cases arising out of administrative-legal relations, if they are subject by law to examination in the courts; cases concerning the establishment of facts having juridical importance, unless the law provides a different procedure for the establishment of these facts; cases concerning the recognition of citizens as missing or the declaration of citizens as deceased; and also other cases assigned by law to the competence of the courts. These

cases are heard under a procedure provided by the codes of civil procedure of the Union republics, insofar as these Principles do not establish special rules for examination of them.

Art. 4. Right to Turn to a Court for Judicial Defense. Any interested person has the right to turn to a court for the defense of a violated or disputed right or law-protected interest.

Art. 5. Bringing Suit Against a Foreign State or Its Representative. Bringing suit against a foreign state, the taking of measures to secure the collection of claims, or satisfaction of a judgment against a foreign state from property in the U.S.S.R. belonging to it may be permitted only with the consent of the competent agencies of the state concerned.

Diplomatic representatives of foreign states accredited to the U.S.S.R. and other persons stipulated in the corresponding laws and international agreements are subject to the jurisdiction of a Soviet court in civil cases only within limits determined by the norms of international law or by agreements with the states concerned.

The rules of this article apply on the basis of reciprocity.

Art. 6. Instituting a Civil Case in Court. A court begins examination of a case upon the application of the interested person or upon the application of a prosecutor, and also upon the application of state, trade union or other public organizations or individual citizens if under the law the case may be instituted independently of the demand of the interested person.

Art. 7. Administering Justice on the Basis of the Equality of Citizens Before the Law and the Courts. Justice in civil cases is administered on the basis of the equality of citizens before the law and the courts, regardless of their social, property or official status, sex, nationality, race or religion.

Art. 8. Participation of People's Assessors and Collegiality in the Hearing of Cases. Civil cases in all courts of original jurisdiction are heard by a judge and two people's assessors elected under the procedure established by law.

People's assessors have all the rights of judges during the hearing of civil cases.

Appeal civil cases are heard by a court composed of three members of the court, and cases heard under the system of judicial supervision are heard by a court composed of at least three members of the court.

Art. 9. Independence of Judges and their Subordination Only to the Law. In administering justice in civil cases, judges and people's assessors decide civil cases on the basis

of the law, in accordance with socialist legal consciousness and in conditions precluding outside influence on judges.

Art. 10. Language in Which Legal Proceedings Are Conducted. Legal proceedings in civil cases are conducted in the language of the Union or autonomous republic, autonomous province or national region, or, in cases specified in the constitutions of the Union and autonomous republics, in the language of the majority of the population of the given locality; persons who do not know the language in which the legal proceedings are conducted are assured the right to speak in court in their native language and to familiarize themselves with the materials of the case through an interpreter.

Art. 11. Public Court Trial. The trial of civil cases in all courts is public, except in instances where public trial would prejudice the interests of safeguarding a state secret.

A closed court trial is also permitted in instances where the circumstances of a case concern intimate aspects of the life of the citizens.

In all cases, court decisions are proclaimed publicly.

Art. 12. Oral, Direct and Uninterrupted Court Trial. A case is tried orally with an unchanging panel of judges. If one of the judges is replaced in the course of the hearing of a case, the case must be retried from the very beginning.

In hearing a case, a court of original jurisdiction must directly investigate all the evidence in the case.

A court does not have the right to hear other cases before completion or postponement of the hearing of a case already begun.

Art. 13. Handing Down a Decision on the Basis of Existing Legislation. A court must decide a case on the basis of existing laws, decrees and resolutions of higher agencies of state administration. A court also applies acts of other agencies of state authority and administration promulgated within the limits of the competence granted them.

In instances provided by law, the courts apply the norms of foreign law or recognize the operation of the norms of foreign law.

Art. 14. Duty of the Court to Ensure Elucidation of the Circumstances of a Case and Exercise of the Rights of the Persons Participating in a Case. A court must strive in every way to elucidate the actual circumstances of a case and the rights and duties of the parties.

A court must explain to the parties and to other persons participating in a case their rights and duties and give them assistance in the defense of their rights and law-protected interests.

Art. 15. Binding Nature of a Verdict in a Criminal Case on a Court Hearing a Case Involving the Civil-Law Consequences of a Crime. A court verdict in a criminal case that has entered into force is binding, with respect to the establishment of the fact of a crime and its commission by the convicted person, on a court hearing a case concerning the civil-law consequences of a crime.

Art. 16. Binding Nature of Court Decisions, Rulings and Orders. A court decision, ruling or order that has entered into force is binding on all state and public institutions, enterprises and organizations, officials and citizens and is subject to execution throughout the U.S.S.R.

Art. 17. Court Costs. Court costs consist of state legal expenses and costs involved in the hearing of a case.

The circle of persons exempted from payment of court costs is established by Union-republic legislation.

II. Persons Who Participate in a Case and Their Rights and Duties

Art. 18. Parties. Their Rights and Duties. Any citizen or institution, enterprise or organization enjoying the rights of a juristic person may be a party -- a plaintiff or a defendant -- in a civil trial.

Parties enjoy equal procedural rights.

Parties have the right at all stages of a trial to familiarize themselves with the materials of the case, to participate in court sessions, to present evidence and participate in the investigation of evidence, to submit petitions, to give oral and written explanations to the court, to present their conclusions and views, to object to the conclusions and views of the other parties, to appeal decisions and rulings of the court, to demand compulsory execution of a court decision, to be present during the actions of a court bailiff in the execution of a decision, and to enjoy other procedural rights granted them by law.

A plaintiff has the right to change the grounds or subject of a suit, to increase or reduce the amount of the suit claims or drop a suit. The parties may terminate a case by amicable agreement.

A court does not accept the dropping of a suit and does not approve the amicable agreement of the parties if these actions contradict the law or substantially violate anyone's rights or law-protected interests.

The parties must conscientiously use the procedural rights belonging to them.

Art. 19. Participation of Several Persons in a Trial.

A suit may be brought jointly by several plaintiffs or against several defendants. Each plaintiff or defendant in a trial acts independently of the other party.

Art. 20. Substitution for Improper Parties. If a court establishes during the trial of a case that the suit was not brought by a person entitled to bring suit or not against the person who should answer in the suit, it may, without terminating the case and with the plaintiff's consent, permit substitution of the proper plaintiff for the improper one, or of the proper defendant for the improper one.

If a plaintiff does not consent to substitution of another person for the defendant, the court may draw in this person as a second defendant.

Art. 21. Third Persons. Third persons who make independent claims on the subject of a dispute may enter a case before the handing down of a decision. They have all the rights and duties of a plaintiff.

Third persons who do not make independent claims on the subject of the dispute may enter a case on the side of the plaintiff or the side of the defendant before a decision is handed down if the decision in the case may determine their rights or duties with respect to one of the parties. They may also be drawn into participation in a case upon the petition of the parties or the prosecutor or upon the court's initiative.

Third persons who do not make independent claims on the subject of the dispute have all the procedural rights and duties of a party, except the right to change a suit, increase or reduce the suit claims, or to drop a suit, recognize a suit or conclude an amicable agreement.

Art. 22. Court Representation. Citizens may conduct a case in court personally or through representatives.

Juristic persons conduct a case in court through their agencies or through representatives.

Art. 23. Participation of a Prosecutor in a Trial. A prosecutor has the right to institute a civil case or to enter a civil case at any stage of a trial if the safeguarding of state or public interests or of the rights and law-protected interests of citizens demands this.

The participation of a prosecutor in the trial of civil cases is mandatory in those instances where it is directly provided by law or where the necessity of the prosecutor's participation in the given case is recognized by the court.

A prosecutor has the right to participate in the investigation of evidence, to submit petitions and to enjoy other procedural rights granted him by law.

A prosecutor who has entered a civil case given the court conclusions both on the substance of the case and on individual questions arising during trial of the case.

Art. 24. Participation of Agencies of State Administration and Public Organizations in a Trial. In cases provided by law, agencies of state administration and public organizations may be drawn into participation in a trial or may enter a trial upon their own initiative for the purpose of giving conclusions in the case in order to fulfill the duties entrusted to them and to defend the rights and law-protected interests of citizens and juristic persons.

Agencies of state administration and public organizations that participate in a trial for these purposes have the right to present evidence, to submit petitions and to enjoy other procedural rights granted them by law.

III. Trial and Settlement of a Civil Case

Art. 25. Acceptance of Complaints in Civil Cases. In a people's court complaints in civil cases are accepted by the people's judge and in all other courts by the chairman or a member of the court.

Complaints are not accepted:

- (a) if the case is not subject to examination in court agencies;
- (b) if the plaintiff has not observed the procedure for preliminary out-of-court settlement of a dispute established for the given category of cases;
- (c) if a court decision or ruling is in force concerning acceptance of the plaintiff's dropping of a suit or approval of an amicable agreement of the parties, handed down in a dispute between these same parties, concerning the same subject and on the same grounds;
- (d) if a third-party arbitration agreement has been concluded between the parties in the given dispute;
- (e) if the case is not under the jurisdiction of the given court;
- (f) if the suit has been brought by a person not having legal capacity to act;
- (g) if the suit has been brought by a person who is not empowered to conduct a case on behalf of the plaintiff.

In cases stipulated in paragraphs "b," "e," "f" and "g" of this article, refusal to accept a complaint does not prevent a second submission of the same complaint to a court if the violations of the procedure for submitting the complaint have been eliminated.

Art. 26. Preliminary Preparation of Civil Cases for Trial in Court. Before a case is submitted in court session, the judge carries out a preliminary preparation of the case for court trial, the purpose of which is to ensure prompt and

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correct hearing of the case.

Art. 27. Measures to Secure the Collection of Claims.
Upon the request of a plaintiff, upon the application of a prosecutor or upon its own initiative, a court must take measures to secure the collection of claims. Such measures are permitted if the suit seems to have sufficient grounds and if the failure to take measures to secure the collection of claims would make execution of a decision impossible or more difficult.

Art. 28. Challenging a Judge, People's Assessor, Prosecutor, Secretary of a court Session, Expert or Interpreter.
In the event of an interest in the outcome of a case or special relations with the parties or third persons participating in a case, a judge, people's assessor, prosecutor, secretary of a court session, expert or interpreter may not participate in the hearing of the case.

A Judge who participated in the hearing of a case in a court of original jurisdiction or in a court of appeals may not participate in a second hearing of the same case.

Art. 29. Evidence. Any factual information on the basis of which a court, under a procedure determined by law, establishes the presence or absence of circumstances providing grounds for the suit claims and objections of the parties, as well as other circumstances having significance for settlement of a case, is evidence in a civil case.

This information is established by explanations of the plaintiff, defendant and other persons participating in a case, by the testimony of a witness, by written evidence, by material evidence and by the findings of an expert.

Circumstances of a case which by law must be corroborated by specific types of evidence may not be corroborated by any other types of evidence.

Art. 30. Duty to submit Evidence. Each party must prove the circumstances that it cites as grounds for its claims and objections.

A court may ask the parties to submit additional evidence and also demand evidence on its own initiative.

Art. 31. Evaluation of Evidence. Judges evaluate evidence on the basis of their inner conviction, based on the thorough, complete and objective examination in court session of all the circumstances of a case in their totality.

In evaluating evidence, judges are guided by the law and by socialist legal consciousness. No evidence has prior established force for the court.

Art. 32. Decision of a Court. Union-republic courts hand down decisions in the name of the Union republics.

The U.S.S.R. Supreme Court hands down a decision in the name of the U.S.S.R.

A court decision is adopted by a majority of votes and is signed by all the judges; a judge who is in the minority is entitled to set forth in written form his own particular opinion, which is attached to the decision but is not made public.

A court decision must be based on evidence investigated in court session.

A court decision must indicate the circumstances of the case established by the court, the evidence on which the court's conclusions regarding the circumstances of the case are based, the motives explaining why the court rejected certain evidence, the laws by which the court was guided, the court's conclusion regarding satisfaction of the suit or rejection of it entirely or in part, and the time limit and procedure for appealing the decision.

In handing down a decision, the court, depending on the circumstances brought to light, may go beyond the limits of the claims made by the plaintiff if the protection of the rights of state or public organizations or of the rights or law-protected interests of citizens demands this.

A court that has decided a case may explain its decision without changing its content and also hand down an additional decision upon a claim examined in court session but not settled by the court.

Art. 33. Entering of a Decision Into Legal Force. A court decision enters into legal force upon expiration of the period established for an appeal or protest, and in the event that an appeal or protest has been submitted, after handing down of a ruling to leave the appeal or protest unsatisfied or to change the decision.

Decisions of the U.S.S.R. Supreme Court and the Union-republic Supreme Courts enter into legal force immediately after they are pronounced.

After a decision has entered into legal force, neither the parties nor the other persons who participated in the case nor their legal successors can again submit these same suit claims in court on the same grounds nor dispute the facts and legal relations established by the court in another trial.

Art. 34. Suspending Proceedings in a Case. A court must suspend proceedings in a case in the following instances:

(a) the death of a citizen or termination of existence of a juristic person that is a party or third person in the case;

(b) the loss by a party or third person of his legal capacity to act;

(c) the presence of the defendant or third person in an active unit of the Soviet Army or the request of a plaintiff who is in an active unit of the Soviet Army;

(d) the impossibility of hearing the given case before settlement of another case being examined under a civil, criminal or administrative procedure.

Other grounds on which a court may suspend proceedings in a case are established by Union-republic legislation.

Art. 35. Terminating Proceedings in a Case. Proceedings in a case are subject to termination at any stage of a trial:

(a) if the case is not subject to examination in court agencies;

(b) if the plaintiff has not observed the procedure for preliminary out-of-court settlement of the dispute established for the given category of cases and the possibility of applying this procedure has been forfeited;

(c) if there is a court decision or ruling in force on accepting the plaintiff's dropping of the suit or satisfying the amicable agreement of the parties handed down in the dispute between the same parties, concerning the same subject and on the same grounds;

(d) if the plaintiff has dropped the suit and this has been accepted by the court;

(e) if the parties have concluded an amicable agreement and this has been approved by the court;

(f) if a third-party arbitration agreement has been concluded between the parties in the given dispute;

(g) if after the death of a citizen who was a party in the case the disputed claim or disputed obligation cannot pass to the legal successor of the deceased.

Art. 36. Rejection of a Suit Without a Hearing. A court rejects a suit without a hearing:

(a) if the plaintiff has not observed the procedure for preliminary out-of-court settlement of the dispute established for the given category of cases and the possibility of applying this procedure has been forfeited;

(b) if the suit has been brought by a person not having legal capacity to act;

(c) if a statement of claim has been submitted by a person who is not empowered to conduct the case on behalf of the plaintiff.

Other grounds on which a court rejects a suit without a hearing may be established by Union-republic legislation.

After elimination of the conditions serving as grounds for rejecting a suit without a hearing, the plaintiff has the right to bring a suit again under the general procedure.

Art. 38. Carrying Out of Requests for Assistance From Foreign Courts and Requests of U.S.S.R. Courts for Assistance From Foreign Courts. Courts of the U.S.S.R. carry out on the basis of reciprocity requests for assistance from foreign courts handed to them under the established procedure concerning individual procedural actions (serving of subpoenas and other documents, questioning of parties and witnesses, carrying out of an examination and investigation on the spot, and others), except in cases where:

(a) the carrying out of the requests is incompatible with the sovereignty of the U.S.S.R. or the Union republics or with the principles of Soviet legislation;

(b) the carrying out of the requests does not fall within the court's competence.

Requests of foreign courts concerning individual procedural actions are carried out on the basis of Soviet legislation.

However, at the solicitation of a foreign court, the procedural norms of a foreign state also may be applied if they not conflict with Soviet legislation.

Courts of the U.S.S.R. may request assistance from foreign courts concerning the execution of individual procedural actions. The procedure for intercourse between Soviet courts and foreign courts is determined by U.S.S.R. and Union-republic legislation and by international agreements of the U.S.S.R. and the Union republics.

IV. Checking the Legality and Grounds of a Decision

Art. 39. Appealing and Protesting Decisions and Rulings. All court decisions except those of the U.S.S.R. Supreme Court and Union-republic Supreme Courts may be appealed under the appeal system by the parties and third persons or protested by a prosecutor within the period established by law.

A prosecutor has the right to submit a protest against a court decision or ruling regardless of whether or not he participated in the case.

Rulings of a court of original jurisdiction, except rulings of the U.S.S.R. Supreme Court and the Union-republic Supreme Courts, may be appealed and protested separately from court decisions if they block further progress in a case or if the possibility of appealing them is permitted by Union-republic legislation.

Art. 40. Hearing Cases on Appeal or Protest. In hearing a case by way of appeal, an appellate court checks the legality of and grounds for an appealed or protested decision or new ruling on the basis of existing materials in the case and new materials presented by the parties and other persons participating in the case. An appellate court is not bound by the arguments of the appeal or protest and must check the entire case, both the appealed and the nonappealed part, and similarly

in regard to persons who did not submit the appeal.

The parties and other persons participating in a case must be given copies of the appeals or protests submitted in their case, as well as notification of the time and place of the hearing of the case by way of appeal.

Art. 41. Powers of an Appellate Court. After hearing a case on the basis of an appeal or a protest, the court may:

- (a) leave the appeal or protest unsatisfied;
- (b) rescind all or part of the decision and turn over the case for a new hearing or terminate proceedings in the case;
- (c) change the decision without turning over the case for a new hearing if a mistake has been made in applying the norms of material law, provided that the factual circumstances of the case were established by the court of original jurisdiction fully and correctly and no gathering of or additional check on evidence is required, and if these changes are not of the nature of a new decision.

In hearing labor cases by way of appeal, a court may hand down a new decision on the substance of the case if a mistake has been made in applying the norms of material law, provided that the factual circumstances of the case were established by the court of original jurisdiction fully and correctly and no gathering of or additional check on evidence is required in the case.

Art. 42. Reopening of Decisions, Rulings and Orders that Have Entered Into Legal Force on the Basis of Newly Discovered Evidence. Decisions, rulings and orders that have entered into legal force may be reopened on the basis of newly discovered evidence.

Art. 43. Review Under the System of Judicial Supervision of Decisions, Rulings and Orders That Have Entered Into Legal Force. Decisions, rulings and orders may be examined under the system of judicial supervision within three years after they have entered into legal force on the basis of protests of prosecutors and chairmen of courts and their assistants who have been granted this right by law.

Officials who have been granted the right to submit protests may stop the execution of the corresponding decisions, rulings and orders prior to completion of proceedings under the system of supervision.

Court sessions in cases being examined under the system of judicial supervision are conducted publicly. Parties and other participants in a case who appear in a court session have the right to give explanations to the court.

Parties and other persons participating in a case must be given copies of a protest submitted in regard to their case as well as notification of the time and place of examination of the case under the system of judicial supervision.

Art. 44. Powers of a Court Examining a Case Under the System of Judicial Supervision. A court hearing a case under the system of judicial supervision may:

- (a) rescind the decision, ruling or order fully or in part and turn over the case for a new hearing, or terminate proceedings in the case or leave the suit without examination;
- (b) leave in force one of the decision, rulings or orders handed down earlier in the case;
- (c) change the decision, ruling or order if a mistake has been made in applying the norms of material law, provided that the factual circumstances of the case have been established fully and correctly and no gathering of or additional check on evidence is required in the case, and if these changes are not in the nature of a new decision.

In examining labor cases under the system of judicial supervision, a court may hand down a new decision on the substance of the case if a mistake has been made in applying the norms of material law, provided that the factual circumstances of the case were established fully and correctly and no gathering of or additional check on evidence is required in the case.

Art. 45. Binding Nature of Instructions of Superior Courts. The instructions of a court hearing a case by way of appeal or under the system of judicial supervision and set forth in a ruling or order are binding on the court rehearing the given case.

A superior court does not have the right to establish or consider proved circumstances that were not established in the decision or were refuted by it, nor the right to give the court of original jurisdiction instructions regarding what decision should be handed down in the given case upon the rehearing of it.

Similarly, a court in examining a case under the system of judicial supervision does not have the right, in rescinding the appeal ruling, to predetermine the conclusions that will be drawn by the appellate court upon the rehearing of the case.

V. Execution of Court Decisions

Art. 46. Execution of Court Decisions That Have Entered Into Legal Force. Court decisions are put into effect upon their entering into legal force, except in cases of immediate execution established by Union-republic legislation.

An exequatur issued on the basis of a decision in a dispute in which at least one of the parties is a citizen may be presented within three years, and in all other disputes, within one year.

For individual categories of cases the law may establish other time limits for presenting an exequatur.

Art. 47. Binding Nature of Demands Concerning the Execution of Court Decisions. The demands of a court bailiff concerning the execution of court decisions are binding on all officials and citizens throughout the U.S.S.R.

Art. 48. Procedure for Execution of Court Decisions. Actions in the mandatory execution of court decisions may be carried out upon expiration of the period for voluntary execution granted to the debtor by the court bailiff in accordance with the period established by Union-republic legislation.

Execution of decisions on nonworking days is permitted only in urgent cases and with the permission of a judge. Execution of decisions at night is not permitted.

Art. 49. Supervision Over Correct and Prompt Execution of Court Decisions. Supervision over the correct and prompt execution of court decisions is exercised by judges.

The procedure for examining appeals against the actions of a court bailiff is determined by Union-republic legislation.

Art. 50. Collection of Damages From Property of Citizens and State, Cooperative and Public Organizations. Damages assessed against citizens may be collected both from the personal property of the debtor and from his share in common property or in joint property of husband and wife, and also from the property of a collective farm household or a single peasant economy.

The collection of damages for injury caused by a crime may also be made from the joint property of a husband and wife, from the property of a collective farm household or a single peasant economy if the court, in trying the criminal case in question, establishes that this property was obtained by, or augmented with funds obtained by, criminal means.

Damages may be collected from the wages and other earnings, pensions, or stipends of a debtor in the event the debtor has no property or has insufficient property to pay the entire damages.

Damages are not collected from the property of a debtor if the damages do not exceed the sum of one month's wages or other earnings, pension or stipends from which damages may be collected in accordance with the law.

Damages assessed against state, cooperative or other public organizations are collected first of all from the debtor's cash bank deposits, according to rules established in U.S.S.R. legislation.

A list of the types of property of citizens and of state, cooperative and other public organizations and of amounts of wages, pensions and stipends from which damages may not be collected, and also the priority for satisfying damages

assessed against citizens when the sums received from them are insufficient, is established by Union-republic legislation.

Claims may be applied to social security payments paid out to temporarily incapacitated persons and to payments made by mutual aid funds of collective farms, cooperative production artels and cooperative artels of invalids only in court decisions on support payments.

Art. 51. Execution of Judgments Involving Attachment of Property, Amicable Agreements Upheld by a Court and Other Decisions and Orders. The execution of judgments involving attachments upheld by a court, decisions of courts of arbitration, decisions of maritime and foreign trade arbitration commissions, decisions of commissions on labor disputes, resolutions on labor disputes submitted by factory, plant or local trade union committees and executive signatures of notary offices, and also, in the event there is legal provision, orders of arbitration agencies, are carried out according to the system established for the execution of court decisions.

Art. 52. The Execution in the U.S.S.R. of Decisions of Foreign Courts. The system for executing decisions of foreign courts in the U.S.S.R. is determined according to the appropriate agreements with foreign states.