

## XVIII. ORDERS AND MEMORANDA OF THE TRIBUNAL AND MEMORANDA OF INDIVIDUAL MEMBERS OF THE TRIBUNAL ON DEFENSE MOTIONS TO SET ASIDE THE JUDGMENT OR FOR THE CORRECTION OF ALLEGED ERRORS OF FACT AND LAW IN THE JUDGMENT

### A. Introduction

On 14 April 1949, following the rendition of judgment and imposition of sentences, 17 of the defendants filed a motion to set aside the decision and judgment of the Tribunal on various grounds. The Tribunal denied this motion by order of 12 December 1949. This order is reproduced in section B.

After the judgment 19 of the defendants filed individual motions for the correction of alleged errors of fact and law in the judgment pursuant to the Tribunal's orders permitting the filing of such motions. (See section XVII, above.) The defendant Bohle abandoned his motion before the Tribunal ruled on it. On 12 December 1949, the Tribunal issued a general order on these motions as well as separate orders on each of the outstanding motions of individual defendants. Each of the separate orders incorporated a memorandum stating the Tribunal's reasons for its ruling. In fifteen cases the Tribunal rejected the motions of the defendants. In three cases the Tribunal granted the defense motions in part and denied them in part. The orders on the motions of the defendants von Weizsaecker and Woermann set aside their conviction on count one (Aggressive War) but denied the motions to set aside their conviction on count five (Atrocities and Offenses Committed Against Civilian Populations). The order on the motion of the defendant Steengracht von Moyland set aside his conviction on count three (Murder and Ill-Treatment of Belligerents and Prisoners of War) but denied his motion to set aside his conviction on count five. These three orders also reduced the sentences of the defendants von Weizsaecker, Steengracht von Moyland, and Woermann from 7 to 5 years imprisonment.

Presiding Judge Christianson dissented from the Tribunal's modification of the judgment in each of these three cases and noted the general reasons for his dissent in separate memoranda. Judge Powers filed a separate memorandum opinion concerning various motions. All of these orders and memoranda are reproduced in sections C to E.

## B. Order on the Defense Motion to Set Aside the Tribunal's Decision and Judgment, 12 December 1949

### ORDER

On 14 April 1949 following the rendition of judgment and the imposition of sentences in the above case, the following defendants, to wit: Ernst von Weizsaecker, Gustav Adolf Steengracht von Moyland, Wilhelm Keppler, Ernst Woermann, Karl Ritter, Edmund Veessenmayer, Hans Heinrich Lammers, Wilhelm Stuckart, Richard Walther Darré, Otto Dietrich, Gottlob Berger, Walter Schellenberg, Lutz Schwerin von Krosigk, Emil Puhl, Paul Koerner, Paul Pleiger, and Hans Kehl presented to and filed with the Tribunal a motion to set aside the decision and judgment of conviction "on the grounds that said decision and judgment is contrary to the facts, contrary to law, and against the weight of the evidence; on the ground that this Court has no jurisdiction to hear and determine the alleged charges, and on the further ground that the facts alleged and the facts found do not constitute an offense against the law of nations or against the laws of the sovereign power of the United States," and on the ground "that the rulings made are not in conformity with the principles of the due process of law, and the Constitution and laws of the United States, the international law, and the rules of law generally applicable to the trial of criminal cases," and on the further ground "that the individual justices thereof were without power to act and the Tribunal as a whole was never legally established and its said decision and judgment constitutes an arbitrary exercise of military power over each of the said defendants, in violation of the laws of nations and agreements made by the belligerent powers and other countries appertaining thereto."

Insofar as individual defendants have filed motions to set aside their respective convictions on the ground that the Court's judgment is contrary to the law and against the weight of the evidence, the Tribunal reserves the right to and will consider and determine those issues in its orders passing upon the individual motions to set aside judgments of conviction.

The Tribunal having considered said motion and being advised in the premises, it is ORDERED that said motion be and the same is hereby in all respects denied.

Dated 12 December 1949.

[Signed] WILLIAM C. CHRISTIANSON

[Signed] ROBERT F. MAGUIRE

Judges of Tribunal IV