

Assistance to prisoners of war, civilian internees and prisoners of war become civilian workers

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IV. — Assistance to Prisoners of War, Civilian Internees, and Prisoners of War become Civilian Workers

(I). — RELEASE AND REPATRIATION

At the end of 1948, almost all States bound by the 1929 Prisoners of War Convention had released their prisoners, with the exception of those under trial or imprisoned for criminal offences.¹

The ICRC was therefore not called upon, as far as release and repatriation is concerned, except to speed up matters where, for one reason or another, there were hold-ups. An example of this was the case of sixty German merchant seamen retained at Goa from the beginning of the War, sixteen only of whom had been sent to Lisbon with a view to their return home. At the Committee's request instructions were given to the Government of the Colony to have the men remaining at Goa sent to Lisbon by the first boat, whatever its nationality, which touched the port. After their return to Europe, the Committee succeeded, after urgent representations to the Occupation Authorities in Germany, in having them allowed to return home, and came to the assistance of certain of them who were sent back via Italy.

Turkey — On the representations of the Committee, the Turkish Government allowed twelve German prisoners of war, who had escaped from the Near East, to work at Istanbul so that they could earn enough to take them back to Germany.

¹ See *Report, 1947-1948*, p. 37 et seq.

Czechoslovakia — The ICRC was frequently called upon in cases where German prisoners of war due for repatriation wished to marry. The authorities were very liberal in taking account of such representations, giving the permits and dispensations necessary; most of the persons concerned had no identity papers and no hope of getting any. Facilities even extended to allowing the departure of relatives. Rough and ready solutions had to be found for their travel; several times, for instance, the Delegation at Prague was turned temporarily into a veritable children's home, to accommodate young mothers and their babies.

Spain — The Committee was often in communication with the Allied Control Commission in Madrid, in connection with the repatriation of German prisoners of war who had escaped from France.

Far East — The Delegations at Singapore, Djakarta, and Hong-Kong, in conjunction with the responsible authorities, dealt with repatriation of Japanese military personnel from Burma, Malaya, Indo-China, Indonesia and Hong-Kong.

Delegates helped in the repatriation of civilian internees and German civilians from Java and Dairen.

In the countries in question, and in the Philippines, visits were made to detention camps, and relief distributed. Certain improvements in conditions were obtained (pay, dental care, mail, etc.). Relief was also given to civilian internees in the assembly centre at Chasse Complex, near Djakarta.

Soviet Union — Since the Soviet Union, signatory to the 1949 Conventions, was not party to the 1929 Prisoners of War Convention, the ICRC had to limit itself to corresponding with the Alliance of Soviet Red Cross and Red Crescent Societies for questions relating to men posted missing on the Eastern front, and German civilians interned in the Soviet Zone of Germany. Documents for the defence of prisoners on trial in the Soviet Union were similarly forwarded.

Germany — The Committee paid for the transport from France to Germany of the personal effects of about 10,000 prisoners who had died in captivity.

(2) — PRISONERS OF WAR BECOME CIVILIAN WORKERS

France — In the absence of a Protecting Power, the ICRC continued its assistance in France, with the consent of the Authorities, to German prisoners who had remained on, at their own choice, as civilian workers.¹ Assistance was even extended, by analogy, to civilians recruited in Germany for work in West European countries.

A report entitled *La situation des travailleurs allemands en France et l'activité protectrice du CICR* was issued by the ICRC in March 1949. It deals in detail with the transformation, and with relevant work and social security legislation; civil, penal and administrative law applicable in France; the termination of working contracts; and numerous individual cases.

We quote some typical instances in illustration of the Committee's work as substitute for a Protecting Power.

Residence Permits

Under police regulations for aliens in France, the German workers were obliged to take out identity cards. Many, however, particularly in agriculture, did not follow the instructions given. Inspections by the police led to appearances before the courts for not having a card, or for failing to renew it. The ICRC warned German workers of the risk they were taking in not putting this matter in order—mainly through *Neue Brücke*, a weekly publication of the YMCA for the use of Germans in France.

Transfer of Families to France

The French Government had guaranteed that the civilian workers could bring their families to France, according as accommodation could be found for them. At the end of January, 1949, about 600 persons had taken advantage of this permission. Transport of their furniture sometimes met with administrative difficulties, which, however, the ICRC succeeded in clearing up with the Customs authorities.

¹ See *Report 1947-1948*, p. 56 et seq.

Strikes

The strikes in France at the end of 1948 had certain repercussions which particularly interested the Committee.

The ICRC arranged with the Ministry of Labour to accredit three Delegates to the local authorities in areas in which there were German workers—in the North and East, in the Loire region, and in the Aquitaine basin. From the inquiry, it appeared that, apart from certain isolated cases—especially in the North and the Pas de Calais—there were no proceedings against German workers for misdemeanour during the strikes.

Working Accidents

French legislation provides that an alien, given a pension following permanent incapacity by working accident, shall, should he leave French territory, accept as composition a capital sum equal to three times the annual value of his pension.

The French Government agreed at the request of the ICRC, that invalided German workers who had compounded, would, in so far as it might be possible, be given the benefit of the pension scheme in Germany after a lapse of three years.

Relief

The ICRC, in assuming the protection of civilian workers in France, had declared that it could not accept the responsibility for assisting them; faced with some particularly distressing cases, however, it had no other alternative but to help them from its own resources. Minor help was given in the most urgent cases—in cash and kind (railway tickets, packets of foodstuffs, milk and ovaltine for children, Christmas parcels for those sick or invalided in hospitals, footwear, underwear medicines and cigarettes). The Paris Delegation had the services of a consulting doctor whenever medical advice was required.

Transfers of Funds

The French Government appeared to have encountered difficulties, more serious than it anticipated, in transferring funds to Germany, and was able to permit transfers only to the

French Zone of Occupation. The ICRC repeatedly emphasized the resulting inconveniences—all the more regrettable because few of the workers had their families in the French Zone. A satisfactory solution was finally reached, each German worker in France being allowed to send a monthly parcel worth 1,200 francs to his family in Germany.

Cancelling of Working Contracts

A number of workers found, during the month's leave allowed them in Germany, that their presence at home had become indispensable. On returning to France they asked the ICRC to obtain authorization for them, in view of the changed conditions, to terminate their contracts and return home. On the intervention of the ICRC, certain workers were enabled, where family conditions so warranted, to return to Germany before the expiration of their contracts.

Return Fares on Refusal of Residence Permits

Workers refused residence permits—especially those forced to leave France without having the money to pay their fares—often called upon the ICRC for help ; in many cases, the Committee had to repatriate them at its own expense.

Repatriation

As from January 1, 1949, the General Commissariat for German and Austrian Affairs delivered no further visas gratis, even when the applicant was returning finally to Germany without having received a free return journey on the occasion of his paid leave.

The ICRC successfully obtained visas free of charge for some of those sick or penniless ; otherwise, it assisted them itself.

A number of mental cases, seriously-ill patients and work invalids who obviously required repatriation, but were capable of travelling only as bed-patients or under supervision, were dealt with. As the Committee was unable, with a few exceptions, to have such patients allowed travel on the prisoner of

war hospital-trains, it took the matter up with the Ministry of Public Health and Population. The Ministry, in agreement with the Ministry of Labour and the General Commissariat for German and Austrian Affairs, decided on the following solution : gravely-ill German workers, whose condition required long treatment and whose repatriation seemed desirable, would be taken from hospitals in the various Departments and sent to Mulhouse Hospital or the Mental Hospital at Rouffach (Haut-Rhin), and from there, repatriated. Transport costs in France would be borne by the French authorities. The German Red Cross organizations would be responsible for travel in Germany to the places of ordinary residence.

Personal Estate

The French civil authorities automatically communicate notifications of death to the ICRC in the case of all civilian workers and German ex-prisoners of war who die on French soil. In each case, the Committee makes contact with the relatives, asking for the necessary power of attorney, to ensure that personal estate left is looked after and forwarded to Germany. By verbal agreement with the General Commissariat for German and Austrian Affairs, the ICRC has undertaken to guarantee transport as far as Baden-Baden.

The ICRC, as a minimum in every case of death, opened a file which would allow it to give relatives complete information about the circumstances of death, funeral service, place of burial, personal belongings, and the existence of any rights—particularly where death is due to the negligence or contributory negligence of a third party.

(3) — PRISONERS UNDER INDICTMENT OR SENTENCE

Protection was continued—principally in France, with Government approval—of prisoners of war awaiting trial or under sentence.

Protection was the more needed because, for administrative reasons, the French Government ended the regime of war

captivity as from December 31, 1948, so that prisoner of war status and the advantages attaching to it, were abolished. Although this measure was tempered by its very terms (distinctions made between prisoners of war and common law criminals ; right to choose representatives to act as interpreters ; right to relief parcels and to visiting by Delegates), the ICRC felt obliged to protest against a unilateral decision which appeared contrary to the Convention.

By virtue of the right to intervene expressly recognized in the Decree in question, however, the ICRC could in very many cases give all the assistance called for, whether as a matter of humanity or of equity.

Legal Assistance

On many occasions after sessions of Military Tribunals which they attended, Delegates were able to discuss the trials with the judges and the prosecution ; they took detailed Minutes of each session.

They were frequently in correspondence with defence counsel in war crime trials, asking them to visit the accused and speed up the preliminary inquiries. Delegates also tried to verify declarations made and to give material assistance in cases of need.

As both Tribunals and lawyers often appeared insufficiently informed about the basic texts—the Hague Regulations of October 18, 1907, the German Military Penal Code of October 10, 1940, and other laws vitally important in appraising the conduct of the accused at the time of the alleged offences—Delegates brought together the texts of the principal relevant laws and conventions.

Translations of these documents, and of a large number of German Military Orders, were used to illustrate to the Courts the circumstances in which the accused had acted.

The documentation was placed unrestrictedly at the disposal of Judges, Public Prosecutors, Inquiry Judges, and counsel. It included :

- (1) — A collection containing : the Hague Conventions of October 18, 1907, concerning the Laws and Customs of War on Land ; —the Geneva Convention of July 27, 1929, relative to the Treatment of Prisoners of War ; —the Ordinance of August 28, 1944, relative to the Repression of War Crimes ; —the Law of September 15, 1948, modifying and extending the said Ordinance ; —the German Ordinance of August 17, 1938, relative to Military Procedure in Time of War (KSTVO) ; —the German Ordinance of August 17, 1938, relative to Exceptional Law in Time of War (KSSVO) ; —seven German Military Orders registered at the Nuremberg International Military Tribunal.
- (2) — Translation of the German Military Penal Code of October 10, 1940.
- (3) — Translation of a publication of the U.S. Military Government : " The Trial of Members of Criminal Organizations."
- (4) — Translation of the judgment delivered by the U.S. Military Tribunal No. 5 at Nuremberg—Case No. 7 : U.S.A. versus General von List and others (February 19, 1948).
- (5) — Translation of the judgment delivered by the U.S. Military Tribunal No. 5 at Nuremberg—Case No. 12 : U.S.A. versus General von Leeb and others (October 27, 1948).
- (6) — Translation of German Ordinances on Emergency Service and Compulsory Enrolment (*Notdienstverpflichtung*), published in the *Reichsgesetzblatt* of October 15, 1938 and September 15, 1939.
- (7) — Translation of twenty-two sundry German Military Orders.

Important German legislative texts, mostly translated into French for the first time, were submitted for verification to the Foreign and International Law Service at the Ministry of Justice.

These documents were likewise communicated to the authorities in all countries other than France where German military personnel were tried for offences committed during hostilities.

In co-operation with the Delegation in Berlin, Delegates in France succeeded, in 1947, in having German Legal Assistance Bureaux set up, mainly for the purpose of interrogating, in Germany, witnesses cited by German detainees in France.

The ICRC requested and obtained authorization for German lawyers to plead in France.

The Committee paid expenses of the most varied kind to lawyers: the copying of files, costs of travelling to Paris on the convocation of the President of the Republic, citation of witnesses from abroad and so on.¹ In October 1949, as prisoners were without resources, and money could not yet be sent from Germany to France, the Committee took steps to allow German detainees to choose their counsel. The leaders of the French Bar were informed that the ICRC would pay the fees of qualified defence counsel when the accused were unable to do so.

The Committee also obtained the release, provisional or conditional, of a certain number of Germans. It ensured food, clothing and shelter to the first category. Prisoners in the second category are expelled under the regulations and must return to Germany.

A number of sentences were studied with a view to fresh trials.

Prison Conditions

Clothing — At the beginning of 1949, as the French military authorities ceased to provide any further stocks, the Committee increased its issues of clothing.

About 400 pairs of boots were issued, taken from stock left over on the dissolution of prisoner camps.

At the end of 1949, after appeal by the ICRC, several branches of the German Red Cross sent relief parcels.

Thanks to the Prison Welfare Service, cobblers' workshops were set up in several prisons.

Postage — As the French authorities discontinued free postage to some 500 prisoners of war held at the end of 1948, the ICRC set up a postage fund in each prison. Since then, this service has been maintained.

Medical and Dental Care — Delegates whose visits were primarily on legal business were often accompanied by a medical adviser who took stock of the arrangements for hygiene and

¹ Costs thus undertaken by the ICRC are reimbursed by the home State of the accused.

sanitation, and examined prisoners who so requested. Discussion of special cases then followed with the prison doctor.

War-disabled prisoners who arrived in France at the end of 1948 were given surgical boots and appliances on the recommendation of the Delegation doctor.

In each prison, a stock of vitamed medicines was left for prisoners suffering from nervous depression.

As preventive detention is, in principle, for short periods only, the authorities gave dental care to none but extremely urgent cases. In general, no treatment, apart from extractions, was provided free of charge. The Committee arranged that dentist prisoners of war working in the camps should be allowed to care for their prison comrades, and made over twenty dental outfits at nominal cost for use in the chief prisons, and three outfits gratis to each prison where large numbers of Germans were detained. It then ensured general treatment for Germans by civilian dentists officially approved, and arranged for the manufacture of dentures. Permission was also obtained for German dentist prisoners to operate when civilians were not available. The necessary equipment and drugs were likewise given.¹

Lodging — Until the prisoner of war depôts were dissolved, German detainees on provisional release were transferred to the nearest prisoner of war camp. But at the end of 1948, when the depôts were closed down, such prisoners had to go back to the prisons.

At the request of counsel and the Tribunals, the Committee found lodging for certain prisoners due for provisional release.

Work for prisoners of war in France has been dealt with in some detail as being characteristic, and more or less corresponding to what was done in other countries.

Belgium, Netherlands, Luxemburg — Members of the Paris Delegation made three visits to these countries; they saw both the administrative and juridical authorities, and the prisoners

¹ See below, p. 62.

and their counsel. They were particularly interested in matters of repatriation, and asked the Allied authorities in Germany to speed up the issue of entry visas.¹ On each of the three visits, relief was given.

Greece — The entry into Greece of German defence counsel was facilitated.

Italy — Translation of defence or appeal documents; arrangements for the allocation of defence counsel, and in some cases, costs paid. Prisoner of war status was obtained for imprisoned German military personnel, allowing officers, NCOs and equivalent ranks to be paid.

Norway — Petitions for reprieve and many requests for inquiries were transmitted.

Jugoslavia — Here, it did not prove possible to obtain prisoner of war status for detainees, but prisoners of war were at least judged according to the same laws and regulations as Yugoslav military personnel on trial. At the end of 1949, the Committee approached the Yugoslav Red Cross to facilitate the dispatch of relief from Germany to German prisoners in Jugoslavia.

(4) — IDENTIFICATION AND UPKEEP OF GRAVES

In France and Italy, especially, the identification and upkeep of graves was of great importance. The circumstances of war often prevented proper recording of burials, and made subsequent identification of graves difficult.

France — By the end of 1948 the Committee had been able to have 70,000 graves identified in France. The work was continued during 1949 by a Delegate who, thanks to the co-

¹ In Luxemburg, the prisoners were civilians—former officials installed by the Germans during the Occupation.

operation of the local authorities and support by the German War Graves Commission, succeeded in identifying the graves of some 120,000 of the 200,000 Germans killed and buried in France between 1940 and 1945. The lists established made it possible to clear up in law many problems which, for lack of proof, had until then remained in suspense.

Italy — Ten members of the German War Graves Service had been captured by the British in 1945. On representations of the Rome Delegation, these officers were allowed resume, and were helped financially by the Holy See, the World Council of Churches, and the ICRC. At the end of 1947, when there was question of repatriating them before their work was ended, the Committee was successful in having them attached administratively to the Italian War Graves Commissariat.
