ON SPECIAL COURTS IN THE USSR*

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Professor Yuri Luryi was kind enough to send me offprints of the article by Ger P. van den Berg¹ and his comments on it.² Reading through these materials, it occurred to me that an additional comment based upon my personal experience as a participant in “special” court proceedings, and a “view from within the system” could be of interest for the readers of the Review and might serve to broaden the discussion on the “special courts” within the USSR.

Firstly, I want to subscribe to Dr. Van den Berg’s conclusion, which is perfectly correct, that “special courts” exist in the USSR.³ However, these courts do not belong to the category of military tribunals. They are an independent branch of the Soviet judicial system, not mentioned in the published text of the Law on Court Organization of the USSR and the Union Republics, but — evidently — regulated by secret legislation.

In his comments, Professor Luryi correctly characterized, in detail, the long-standing Soviet passion for using the adjective “special”.⁴ Therefore, it is not surprising that in the present period some Soviet court agencies are called “special”. However, the special courts of the post-Stalinist period have nothing in common with the “special collegia”, the troika’s, or “special proceedings” of earlier years of Soviet justice.

Today’s special court is a Soviet judicial agency, founded to consider civil and criminal cases initiated in respect of persons and institutions, whose activities are secret. I wish to underline that far from all secret institutions in the USSR fall under the jurisdiction of “special courts”, but rather only those which belong to the category of “especially secret” and “strategically important”. Among these, we may mention a number of research institutes in Moscow such as the Kurchatov Institute of Atomic Physics, and the Institute of Biophysics of the Third Chief Directorate of the USSR Ministry of Public Health (not to be confused with the “normal” Institute of Biological Physics), the Mineral Resources Exploitation in Zeravshane, military industrial research complexes in Poldolsk, Sverdlovsk, Arzamas, Krasnarsk, and uranium exploitation in Mangyshlak, etc.

*Translated by Ger P. van den Berg and Ania van der Meer-Krok-Paszkowska.
As far as I know, the system of “special courts” is organized according to the principles of the system of courts of union republics without a subdivision into provinces. This means that the lowest “special court”, comparable with a people's court of a rural district, comes directly under a higher “special court” comparable to a republican Supreme Court. It should be noted that only the lowest “special courts” exist on the territory of the union republics. The cassation (appeal) court for them is the “special court” located in the building of the RSFSR Supreme Court in Moscow. Therefore, it would appear that the activities of the local “special courts” are exempted from the jurisdiction of the union republics and that they fall under the jurisdiction of the USSR and its Supreme Court, which does not have a “special” chamber. However, the supervision and cassation (appeal) cases which are filed against judgments of the lower “special courts”, are prepared by “special” clerks and heard in a special college made up of members of the civil, military or criminal chamber.

The “special courts” are administered by a special department of the USSR Supreme Court, located in the building of the USSR Supreme Court, 15 Voroyskii Street in Moscow, but this department is isolated from the other departments and services of the Supreme Court. Also the archives of the “special courts” are kept in a location separate from the other activities of the USSR Supreme Court. As far as I know, the USSR Ministry of Justice does not have a department of “special courts”.

When talking of the jurisdiction (competence) of the special courts, one has to bear in mind that in a number of instances, this is defined along territorial principles, while under other circumstances, the nature of the case is the criterion.

This means, that the prevailing factors in the definition of the jurisdiction (competence) of the “special court” are: where a case is filed, how far it is secret, and to what extent it is related to the activities of a secret enterprise. Some examples may make this clearer. In a remote “closed” district, where a big secret enterprise is located, nearly the entire population is connected in one way or another with the activities of this “postbox” (the nickname given for such enterprises which do not have a name but only a mailing address indicated by a postbox number). Therefore, all criminal and civil cases in such a district are considered by the “special court”. However, many secret institutions are located in big cities – in Moscow, Leningrad, Sverdlovsk, Gorkii. Thousands of people work in these enterprises and they engage in legal relations with each other and with the enterprise. In these enterprises, a number of legal questions may arise which have to be settled by a court. Therefore, in a number of big cities, “special courts” exist alongside the civil courts and the military tribunals.

In Moscow such a court is located in a housing estate for employees of a number of secret research institutes. The court is located in a five-floor building which is no different from the other apartment blocks. Of course it does not have a name or any other indication of its function. Only an as-