

NUREMBERG TRIALS IN THE LIGHT OF INTERNATIONAL LEGISLATION

According to the principles of contemporary international law, responsibility for a war of aggression is considered from two different legal aspects. One of them consists in the problem of responsibility of the state which indulges in aggression, for breaching peaceful coexistence and for all the damages and losses inflicted upon the attacked countries; the other — in the responsibility of individual persons for their actions associated with war and violating the international law.

As regards Germany, responsibility for second world war from the first legal aspect had been finally established in the Potsdam Treaty of Aug 2, 1945; whereas obligation from the second legal standpoint, i. e. responsibility of Nazi war criminals, was settled in agreement with the valid principles of international legislation expressed in such issues of the United Nations as: the declaration of allies formerly occupied by Germany on the problem of punishing Hitler's followers and their confederates for the committed crimes, London Jan 13, 1942; the declaration of the three big powers on responsibility for committed crimes, Moscow Nov 1, 1943; the agreement on establishing an Allied War Crimes Commission, London Aug 8, 1945. The treaty and statute of the Commission, before which took place the Nuremberg trials of the principal Nazi criminals, constituted in their part concerning material law a progressive codification of the valid principles of international legislation in respect to three categories of crime, viz. crimes against peace, war crimes and crimes against humanity. Sentence of the Nuremberg Tribunal put in operation these principles and their interpretation.

Immediately after the Nuremberg trials some of the western jurists, especially lawyers of Western Germany, started to challenge the international-legal grounds for punishing Nazi criminals for crimes against peace. These charges issued by particular, employed-for-the-purpose authors, were ideologically and politically determined to serve the aggressive forces intending to make arrangements for new wars. Their chief legal argument consisted in denying the legal force of a prohibition of aggressive warfare at time of waging second world war in the then international jurisdiction.

Forbiddance of aggressive contention had been introduced into the international general jurisdiction on grounds of the Kellogg-Briand Pact, 1928. It should have been strengthened and clarified by assuming a clear-cut definition of the term "aggression". However, this measure only took place in 1933, and only within a limited range of countries, on grounds of London conventions initiated by the Soviet Union. The Nuremberg tribunal based its sentence on the criteria of aggression formulated in these conventions regarded as the righteous interpretation of the valid prohibition of aggressive warfare within international jurisdiction. Legal principles established for the punishment of war criminals by the great powers representing the whole coalition of the United Nations possessed the force of a generally recognized international jurisdiction. In many cases they constituted a creative adaptation and development of the former principles of international law. This was necessary in view of the fact that during second world war there took place — through the fault of Germans — unprecedented historical events. Legal rules established by the great powers of the United Nations are valid for the whole of Germany, too, on formal grounds of their unconditional surrender. The Nuremberg principles have been unanimously ratified in the resolution of the General As-

sembly of the United Nations on Dec 11, 1946. Owing to the Nuremberg trials, international legislation has proved successful in response to the challenge of crimes committed by Nazi aggressors during second world war.

LONGIN PASTUSIAK

MORGENTHAU'S PLAN

Considering matters broadly, the United States have been the scene of controversy, during second world war, between two concepts of American policy in respect to post-war Germany. One of the groups of American bourgeoisie embraced the notion of re-establishing a strong post-war Germany which was to be a potential American ally. Another group contemplated the idea of a greatest possible undermining of Germany aimed at its alimination as an economic competitor of the United States. Morgenthau's plan belongs to the latter scheme.

Morgenthau wrote: "My programme of liquidating the danger of German aggression is simple and consists in depriving this country of heavy industry". Among others, the plan provided for a division of Germany; for a sanctioning by the allies of every German government; for a separation from Germany of the Ruhr and Saar Basin; for a ban on industrial production on account of agricultural economy.

In September of 1944, at a session of the committee for German affairs established by president Roosevelt, Morgenthau submits his plan under discussion. Roosevelt sympathized with the state secretary's proposals. On September 12, 1944, he asked Morgenthau to come over to Quebec where there was taking place an encounter with Winston Churchill. Having received Morgenthau's detailed exposition, Roosevelt and Churchill approved of his plan.

After the Quebec success, adherents of Morgenthau's plan started to reason on its behalf before all the Washington commissions and organizations working out concepts of American postwar policy. At the same time opponents of this scheme did not abandon their enterprise. The Quebec conference having been ended, Cordell Hull and Henry Stimson lodged a protest to president Roosevelt and issued their own counter-proposals. Official circles of Washington soon assumed a negative attitude towards the state secretary and his followers, and soon after the adversaries waged their final campaign against Morgenthau's plan.

Under the influence of this group Roosevelt suspended, in autumn of 1944, the working out of plans of the future occupation policy in Germany. This decision of his proved that opponents of the state secretary's scheme had gained sufficient authority to prevent the preparatory steps towards introducing in Germany a post-war policy based on Morgenthau's plan; at the same time they had not yet the power to force through their own concept. Little by little, however, adherents of the so called clement conditions of German capitulation became more and more influential.

ZDZISŁAW NOWAK

STRUCTURAL CHANGES IN THE ECONOMIES OF WESTERN GERMANY

In the 1950's, West-German economy exhibited a topmost dynamic development. On the author's view the underlying causes of this progress were inherent in the economic structure of the German Federal Republic and in the alterations to which it had become subject. To clarify the matter, he divides the post-war era