

With respect to count six of the indictment, and under which defendant was found guilty of spoliation of the agricultural resources of Poland, etc., it is to be observed that defendant's contention is largely that he lacked authority or competency to do the things with which he was charged, and that some of the charges made do not cover the period during which he in fact was Minister of Agriculture. These are substantially repetitions of the defense made during the trial, and arguments thereafter. They are in effect no more than a reargument of what was once before argued, and presented before the Tribunal, which arguments and defense were considered by the Tribunal in the rendering of its finding of guilt against defendant Darré under count six.

As has been heretofore and elsewhere indicated by the Tribunal, it takes no cognizance of the request for plenary session, but it has herein considered the arguments therein advanced to challenge the findings of the Tribunal.

10. DIETRICH—ORDER AND MEMORANDUM OF THE TRIBUNAL

ORDER

On 5 May 1949 a motion was filed in behalf of defendant Dietrich praying that the Tribunal's judgment of 14 April 1949 be amended to revoke its findings of guilt against said defendant on counts five and eight of the indictment and that the defendant be released from custody. On 19 June 1949 the prosecution filed an answering brief to said motion and on 30 June 1949 the defendant filed a rejoinder to the prosecution's answering brief.

It also appears that on 25 April 1949 the defendant joined in a petition for plenary session of the Tribunal for the purpose of "examining the judgment passed on 14 April 1949 by the Military Tribunal IV." The Tribunal having considered said motion and answering brief of the prosecution and the defendant's rejoinder to said answering brief and being fully advised,

IT IS ORDERED that Dietrich's motion as to counts five and eight be, and the same is, hereby in all respects denied.

Memorandum hereto attached is made a part of this order.

Dated 12 December 1949.

[Signed] WILLIAM C. CHRISTIANSON
WILLIAM C. CHRISTIANSON
Presiding Judge

[Signed] ROBERT F. MAGUIRE
ROBERT F. MAGUIRE

Judge

MEMORANDUM

The questions raised by the motion of defendant Dietrich were considered in our opinion. They have been reexamined in connection with his motion and we find no error and no reason why we should not adhere to our findings and conclusions. His motion should be, and hereby is, overruled and denied *in toto*.

II. BERGER—ORDER AND MEMORANDUM OF THE TRIBUNAL

ORDER

On 6 May 1949 counsel for defendant Gottlob Berger filed a memorandum, dated 4 May 1949, calling the Tribunal's attention to alleged errors in the judgment in this case, in which judgment said defendant had been adjudged guilty under counts three, five, seven, and eight of the indictment. It appears that prior to the filing of the above memorandum defendant had joined in a petition for plenary session of the Tribunals for the therein expressed purpose of "examining the judgment" passed on 14 April 1949 by this Tribunal. It further appears that on 29 April 1949 a petition was filed by defendant with the Military Governor for the U. S. Zone of Germany, praying that (1) said judgment be vacated, or (2) that the sentence of Berger be reduced to a lesser period of confinement.

On 19 June 1949 the prosecution filed with the Secretary General an answering brief relative to the defense memorandum and motion concerning alleged errors in the judgment, and on 28 June 1949 a reply brief to the answering brief of the prosecution was filed in behalf of defendant Berger, praying that upon his motion of 4 May 1949, in conjunction with his brief of 28 April (plea to the Military Governor above referred to), the adjudication of guilt on the counts involved be revoked or the sentence reduced.

The Tribunal having considered the memorandum and motion of the defendant, and the arguments in support thereof, including those contained in the plea to the U. S. Military Governor of Germany as referred to in connection with defendant's memorandum and motion of 4 May 1949, and having considered the answering brief of the prosecution and the reply of defendant thereto, and being advised in the premises,

IT IS ORDERED, that the prayer for relief as contained in the defendant's memorandum of 4 May 1949 and in his reply brief of 25 June 1949 be, and the same is, hereby in all respects denied.