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SECRET

109

WAR CRIMES
PROSECUTIONS

PLANNING
MEMORANDUM

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SECRET

PLANNING MEMORANDUM

I. ASSUMPTIONS

1. For planning purposes only it will be assumed:

a. Certain of the United Nations may agree to prosecute the leaders of the European Axis powers and their principal agents and accessories along the assumed general lines set forth below.

(CAUTION: This is not yet an agreed plan.

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b. The defendants will comprise (1) individuals to be selected, such as Hitler, Goering, Himmler, and others; (2) organizations such as the S.S. and Gestapo, who are so implicated in the common enterprise and the overt acts to be charged, that they are deemed to share in the criminal liability therefor.

c. The defendant organizations may be official or unofficial. They may be tried on a class representation basis; that is to say, any such organization may be charged with criminal acts or with complicity therein by producing before the tribunal and putting on trial such of their number as the tribunal may determine to be fairly representative of the organization in question. The selected representatives may

SECRET

SECRET

include some or all the individual defendants referred to in b above.

d. The charges will include the following:

(1) That at some time prior to 1 September 1939 the defendants entered into a common plan or enterprise aimed at the establishment of complete German domination of Europe and eventually the world, which plan or enterprise included or intended, or was reasonably calculated to involve the use of unlawful means for its accomplishment, including the atrocities and other crimes alleged in sub-paragraphs (2), (3), and (4) below.

(2) That on or about 1 September 1939, and at various times thereafter, the defendants launched illegal wars of aggression.

(3) That in the course of conducting such wars the defendants violated international law, the laws, rules, and customs of war, or the law of the sea.

(4) That before and after the launching of such illegal wars of aggression, and during their continuance, the defendants instigated, committed or took a consenting part in atrocities and other crimes which were in violation of international law or treaties, or the laws of Germany or one or more of its allies, co-belligerents, or satellites.

(5) That the atrocities and other crimes set forth in subparagraphs (2), (3), and (4) above were committed pursuant to, or in the course of and as the chosen means for executing a common criminal plan or enterprise among the defendants.

SECRET

II. SCOPE OF PROOF

2. Proof will be necessary to establish:

- a. The nature and purpose of the criminal plan or enterprise.
- b. That the criminal plan or enterprise included, or intended, or could reasonably have been expected to involve, the specific crimes charged.
- c. The facts and circumstances which made the wars launched by the defendants illegal wars of aggression.
- d. The unlawful means and methods employed by the defendants in the course of and as the means for conducting such wars.
- e. The atrocities and other crimes referred to in paragraph d (4) above.
- f. With regard to the defendants:
 - (1) Their identity.
 - (2) Their participation in the criminal plan or enterprise.
 - (3) Their responsibility for the specific atrocities and other crimes charged.

3. Proof will also be desired of the acts and conduct of the defendants which may not have been criminal per se but which were used in preparation, furtherance and execution of the criminal plan, including but not limited to:

- a. The defendants' internal and external policies.
- b. Their ideological, organizational, and material preparations for the commission of the atrocities and other

SECRET

SECRET

crimes charged against them.

c. The pre-war (pre-1 September 1939) atrocities and other crimes, and those committed by the defendants against their fellow-nationals, neutrals, stateless persons, and nationals of the United Nations.

III. ADMISSIBILITY OF EVIDENCE

4. It is assumed that any tribunal before which the above charges are tried will:

a. Adopt and apply to the greatest extent possible expeditious and non-technical procedures; b. admit any evidence which has probative value, and reduce to the minimum compatible with essential justice requirements governing competency; and c. employ with all possible liberality such established procedures as taking judicial notice of facts of common knowledge and utilizing reasonable presumptions.

5. In the preparation of the case, the best evidence readily available will be used. Time is of the essence, and a good case ready for trial at an early date will be far preferable to a perfect case unduly delayed.

IV. OUTLINES OF PROOF

6. Proof of the criminal plan or enterprise will include but not be limited to:

a. Internal Measures Taken by Defendants:

(1) Establishment of rigid internal control by the defendants over government and all its agencies, religion, administration of justice, education, news dissemination, finance, commerce and industry.

SECRET

(2) Destruction of all potential resistance to the defendants' plans by terrorizing, confining, and destroying opposition elements (democrats, trade unionists, Catholics, Protestants, Jehovah's Witnesses, pacifists, anti-nationalists, etc.).

(3) Dividing the German citizenry on a racial basis and discriminating against those whom defendants adjudged not to be of German blood.

(4) Dividing the German citizenry into those having legal rights (Aryans) and those without (Jews).

(5) Utilization of means and methods such as those referred to in (2), (3), and (4) above for purpose of perfecting organizations like the SS and Gestapo and training their personnel in (a) using like tactics in the occupation and control of subjugated areas, and (b) administering like treatment to their "inferior" native populations.

(6) Unlawful expropriations, spoliations, and forced sales for the personal enrichment of the defendants and for the purpose of establishing and maintaining internal control in their hands as set forth in (1) above.

(7) Nature, establishment, enforcement and significance of the "Fuehrer Principle."

(8) Integration of all the foregoing and its utilization for the purpose of preparing Germany organizationally, materially, psychologically and otherwise to launch and conduct illegal wars of aggression and to wage such wars by unlawful means.

SECRET

SECRET

(9) Accomplishment of the foregoing by violations of the laws of Germany.

(10) Advance planning for the atrocities and other crimes to be committed by the defendants during occupation of subjugated areas.

b. External Measures Taken by Defendants Against Other Nations with whom Germany was at Peace:

(1) Employment of divisive tactics openly and surreptitiously in such countries, such as promoting ethnic, religious, and political disputes and differences, for the purposes of opening the door to the defendants' influence on local policy and of weakening or destroying resistance to the defendants' intended military and political encroachments.

(2) Establishment and utilization of German and native fifth columns in such countries for the above purposes.

(3) Employment of bribery, corruption, and false and subversive propaganda in such countries in order to accomplish the foregoing.

(4) Employment of a policy of entering into treaties without intent to observe them and of thereafter violating them in furtherance of the defendants' plans.

(5) Infiltration of spies and saboteurs into such countries for use in connection with the defendants' threats of invasions, invasions, and aggressive wars.

(6) Carrying out the foregoing in violation of international law and the laws of the countries concerned.

(7) Increasing the defendants' war potential

SECRET

and reducing the defensive capacity of other nations by creating monopolistic and other unlawful schemes and devises in furtherance of the defendants' plans.

7. Proof that the defendants launched illegal wars of aggression will include but not be limited to the following:

a. Violation of treaties and conventions to which the German State was a party.

b. Violation of any applicable international law.

c. Relating the above violations to the plan or enterprises referred to in par. 1 d (1) above.

8. Proof that in the course of conducting their illegal wars the defendants violated international law, the laws, rules, and customs of war, or the law of the sea, will cover the proof of the commission of crimes usually and traditionally considered war crimes. This proof will establish, from the nature, frequency, and common characteristics of the crimes referred to, and from the circumstances of their occurrence, that they were the result of an overall policy which directed or envisaged their commission. Proof of individual and organizational responsibility will be coordinated with the pertinent results of any other projects.

9. Proof of the defendants' atrocities and other crimes referred to in par. 1 d (4) above will include but not be limited to the following:

a. Genocide or destruction of racial minorities and subjugated populations by such means and methods as (1) underfeeding; (2) sterilization and castration; (3) depriving them

SECRET

of clothing, shelter, fuel, sanitation, medical care; (4) deporting them for forced labor; (5) working them in inhumane conditions.

b. Unlawful expropriations, spoliations and forced sales in occupied areas.

c. Unlawful destruction of property.

d. Seizure of control of other nations by threats of violence, invasion, and other unlawful means.

V. SOURCE MATERIALS

10. Documentary:

a. Writings and speeches of defendants and their associates.

b. Organizational literature.

c. Magazines, newspapers, and other literature under defendants' control.

d. Laws, decrees, ordinances, and regulations.

e. Manuals; military, diplomatic, and other official orders, reports, plans, etc.; and pertinent official documents of any nature.

f. Correspondence.

g. Diplomatic and political treaties and agreements, public and secret.

h. Financial, commercial, and trade agreements and data.

i. Biographical records.

SECRET

11. Photographic:

- a. Still.
- b. Motion pictures.

12. Oral Testimony:

- a. Film and other recordings.
- b. Witnesses.

SECRET