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“The Lists” of Extrajudicial Convictions in the Period 1937-1938

The fact that in the period 1937-1938 a large number of people were convicted on the basis of lists approved by Stalin was first reported some sixty years ago – in the wake of Khrushchev’s secret address at the Twentieth Party Congress.¹ But these lists were not made available to researchers until the early 2000s.² Strictly speaking, contrary to popular belief, lists of extrajudicial convictions in the Soviet Union are not limited to the period of the “Great Terror” of 1937-38. This phenomenon considerably pre-dates this period and, what is more, convictions lists were also compiled in the years following 1938. Therefore, a few words about their context are necessary.

Leaders of the Communist Party from the very establishment of the Soviet regime tightly controlled the country’s penal policies. For the smooth implementation of this particular policy, a variety of non-judicial bodies were established to impose sentences *in absentia* and without any protection possible for the accused. The apparatus of the courts in terms of their operation and staffing were also entirely under Party control. Such control was not limited to the creation of repressive bodies and determining the primary methods of repression. In many cases it was the central organs of the Party authorities that decided the fate of specific individuals. The earliest examples of this kind would include the Politburo discussions of 1922 on the subject of the trial of priests, and likewise in the same year on the issue of legal proceedings against the SRs (members of Socialist Revolutionary Party). Lenin actively participated in predetermining punishments – i. e. ahead of the judi-

1 The text of this paper was not published in the USSR until 1989. (*Izvestiya TsK KPSS*, 3 [1989]).

2 These lists were published in text format for the first time in 2002 on CD-ROM, prepared by “Memorial” and the Archive of the President of the Russian Federation; a second edition was published in 2013 and, along with the text contains photographs of all the pages of the source, as well as biographies of the majority of those appearing on the lists.

cial proceedings – against the accused, in these first show trials. The practice of considering certain specific cases was to continue beyond this period and remained in existence beyond Stalin's death in 1953.

But Party control was not limited to individual cases. As early as April 17, 1924, the Politburo resolved that *all* matters of a political nature for which the death penalty might be imposed should be considered by the Central Committee of the Party prior to being handed over to the court.³ On July 11 of the same year, the so-called Politburo Commission on court cases was set up; its task was actually to prejudice the sentences of the court. The make-up of the Commission was finally agreed upon by 1926. The composition of the committee was to change, and over the years its members included Aron Sol'ts, Felix Dzerzhinsky, Dmitrii Kurskii, Valerian Kuibyshev, Nikolai Krylenko, Vyacheslav Menzhinsky, Matvei Shkiryatov, Nikolai Yanson, Ivan Akulov, Andrei Vyshinsky, Mikhail Kalinin, Genrikh Yagoda, Nikolai Yezhov, Lavrentiy Beria, Nikolai Shvernik, Viktor Abakumov, Semyon Budyonny, and others.

The Commission's decisions had to be approved at meetings of the Politburo, but instances of changes being sought for such decisions were extremely rare. From 1934 – in connection with the formation of the NKVD and the announcement of the “forthcoming transfer for review by judicial organs of cases, which previously had been conducted out of court” – the Commission had the task to approve (or – sometimes – not to approve) sentences which had already been delivered.⁴ However, such procedures had already taken place in 1929-1930 – in connection with the mass collectivisation and the increasing number of death sentences imposed. Sometimes, by special resolution of the Politburo, the right to issue confirmation of a sentence was granted to a “lower court” – for example, from 03/10/1939 to 01/17/1940 this right was granted to Military Councils of the Fronts in Western Ukraine and Western Belarus – “in relation to citizens of the former Polish state.”⁵

It would appear that with the formation in 1934 of the NKVD and the termination of the OGPU (Joint State Political Directorate) College and other non-judicial bodies which enjoyed the right to sentence to death, the number of death sentences for political reasons in 1935-1936 proved unprecedentedly low – “merely” about 1,200 a year. The inability to initiate uncontrolled violence created an unusual degree of discomfort for Soviet security service officers of the Cheka. But the conditions for a new mechanism, almost as efficient and trouble-free as any non-judicial body, were created by the Law

3 AP RF. F. 3. Op. 57. D. 73. L.1.

4 AP RF. F. 3. Op. 57. D. 73. L.116.

5 AP RF. F. 3. Op. 57. D. 73. LL.132, 133.

of December 1, 1934. This law provided for the accelerated completion of investigations (in no more than ten days), and the consideration of cases on an *ex parte* basis without summoning witnesses, without the right of appeal and pardon, and with the pronouncement of sentences within 24 hours.

For a while, this law was used only occasionally – for example, in the case of Leonid Nikolaev (responsible for the murder of Sergey Kirov) in December 1934, and the so-called Kremlin case, the closed hearing of which took place in the Military College of the Supreme Court of the USSR on July 27, 1935.

The situation began to change in 1936, when for the first time (as far as we can tell) the system of extra-judicially condemned lists was applied. A Politburo resolution of May 20, 1936 stated that: “583 people, Trotskyists, in exile, as well as [...] 23 people, to be found in secure areas, were to be sought and, by authority of a decision of the NKVD Special Council, be detained in remote concentration camps for a period of 3 to 5 years.”⁶ The very indication of the exact number to be detained in these camps gives reason to believe that the list of these persons was submitted as a note to assist in staging the initiative. In fact, this was in effect already an instance of extrajudicial conviction by list – but, unlike those of convictions, which we will discuss later, it was “realised” by dint of a meeting of the Special Council, and the penalties assigned were much less severe. But the third paragraph of the same resolution stated:

“All Trotskyists arrested by the NKVD and indicted on a charge of involvement in terrorism, *are to be brought to justice at the Supreme Court’s Military College where in accordance with the law of I. XII 1934 where they shall be sentenced to execution by firing squad.*

The NKVD and the Prosecutor’s Office of the Union at the end of the investigation shall be obliged *to present a list of persons subject to trial according to the Act of I. XII. 34.*” (Emphasis by the author.)

These acts contain forerunners of all the elements of the future lists of extrajudicial convictions – both the application of the law of I. 12. 1934, and the use of the Military College as the condemning authority and submission to the Politburo lists of persons subject to trial.

Just a few days after Yezhov’s appointment as Commissar of Internal Affairs of the USSR on October 4, 1936, the Politburo adopted the following resolution:

6 AP RF. F. 3. Op. 24. D. 224. L. 130. Cited according to: Ljubyanka, Stalin and VChK–GPU–OGPU–NKVD. January 1922 – December 1936. – Moscow: MFD, 2003, 756.

“To agree with the proposal of Comrades Yezhov and Vyshinsky on the measures for the judicial punishment of active participants in the Trotsky-Zinoviev counter-revolutionary terrorist organisation as laid out in the first list and numbering some 585 individuals.”⁷

Of this first list only two fragments have been detected to date. In the first of them are 114 people convicted at the second session of the VKVS (Military College of the Supreme Court of the Soviet Union) held in Leningrad October 10-11, 1936; the second fragment features thirty three names, of whom twenty-nine were sentenced to death on October 7, 1936 in Moscow, while three more were shot at a later date.

An analysis of available data on the sentences of the Military College in October 1936 shows that on October 5, the Military College in Moscow sentenced to death forty people; and on October 11 and 16, a visiting session was held in Gorky and, on October 14, likewise in Baku. The names of those convicted are not known to us; it is highly likely that they appeared on an unpreserved part of this list which cannot now be recreated in full.

The policy of extrajudicial convictions according to lists became systematic in early 1937. On February 4, 1937, Yezhov sent Stalin a note the contents of which agreed with the Prosecutor of the Union, Vyshinsky, and with the Chairman of the Military College, Ulrikh. A draft decree of the Central Committee of the Communist Party of the Soviet Union “on the schedule of the judicial review of cases against members of treasonous and subversive groups committed to sabotage and espionage and against members of terrorist Trotskyist groups” was attached to the note. Condemnation of all participants in Trotskyist groups was to take place according to the Law of 12.1.1934, and Comrades Yezhov, Vyshinsky and Ulrikh were invited “to consider for prosecution lists of Trotskyists, submitted to the visiting session of the Military College of the Supreme Court of the USSR and *outline the preliminary punishments. They should express their own views as to suitable punishments to submit for approval to the Central Committee of the CPSU (b).*”⁸ (Emphasis added – YR)

This proposal was accepted. From February 1937, lists with designated punishments began to arrive regularly at the Kremlin for Stalin’s approval. Even before the onset of the mass operations (before August 1, 1937), Stalin and his closest associates in the Politburo had already approved lists bearing the names of 4,500 people (3,700 of whom were to be executed). At the same time no further formal decisions on the lists were taken by the Polit-

7 RGASPI. F.17. Op.171. D.242. L.173-174.

8 TsA FSB. F.3. Op.4. D.1464. L.166-167. Cited after: Vladimir Khaustov and Lennart Samuelson, *Stalin, NKVD i repressii 1936-1938 gg* (Moscow, 2009), 331.

buro until the very end of 1938. The review and approval of the lists with pre-ordained punishment was carried out by several people. Their approval “of such action” with their signature as on the lists themselves, replaced any formal decision.

A total of three hundred and eighty-three lists for 1936-1938 have been preserved. Looking at the frequency of the signatures approving these lists, Molotov leads the way, having endorsed some three hundred and seventy two lists. The handwritten resolution “approved” along with the signature of Stalin are preserved on three hundred and fifty-seven lists. L. M. Kaganovich signed one hundred and eighty-eight lists; Voroshilov, one hundred and eighty-five; Zhdanov, one hundred and seventy-six; Mikoyan, eight; and the subsequently executed S. V. Kosior, five lists. Yezhov’s signature appears on eight lists (it would appear that he acted here not as People’s Commissar of Internal Affairs, but rather as Secretary of the Central Committee).

A few words on how the lists were compiled, who found themselves on them, what was the procedure for consideration of cases. There are many hypotheses regarding the selection of cases for the Military College. The first lists were in their significant part made up of the names of prominent opposition figures who had long been in prison or in exile, as well as of those who had recently been released. All lists included many of those who in later years were customarily referred to as “nomenklatura”: “senior Party, Soviets, Komsomol and trade union officials, as well as people’s commissars and their deputies, major leaders of the economy, prominent military personnel.” Many of them were arrested on the direct orders of Stalin. However, the lists include a great number of ordinary Soviet citizens.

Seemingly, the main reason for inclusion in a list was some concocted affiliation of the accused to a bogus anti-Soviet organisation (military, nationalist, Trotskyite) or conspiracy. In fact, such organisations were the subject of the February note penned by Yezhov, Vyshinsky and Ulrikh. Lists, which subsequently arrived addressed to members of the Politburo, were prepared by the NKVD in Moscow both on the basis of materials of departments of the central apparatus of the NKVD, and on materials sent to the centre from the regional NKVD directorates.

The central authority in preparing these lists was the commission (in the NKVD, it was often called the “great commission”), formally consisting of the People’s Commissar of Internal Affairs, Yezhov, the USSR Prosecutor Vyshinsky and the Chairman of the Military College of the Supreme Court, V.V. Ulrikh. In reality, Frinovsky, Yezhov’s deputy, usually stood in for Yezhov at these commission meetings; likewise, as a rule, Vyshinsky would be represented by his deputy, G. K. Roginsky.

Cases for the Military College of the NKVD were prepared more thoroughly than those for non-judicial bodies (which involved the troika: the Commission of the NKVD, the Prosecutor of the USSR, the Special Council). Such thoroughness, of course, related not to the actual content of the charges (absurd as they were even by the prevailing extrajudicial standards of the day), but more to the formal aspect of the case: the presence in the case files of witness statements and confrontation protocols, documents on the extension of the investigation period, etc.

From the documents available today, it is clear that “the great commission” needed to have at its disposal both details of the cases themselves and brief summaries of important information regarding those arrested and the charges. Such information was drawn up by the body which conducted the investigation before sending the cases to Moscow. However, the procedure was sometimes changed for distant, outlying regions. By special permission it was sufficient merely to send the relevant information to Moscow by telegraph. However, it is doubtful whether in practice this was remotely significant – since even when cases were sent to Moscow, it was quite impossible to imagine that the Commission really looked through the investigation papers of the case. Of course there might have been some exceptions, but these were truly exceptions. It was the “great commission” that determined the content of the lists, which were then forwarded to Stalin for his approval. Finalising the list was the responsibility of a dedicated group of staff of the 8th (accounting-registration) department of the GUGB (*Glavnoe upravlenie gosudarstvennoy bezopasnosti* – Main Directorate of State Security).

What did the lists themselves actually look like? The first page usually bore the title: “List of persons to be tried by the Military College of the Supreme Court”; the names of the regions (sometimes structures) which had submitted the lists were specified above the title; the second page provided information on the number of people included in a list, broken down according to geographical location and category. The first category of condemnation meant execution by firing squad; the second, detention in a camp for ten years; and the third – hardly used – eight years in prison.

The lists themselves contained only the surnames, names and patronymics of the defendants; foreign nationals were the exception in that information on each such person was attached on a separate sheet.

Typically, Stalin first put his signature on the given list, and only then did others sign it. But there were exceptions. In the absence of Stalin’s signature, pride of place went to Molotov or Zhdanov. The lists are littered with changes to the punishments of individuals, some names crossed out; others have the notation “wait” next to their names, etc. Approved lists were forwarded from the NKVD to the Military College. The regional NKVD departments

were sent copies of the approved lists, and in the case of distant regions, the results were dispatched by telegraph. The procedure was specified by Frinovsky to the NKVD chiefs in Khabarovsk and Irkutsk on August 7, 1937:

“After approval of the lists, we send a telegraph to inform you of the names of the accused, indicating the category to which they have been assigned. Upon receipt of the approved lists you are to pass the cases to the Military College, which will consider them, guided by the approved categories.”⁹

In contrast to the extrajudicial bodies which pronounced sentences *in absentia*, the Military College passed sentence in the presence of the accused. The accused saw their judges and were able to say something in their defence. In very rare cases, it had an effect, and the case was sent back for further consideration. But at least the statement of the accused could be recorded in the minutes of the session. However, the sessions themselves were a mere formality, and typically lasted five to ten minutes. The sentence was imposed in accordance with the previously approved category – changes were extremely rare and in all cases that we know of, further negotiations with Moscow took place. The Judicial Affairs Committee did not consider details of sentences as they had been pre-approved by the Politburo.

An even more “simplified” procedure was used to convict former NKVD workers. Lists relating to them were, as a rule, submitted for signature to Stalin separately and simply bore the title “List”, without specifying that the persons indicated therein were subject to trial at the court of the Military College. In total 540 persons appear on such lists. Following the approval of the lists, these people were simply shot. The requirements as to how the sentence was to be carried out in such cases were written by Ulrikh, usually in his own hand; and though the orders contained references to the verdicts of the Military College, the date of the verdict – in contrast to instances of the pronouncement of actual sentences – was not indicated.

Pronouncements of sentences in regard of already approved lists were often delayed, sometimes by many months. This was because field sessions of the Military College physically could not be held in more than one region at a time, or visit a given region on a sufficiently frequent basis. But there were also occasions when the reverse situation occurred: when the visiting session had already arrived in the region, and in Moscow the list had not yet been approved. In a number of cases sentences of those on a list awaiting Stalin’s approval were imposed “in advance”. In such instances, sentences were processed and instructions on their execution were signed by the Chairman of Field Sessions of the VKVS (Military College of the Supreme Court), but

9 TsA FSB. F.3. Op.4. D.2241. L.685.

with the obligatory caveat: “The sentences in relation to the afore-listed convicts may be enforced only upon receipt of a special order signed by the Chairman of the VKVS, Ulrikh V.V.” In this way, for example, on August 10-13, 1938, persons featuring on the Stalingrad list, which was not approved by Stalin, Molotov, and Zhdanov until September 12, were sentenced. The sentences were executed on September 16 – on the basis of a telegram from Ulrikh dated 15/09/1938. Such examples are not uncommon; indeed, they strongly support the view of the crucial role of the Party leadership in the organisation of state terror.

According to our calculations, the actual number of people in the lists of 1937-1938 amounts to 43,634. However, not all of them were sentenced by the Military College. First and foremost, this is due to the fact that numerous lists were approved in August-September 1938. This was the era of change in the leadership of the NKVD, coinciding with the beginning of a decrease in the scope of repressions. On November 16, 1938, by a decree of the Central Committee and Council of People’s Commissars of the USSR (signed by Stalin and Molotov) consideration of cases by the VKVS was suspended. Therefore, many of those whose names appeared in the last lists of 1938 were condemned by other courts (tribunals, courts of general jurisdiction) or by the Special Council of the NKVD, and significantly later. At the same time they were often not sentenced to death as instructed in the lists, but rather to other punishments, and sometimes even released. Several instances of extrajudicial convictions on the basis of lists transpired even after September 1938, but their scope was much smaller, and the procedure of condemnation itself underwent some changes. Now, sentences were passed and executed more formally – by formal resolution of the Politburo Central Committee of the CPSU (b).

On February 16, 1939, the Politburo decided to hand over for consideration by the Military College the cases of 469 people, the majority of whom (413) were shot; on April 8, 1939, it approved a list of 931 people (198 of whom were to be shot); on January 17, 1940, 457 people were condemned (346 to be shot). The following two lists, which were prepared by the NKVD and presented to Stalin in September 1940 (537 people) and April 1941 (513 people), were not approved.

Two lists were approved by Stalin during the war. On September 6, 1941, he signed resolution GKO N^o 634ss authorising the shooting of prisoners at Orel prison.¹⁰ On January 29, 1942, Beria sent Stalin a list of forty-six “persons arrested and belonging to the NKVD.” On this occasion the issue was resolved less formally. No action was taken; a resolution was simply

¹⁰ RGASPI. F.17. Op.171. D.378. L.191.

imposed: “Shoot all those named in the note. Stalin.” The list included a large number of generals: Commanders of the Air Force Districts, a former People’s Commissar of ammunition, I. P. Sergeev, and others.

The last list of which we have details (with the names of 35 people) was approved on April 11, 1950, shortly after the restoration of the death penalty in January 1950 (it had been revoked on 26/05/1947). We have not as yet succeeded in identifying a further three lists (ostensibly dated 7. 22. 1950, 10. 24. 1950, 7. 7. 1951) about whose existence we know for sure.