State Secrets in the USSR: A Note

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There is some confusion in the West with regard to the law on state secrets in the USSR. According to the Encyclopedia of Soviet Law, a list of state secrets "has been established by a decree of the USSR Council of Ministers of 28 April 1956 (renewed by a decree of 15 September 1966)". At the request of Professor Dietrich Loeber, I have done some research on this question. Recent Soviet sources still refer to the 1956 decree.

The background, history, and the present state of Soviet law on the protection of state secrets has been analyzed in full by George Ginsburgs and Armins Rusis in 1963 and need not be discussed further.

As far as I could establish, only one reference exists to the aforementioned 1966 decree in: Ugolovniy Kodeks Estonskoi SSR. Kommentirovannoe izdanie (Tallin 1968). This commentary on the Criminal Code in the Russian language is a translation of the revised 1965-edition of this commentary in the Estonian language, written by the same authors' collective. The latter work refers to the 1956 decree as do all other works published after 1956 which I could consult in the library of the Documentation Office for East European Law. We may thus conclude that the 1956 decree is still held to be the valid one on this subject in the Soviet Union.

However, the question of why the Estonian scholars had such an odd reference seems of interest, as it is not very likely that the reference was a simple mistake.

As is known, on 18 August 1966 the Committee on the Press attached to the Council of Ministers of the USSR was reorganized and its Chief Directorate for the Protection of Military and State Secrets was renamed the Chief Directorate for the Protection of State Secrets in the Press. This committee became directly subordinate to the Council of Ministers of the USSR.

The result was that the censorship function of the Committee on the Press was transferred to the new Chief Directorate, though the amendments to the law regulating the Committee's activities have not been published. It seems likely that this reorganization included a change in the 1956 decree.

There is another circumstance which should be noted. The decree of the Council of Ministers of 15 September 1966, renewing the list of state secrets of 28 April 1956, could be the decree of the Council of Ministers "No. 760-241", declared to be no longer in effect in 1968 (by a decree of 27 May). The 1968 decree is devoted to military service. If my reasoning is valid, this would suggest that the 1966 decree renewed (or amended) the 1956 decree only with respect to
the part on military secrets.

The 1966 decree is probably a secret decree and of a special form. It is denoted with the usual ordinal number ("760") and a second special number ("241"). Decrees with two numbers occur frequently in lists of abolished decrees. Not only the first, but also the second number of such decrees is chronologically arranged, which makes it possible to calculate that 30-50% of all decrees of the USSR Council of Ministers have two numbers. Two numbers are used (probably) to denote decrees which are politically sensitive to ensure that they remain not only unpublished but also that their subject matter remains secret.

On account of the above, I am of the opinion that

1) the decree of 15 September 1966 replaced the list of state secrets of 28 April 1956;
2) the 1966 decree has been abolished in 1968;
3) from 1968 on the 1956 decree has been held to be the valid one.

An additional argument could be that the Estonian commentary was published in the first half of 1968. An Ukrainian book, published in the second half of 1968, referred again to the 1956 decree.

NOTES

3. At pp. 178 and 194.