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Ruling in the criminal proceedings over genocide in Ukraine in 1932-1933

The court ruling issued by the Kyiv Court of Appeal on 13 January which found Stalin, Molotov and others guilty of the crime of genocide in relation to Holodomor, but terminated the proceedings since the accused are all dead

Kyiv Court of Appeal

Kyiv

Ruling in the name of Ukraine

13 January 2010

Judge of the Criminal Chamber of the Kyiv Court of Appeal, V.M. Skavronik, with M.S. Bondarenko, Secretary, with the participation of a Prosecutor from the Kyiv Prosecutor's Office, O. M. Dotsenko carried out a preliminary examination of criminal file no. № 1-33/2010, initiated by the Security Service of Ukraine [SBU] with regard to the perpetrating of genocide in Ukraine in 1932-1933, regarding elements of the crime set out in Article 442 § 1 of the Criminal Code of Ukraine, with respect to:

- Stalin (Dzhugashvili), Joseph Vissarionovich, b. 21.12.1879 in Gori, Georgian, Member of the Bolshevik Party from 1903, from April 1922 – Secretary of the Central Committee of the All-Soviet Communist Party (Bolshevik) [hereafter Soviet Communist Party]
- Molotov (Skryabin), Viacheslav, b. 9 March (25 February) 1890, from Nolinsk (now Sovetsk in the Kirov region of Russia), Russian, Member of the Bolshevik Party from 1906, from December 1930 to May 1941 Head of the Sovnarkom [Council of People's Commissars] of the USSR and Council of Work and Defence;
- Kaganovich, Lazar, b. 22.11.1893, village of Kabany (now township Poliske in the Kyiv region), Jewish, Member of the Bolshevik Party from 1911, from 1921 worked in the Central Committee of the Russian Communist Party, in 1924-1925 – Secretary of the Central Committee of the Russian Communist Party, in 1925-1928 – General Secretary of the Central Committee of the Ukrainian Communist Party; from 1928-1930 Secretary of the Central Committee of the Soviet Communist Party; from 1930 First Secretary of the Moscow City and Regional Committees of the Party, in charge of the agricultural and transport departments of the Central Committee of the Soviet Communist Party; and from

1937 Deputy Head of the Sovnarkom of the USSR; expelled from the Communist Party in 1961 for taking part in mass repression;

- Postyshev, Pavel, b. 18.09.1887, Ivanovo-Voznesensk, Russian, Member of the Bolshevik Party from 1904, from 1930 to 1933 Secretary of the Central Committee of the Soviet Communist Party, from 29 January 1933 to 17 March 1937 – Second Secretary of the Central Committee of the Ukrainian Communist Party [CPU] and First Secretary of the Kharkiv Regional Committee of the CPU;

- Kosior, Stanislav, b. 18.11.1889, in what is now the Warszawskie wojewodstwo in Poland, Pole, Member of the Bolshevik Party from 1907, from 14 July 1928 to December 1937 – General Secretary of the Central Committee of the CPU; repressed in 1938, executed on 26 February 1939, rehabilitated in 1956;

- Chubar, Vlas, b. 22 (10) February 1891, village of Fedorivka, Ukrainian, Member of the Bolshevik Party from July 1907, from July 1923 to April 1934 Head of the Sovnarkom of the Ukrainian SSR;

- Khatayevych, Mendel, b. 22 March 1893, Gomel, Jewish, member of the Bolshevik Party from July 1913, from October 1932 to January 1933 – Second Secretary of the Central Committee of the Communist Party of Ukraine, from 29 January 1933 – First Secretary of the Dnipropetrovsk Regional Committee of the CPU.

On 22 May 2009 the Head of Division 1 of the Central Investigation Division of the SBU initiated a criminal investigation No. 475 into genocide in Ukraine in 1932-1933 under Article 442 § 1 of the Criminal Code of Ukraine [CCU] v. 1.a, c. 1-3 [a.c. stands for “archive case”]

On 25 December 2009, as part of the investigation into this case the Central Investigation Division of the SBU, headed by Major-General of Justice, V.V. Vovko, initiated a criminal case against Joseph Stalin, Molotov; Secretaries of the Central Committee of the Communist Party, Kaganovich and Pavel Postyshev; Stanislav Kosior; Vlas Chubar; Mendel Khatayevych, over the crime set out in Article 442 § 1 of the Criminal Code of Ukraine. v. 1, a, c. 22-26

On the basis of the results of the criminal investigation on 29 December 2009 it was decided to pass the case to the Kyiv Court of Appeal to examine it in accordance with current legislation. This decision was agreed on 31 December with the Deputy Prosecutor General, M.Y. Holomsha; v. 330, a. c. 258-289

In accordance with a Letter from the Deputy Head of the SBU, the criminal case was passed on 31 December for examination to the Kyiv Court of Appeal, and on that same day was handed to Criminal Chamber Judge Skavronik, as next in line. v. 330, a.c. 290

The criminal investigation established that the leadership of the Bolshevik totalitarian regime - Stalin, Molotov, Kaganovich, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych [the men’s names and various positions are repeated in full – translator] had on the territory of the Ukrainian SSR committed genocide of a part of the Ukrainian ethnic group.

According to the information presented in the decision from 29 December to pass the criminal case to court, the crime was committed in the following way.

After the crushing of the Ukrainian People's Republic in November 1920 the Bolshevik regime began active measures on its territory to stop the reinstatement of an independent Ukrainian State through fierce repressive policy aimed at establishing the communist order and crushing any other parties and movements which upheld the idea of Ukrainian autonomy.

For this purpose, Stalin together with the above-mentioned persons began total compulsory collectivization of agriculture and deportation of Ukrainian peasant families, unlawful confiscation of their property, repression and the physical destruction of Ukrainians.

All of this destroyed traditional forms of agricultural production and deprived Ukrainian peasants of the stocks of grain needed for normal existence, this leading in 1928-1929 to famine among the Ukrainian population, after which mass anti-Soviet uprisings began on the territory of the Ukrainian SSR which were crushed through especially brutal punitive measures.

Carrying out their criminal intentions, Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych applied on the territory of Ukraine during peacetime the repressive apparatus of the communist totalitarian regime, took decisions and artificially created the conditions for the destruction through hunger of a part of the Ukrainian nation.

In order to carry out genocide, Stalin together with the above-named persons drew up a plan to create an artificial famine in the Ukrainian SSR.

On 15 January 1932 Kosior, acting on Stalin's instruction and in spite of there being famine in Ukrainian villages, organized the adoption of a Politburo Resolution "On grain requisitions" according to which control was increased over the activities of the leadership of the regions during removal of grain.

On 1 February 1932, continuing the criminal actions aimed at the genocide of the Ukrainian ethnic group, Kosior and Chubar signed and sent to regional, city and district committees the directive "On seeds" according to which Ukraine's kolkhozes turned down seed aid.

On 17 March 1932 Kosior organized the adoption of the resolution "On seed stocks" which increased repression in Ukraine and enlisted so-called "activists" from among the peasants.

On 29 March 1932 Kosior organized the adoption by the Politburo of the resolution "On Polissya" which formed the basis for ferocious repression against the peasants in the Ukrainian SSR and for the deportation from Polissya of 5,000 families to special settlements for building stone and clay quarries. He also agreed with the Central Committee of the Communist Party the deportation outside Ukraine of a further 5,000 families.

Carrying out their criminal intentions, Stalin, Molotov, Kaganovich, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych, from Spring 1932, additionally brought into effect a number of

resolutions and subordinate acts which exacerbated conditions aimed at the physical starving to death of a part of the Ukrainian ethnic group.

During the genocide members of other ethnic groups also suffered.

In order to carry out the above-mentioned criminal intentions, Stalin delegated an authorized commission from the Communist Party headed by Molotov who, together with Kaganovich and with the participation of Kosior and Chubar, on 6 July 1932, organized the adoption by the Politburo of the Central Committee of the CPU in Kharkiv of the Resolution “On the grain requisition quota” and the adoption by the Third All-Ukrainian Party Conference for the Ukrainian SSR of a grain requisition quota of 356 million pood which far exceeded the real capacity of the Ukrainian peasants.

Continuing their unlawful actions, Kaganovich and Molotov on 25 July 1932 signed and sent to the Central Committee of the CPU and Sovnarkom of the Ukrainian SSR an absolutely secret telegram about stepping up the removal of grain, prohibition on trading and brutal repression against the starving peasants.

Later, to carry out their criminal intentions, Stalin and Kaganovich organized the adoption on 7 August 1932 by the Central Executive Committee [CEC] and Sovnarkom of the Resolution “On protection of the property of State enterprises, kolkhozes and cooperatives and the strengthening of public (socialist) property” which was used for executions, confiscation of property with the use of amnesty prohibited.

Later, on 16 September 1932 Stalin approved and sent to the Supreme Court of the USSR, the Prosecutor’s Office, the State Political Directorate [GPU – the secret police] of the Ukrainian SSR, and other bodies of repression a secret instruction which set out punishment for “kulaks” and other “socially hostile elements” with the use of the highest measure of punishment – execution (by shooting), and in some cases – 10-year periods of imprisonment within a 15-day period from the day they are identified.

The resolution from 7 August 1932 and the secret instruction on its use were used by Stalin, Molotov, Kaganovich, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych to create conditions aimed at the physical destruction of a part of Ukrainian peasants.

On 2 August 1932, despite the famine in the Ukrainian SSR, Molotov signed and sent for the implementation of the central authorities in Ukraine a resolution of the Sovnarkom No. 1200 “On collection of the harvest and the grain requisition quota for August 1932” which established for Ukraine in August a requisition quota which was 100,0 million poods in excess of capacity.

Furthermore, on 9 August 1932 Kosior signed a Resolution of the Politburo of the CPU “On measures for fighting grain speculation” which obliged the repressive bodies of the GPU and police to ensure full removal from the market of grain and flour vendors and the use of repression (arrest, confiscation). Continuing these criminal actions, Kaganovich on 20 August 1932 signed and sent to the Central Committee of the CPU and the Sovnarkom a telegram “On the unsatisfactory tempo of grain requisitions” in which he demanded that measures be taken to severely punish those responsible.

Realizing the tragic consequences of exporting grain and other food products during mass famine in the UkrSSR, on 18 September 1932 Postyshev sent the Central Committee of the CPU and the Sovnarkom a telegram demanding full implementation of the export plan for the fourth quarter of 1932.

While carrying out their criminal plans, on 23 September 1932, despite the famine in Ukraine and total lack of seed funds, Stalin and Molotov jointly signed a telegram on refusing to provide Ukraine with a seed loan and sent it to the Central Committee of the CPU.

Implementing the joint criminal intention of the above-mentioned people to perpetrate genocide, Khatayevych sent all regional, city and district committees of the CPU a directive letter from 23 October 1932 with his signature instructing that especially decisive measures be taken to remove grain from the peasants.

On 25 October 1932 under Kosior's leadership, the Politburo of the Central Committee of the CPU passed a resolution "On the need to overcome Ukraine's backwardness in implementing the grain requisition quota" which made the year plan ten times greater.

On 30 October 1932 Molotov organized a meeting of the Politburo of the Central Committee of the CPU at which the resolution "On measures to increase grain requisitions" was passed. This ordered the local authorities to prevent the sale of grain or industrial goods in Ukraine and to step up court repressions.

On 5 November 1932 Kosior organized the adoption by the Politburo of the Central Committee of the CPU of a Resolution "On increasing the participation of bodies of justice in implementing grain requisitions" which was aimed at activating the activity of justice bodies and Prosecutor's offices in requisitioning grain.

On 9 November the People's Commissariat for Justice of the Ukrainian SSR sent out an Instruction "On activating work of justice bodies in the struggle for grain" which set the maximum timeframe for investigating cases at 3 days.

On 6 November 1932 Kosior signed a telegram to the regional committees imposing a trade blockade in most regions of Ukraine.

On 11 November, an extract from Protocol No. 90 of the meeting of the Politburo of the Central Committee of the CPU, the resolution and instruction of the Sovnarkom of the Ukrainian SSR "On organizing grain requisitions in the individual farmer sector, signed by Kosior and Chubar, was sent to regional committees of the CPU. This increased repression against peasants who were deprived of their land plots, garden plots, their deportation outside the districts and regions (oblasts) and the full removal of food products.

This resolution passed the decision to use so-called "black boards", namely:

a) immediate cessation of goods supplies, total cessation of cooperative and State trading in situ and the removal from the relevant shops of all goods present;

b) total prohibition of kolkhoz trading both for kolkhozes and their workers, and for individual farmers;

c) cessation of any form of loans, early redemption of loans and other financial commitments;

d) checks and purges of kolkhozes with the uncovering of counter-revolutionary elements – organizers of disruption of grain requisitions.”

With respect to Ukrainian peasants fines in kind were applied, these involving the imposition of additional meat requisitions of a 15-month norm for meat and a year’s norm for potatoes, as well as increased repressions.

Moreover, on 18 November Chubar and Khatayevych signed and sent around a Resolution of the Politburo of the Central Committee of the CPU “On the liquidation of counter-revolutionary cells and the crushing of kulak groups”, using which Kosior drew up a special operational plan and involved the military and special units in destroying Ukrainian peasants showing resistance to the Bolshevik authorities.

On 27 November Kosior signed and sent around a Resolution of the Politburo of the Central Committee of the CPU “On applying repressive measures against kolkhozes which sabotage grain requisitions”. This organized court trials against members of the Party who supported the Ukrainian peasants while the genocide was being perpetrated against them.

On 1 December 1932, continuing his criminal activities, Kosior signed and sent to the regional committees of the Party a directive from the Central Committee of the Soviet Communist Party which demanded that grain be taken from the countryside by 15 January 1933.

On 1 and 3 December 1932 Chubar organized the adoption of resolutions of the Sovnarkom of the UkrSSR “On prohibiting the sale of potatoes in regions which persistently fail to fulfil their commitments on contracting and checking the available potato stocks in the kolkhozes” and “On prohibiting the sale of meat and livestock” as a result of which potatoes as one of the staple food items were removed and a ban imposed on the sale of meat in the Chernihiv, Kyiv and Vinnytsa regions (oblasts) which effectively led to the murder of a part of the Ukrainian peasantry through starvation.

After agreeing with Stalin, Molotov and Chubar the use of the death penalty during grain requisitions, and in order to carry out the above-mentioned joint criminal plans, Kosior organized the adoption on 5 December 1932 by the Politburo of the Central Committee of the CPU “On measures for eliminating sabotage of grain requisitions”. This created in the regions so-called “troikas” – commissions consisting of the first secretary of the Party’s regional committee, the head of the regional division of the GPU and the regional Prosecutor who, without court examination, applied repressions against peasants and passed decisions to have them executed.

According to a document from the Sovnarkom of the Ukrainian SSR on 2 December 1932, the “black boards” now included, as well as kolkhozes, also village councils, villages, some individual farmers, as well as district as administrative units. For example, in the Vinnytsa oblast

this was 8 districts, 44 kolkhozes, 42 villages of individual farmers; in the Chernihiv oblast – 13 kolkhozes, 38 villages, 1646 individual farmers; in the Donetsk oblast – 12 kolkhozes, 6 villages, 2 village councils, 25 individual farmers; in the Dnipropetrovsk oblast – 228 kolkhozes in 44 districts; in the Kyiv oblast – 51 kolkhozes in 48 villages and 19 districts; in the Kharkiv oblast – 23 kolkhozes in 16 villages and 9 districts; in the Odessa oblast – 12 kolkhozes in 9 districts.

On 13 December 1932 Kosior signed and sent a Directive of the Central Committee of the CPU “On taking measures against kulak and anti-Soviet elements – organizers of grain requisition sabotage” which demanded that the secretaries of the regional committees of the Bolshevik Party identify within their Party ranks individuals who had not implemented the criminal decisions, have them arrested and exiled to the North.

Continuing their criminal actions, Stalin and Molotov on 14 December 1932 signed the Resolution of the Central Committee of the Soviet Communist Party and Sovnarkom “On grain requisitions in Ukraine, North Caucasus and in the Western Region”. This ordered measures to overcome peasants’ resistance, the cessation of Ukrainization, repressive measures, including arrests and imprisonment in concentration camps for a period of from 5 to 10 years.

On 23 December Kosior and Postyshev attended a meeting of the Dnipropetrovsk Regional Committee of the CPU where they organized the adoption of a decision “On reviewing the timeframe for grain requisitions in the districts” on the basis of which repressive measures were used in this region and peasants starved to death.

On 24 December Kosior signed and sent an administrative letter around to the secretaries of district committees of the Party, heads of district executive committees, authorized regional committees of the CPU. The implementation of this involved within a five-day period taking away all available grain held in the kolkhoz stocks and arresting those who showed resistance.

On 29 December 1932 Kaganovich and Kosior organized the adoption by the Politburo of the Central Committee of the CPU of a Resolution “On intensifying repression against individual farmers persistently not handing over grain”. On the basis of this document, 1,000 peasant households in the Kharkiv region and 500 village households in the Dnipropetrovsk region suffering repressive measures involving the removal of all property and being stripped of their garden plots and buildings.

On that same day, Kaganovich and Kosior, using the Resolution “On applying over the Dnipropetrovsk region measures passed in relation to the Odessa region”, gave instructions involving the deportation of 700 families and 700 peasants to the Soviet North and imprisonment in a concentration camp of 50 people. Besides coercive deportation of the civilian population, in the USSR there were repressions over so-called grain cases, that is, for concealing grain, for “embezzling” it, etc. According to figures from the GPU of UkrSSR, 94,354 people were arrested in 1932.

Continuing to perpetrate deeds aimed at the extermination of a part of the Ukrainian ethnic group through Holodomor, Stalin, Molotov, Kaganovich, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych in January 1933 organized the adoption of a number of decisions on the total

removal of grain and other food items in rural areas of Ukraine, with the implementation of these leading to the starving to death of millions of Ukrainians.

On 1 January 1933 Stalin signed and sent to Kosior a telegram regarding further intensification of repressive measures against the Ukrainian peasants, including their execution.

On 2 January Khatayevych and Chubar signed and sent an analogous Directive to Party and Soviet bodies of the Ukrainian SSR.

Carrying out their criminal intention to perpetrate the crime of genocide against a part of the Ukrainian ethnic group, and realizing that there were mass deaths from starvation in the Ukrainian SSR, Stalin and Molotov on 22 January 1933 signed and sent to the Ukrainian SSR a directive from the Central Committee of the Soviet Communist Party and the Sovnarkom of the USSR "On preventing mass exodus of starving peasants for food". This prohibited the exit of peasants from Ukraine and blocked the borders of the UkrSSR through military units.

This ban consciously deprived starving Ukrainian peasants of the possibility of obtaining the food they needed to survive beyond the territory stricken by famine and doomed them to starvation.

On 4 June 1933 the Head of the political division of the Border Guard and Forces of the Ukrainian GPU reported to the Central Committee of the CPU on the active role of the Border Guard and Forces of the Ukrainian GPU in carrying out the spring sowing in the kolkhozes and also on repressive measures taken against Ukrainian peasants.

The criminal investigators thus established irrefutable evidence that in 1932-1933 Stalin, Molotov, Kaganovich, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych organized and perpetrated genocide in Ukraine by creating conditions aimed at the physical destruction of a part of the Ukrainian ethnic group, using for this the following mechanisms and means:

- the imposition for Ukraine of a grain requisition quota at such a high level as to make its implementation unrealistic, and where it was fulfilled, only through force with the use of repression and by total removal from the peasants of grain and seed stocks;
- placing districts, inhabited areas, kolkhozes, village councils on "black boards", that is their blocking by military forces, preventing the population from leaving those areas, the full removal of food items and prohibition on trading;
- isolation of Ukraine's territory via special armed units, military units and the police;
- restriction of free movement of peasants in search of food and a ban on correspondence;
- imposition of fines in kind;
- constant searches with the removal of grain, seed stocks, property, clothing, all food items, cooked food;

- intensification of measures of criminal repression, including execution of people who during the removal of meat, potatoes, sunflower seed and other food items showed resistance to the authorities.

According to the Conclusions of the court demographic expert assessment by the Institute of Demography and Social Research of the National Academy of Sciences of Ukraine from 30 November 2009, as a result of the genocide perpetrated in Ukraine 3 million 941 thousand people died. Of these 205 thousand died from February to December 1932; in 1933 – 3,598 thousand people and in the first half of 1934 – 138 thousand people; v. 330 a.c. 12-60

Furthermore, according to the opinion of the criminal investigators the guilt of Stalin, Molotov, Kaganovich, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych in organizing and perpetrating in 1932-1933 genocide against a part of the Ukrainian ethnic group is confirmed by factual data contained in the testimony of:

- witness H. Yakhno who testified that during the period 1932-1933 the leadership of the Soviet Union (Stalin and Molotov) and of Ukraine (Kosior and Postyshev), other Party leaders and the Soviet authorities created the conditions for carrying out Holodomor in Ukraine. Komsomol members and “activists” of the Soviet regime carried out searches of premises in order to remove food items. He also stated that in 1932-1933 there was no drought or failed grain harvest; v. 28. a.c. 129-134;

- witness K. Ihnatushi (Boiko) that the village council and district executive committee in his village created several units (of 5-6 people) which carried out searches of peasants' premises, removed food items, livestock, personal things and clothing. In 1932-1933 in the village of Trypillya around 300 people died of starvation. There were cases of cannibalism in the village. In 1933 representatives of the Soviet regime destroyed two Orthodox churches in the village; v. 28, a.c. 21-27;

- witness P. Hubsy who testified that because of the laws and resolutions of the Communist Party, Sovnarkom and decisions of village councils the famine was turned into a terrible, blanket and manmade famine, bloody carnage against a nation. Famine and death, as was planned, changed the balance of forces in favour of the Bolsheviks, consolidated full and final political and economic victory of the Communist Party in the country. All the actions of the higher Party-Soviet leadership correspond to the substantive concept of genocide as set out in the UN Convention from 9 December 1948; v. 287, a.c. 136-157

- witness L. Shepel that none of the Bolshevik authorities provided any food, medical or any other help to the peasants. In 1932-1933 police units did not let villagers of Boriv outside it and forced them to stay at home; v. 28, a. c. 71-73.

- Witness S. Kutsenko who testified that in the middle of 1932 her family was “dekulakized”, and in the neighbouring village of Ivanivtsi some peasants stood up to the activists, defending their property, however their property was taken by force and the peasants themselves, with their families, were sent to Siberia. The organizers of

Holodomor in Ukraine were Stalin, and those who carried it out – Molotov, Chubar and Postyshev; v. 28, a. c. 98-104

- Witnesses Ishchenko, Yakhno, Tarasyuk, Shcherbak, Avramivko, Korniyenko, Damchuk and others;

v. 28, a. c. 69-70, 127-128 139-140, 141-142;

v. 66, a. c. 83-85, 134-138, 165-167; v. 215, a. c. 276-279

The circumstances of the forced collectivization are confirmed by factual data indicated in the testimony of:

– witness Y. Lyubchuk that peasants who didn't want to join a kolkhoz and give up their property were taken away from the village; v. 66, a. c. 139-142

– witness A. Androshchuk who testified that there were around 3,000 Ukrainians living in the village. In 1931 their family was “dekulakized”. In the spring of 1932 5-6 activists carried out searches during which they removed all food items, domestic livestock, personal things and the inventory of things for working the land. The organizers of the artificial famine in Ukraine were Stalin, Molotov, Kaganovich, Kaganovich, Postyshev, Kosior and Chubar. Peasants were not issued with identification or other documents which made it impossible for them to move around Ukraine or beyond. Stalin issued a law “On five ears of grain”, as it was known among the population. According to this, it was prohibited on threat of severe punishment, even execution, to collect on kolkhoz land the remains of grain cultures. For not implementing the grain requisition quotas, fines in kind were imposed, with these being paid both with food items and everyday items or things needed for agricultural purposes; v. 28 a. c. 62-68

– witnesses Dovbysh, Boichenko, Litvinova, Zhurakivska, Kostenko, and others who testified that in 1932-1933 the authorities took all the grain and other food from the peasants; v. 288, a. c. 57-60, 61-64, 65-68, 39-43, 73-77

– witnesses Hlomozda, Moskalenko, Nabok, Pechersky, Telehuz, Dovzhenko, Demidenko, Zubenko and others who testified that the regime in power carried out forced collectivization. At the regime's instruction brigades of local “activists” removed all without exception food products from people not wanting to join a kolkhoz, thus condemning them to death by starvation. v. 323, a. c. 178-182, 190-194, 204-208,

227-230, 239-242, 263-266, 287-291, 44-49

With regard to increases in grain requisitions, the carrying out of mass scale searches in order to uncover and remove food from the peasants:

- witness M. Baidanchy testified that the grain held in each peasant's household was taken without warning. Representatives of the authorities and “activists” drove around the village in a wagon and took grain from every hut, every household; v. 66, a. c. 78-82

– witness V. Dovhan testified that everything edible and valuable was taken away, they even shook food out of small pots, and also took clothing and shoes; v. 66, a. c. 202-205

– witness R. Oliynyk testified that men came, around 20, with a metal “stick” and prodded the ground in order to find stores of grain. It was Stalin who was responsible for this since it was his decree to take everything away and starve people; v. 2, a. c. 249-252

– witness I. Kolesnikov testified that in the village of Illinka in the Luhansk region in the kolkhoz they “dekulakized” the most affluent peasants. People had wooden mortars in which they ground grain to prepare food. The “activists” specially smashed the mortars so that they didn’t grind the grain and didn’t prepare food. The “activists” went around courtyards with metal sticks, prodded (i.e. made holes in) the ground, looking for grain. When they found grain in somebody’s place, they took both the grain and the person; v. 173, a. c. 164-167

– witness N. Slyusar informed that in the spring of 1933 an authorized person arrived in the village together with “activists” who went around the peasants’ courtyards and took away seeds; v. 173, a. c. 117-119

Analogous testimony was received by witnesses Hrybnyuk, Paliy and others.

v. 67, a. c. 45-47, v. 66, a. c. 234-238

With regard to the circumstances around the imposition by the Bolshevik regime of “black boards”:

– witness Y. Stepatska testified that for non-implementation of the grain requisition quota their village Horodok in the Vinnytsa region was put on the so-called “black board”. Trading was prohibited, there were no goods, they cancelled concessions for kolkhoz workers, you needed a special document to leave the village. These were issued by the village council but not to anybody; v. 67 a. c. 114-117

From data in the testimony of witness V. Sereda it can be seen that in 1932-1933 there was famine in the village of Piski. “Activists” carried out searches in peasants’ premises and took away grain and all that was edible. A “troika” functioned in the village made up of representatives of Soviet power who killed those dissatisfied with the regime without trial. From the houses they collected the bodies of those who had died of starvation, took them to the village cemetery and threw them into a huge pit. Together with the victims of the village of Kostyantynivka, around 700 people died of hunger in 1932-1933. The village of Piski was on the “black board”; there were guards on the ways out of the village who didn’t let anybody in or out. v. 215, a. c. 262-266

– witness B. Parkhomenko testified that in 1932-1933 the people put on the “black board” were punished, deprived of food items. Holodomor happened as the result of the State policy of the Soviet regime headed by Stalin. The regime knew of the high number of deaths from starvation among the rural population;

v. 149, a. c. 195-199

In her testimony S. Kutsenko states that in the middle of 1932 her family was “dekulakized”. In the neighbouring village of Ivanivka some peasants spoke out against the “activists”, defending their property, however this was taken by force and the peasants themselves with families were sent to Siberia. She also said that the organizers of Holodomor in Ukraine were Stalin, Molotov, Chubar and Postyshev. v. 28, a. c. 98-104

Testimony on the introduction by the authorities of “black boards” in kolkhozes was given by witnesses Ponomarenko, Kudla, O. Velychko, N. Velychko, Sherstyuk and others v. 111, a. c. 41-48; v. 216, a. c. 180-183

The criminal investigation determined that in 1932-1933 at the decision of the authorities, 735 districts, villages, households, kolkhozes, sovkhoses, etc were placed on the “black boards”.

v. 65, a. c. 115-142; v. 109, a. c. 86-100; v. 105, a. c. 2-9; т. 120, a. c. 46-50; v. 122, a. c. 190-220; v. 140, a. c. 239-250; v. 146, a. c. 223 -250, 252; т. 159, a. c. 106; т. 237, a. c. 248-254; v. 210, a. c. 100-105; v. 212, a. c. 6-65; v. 213, a. c. 43-79, 89, 111-112; v. 237, a. c. 248-254; v. 244, a. c. 107; v. 255, a. c. 76-81; v. 256, a. c. 5-32, 40-61; v. 257, a. c. 111-122; v. 284, a. c. 185-187; v. 290, a. c. 138-139; v. 301, a. c. 152-153; v. 322, a. c. 194-205

The following factual data provides evidence of the functioning of units created by the Bolshevik regime for blocking ways out as well as of obstruction to Ukraine’s starving population receiving assistance from abroad:

– witness K. Yurova testified that the population of Western Ukraine during Holodomor gathered two trainloads of grain for the starving however these were not allowed through the border. The authorities swore that there was no famine in Ukraine. These trainloads stood on the border for a month. People who tried to break through the border control were shot on the spot; v. 67, a. c. 69-72

– witness V. Zhuravel stated that people getting to Kyiv died in large numbers right on the streets near houses. Hiding from the Soviet authorities, people from Kyiv went to Voronezh where at the markets they exchanged things for grain which was prohibited and severely punished by the authorities; v. 150, a. c. 12-15

– witness N. Nochnyk said that in approximately May 1933 around Yakubovsky St in the town of Fasov, Kyiv region, where there was a railway line nearby, a train stopped. From one of the carriages the military drove out around thirty young people who were emaciated and very hungry, some could not move by themselves. Over three days they all died: their bodies were left to lie by the road; v. 150, a. c. 77-80

– witness M. Adamchuk testified that in 1932-1933 it was impossible to leave ones village for another village, city or district because the peasants had no documents and the authorities prohibited them from leaving the village; v. т. 66, a. c. 112-116

Similar testimony was given by witnesses Bilokin, Dmytruk, Balytska, Shepel, Pasyuk, Pohribchenko and others; v. 66, a. c. 206-208; v. 126, a. c. 206-210; v. 150, a. c.124-126, v. 28, a. c. 71-73, v. 28, a. c. 115, 119; v. 173 a. c. 129-131

– witness S. Kolomiytseva stated that in 1932-1933 the authorities stopped peasants who tried to leave their villages, taking away their identification documents. Around Kyiv a cordon was established from militarized units which stopped people from other regions from arriving in the city; v. 28, a. c. 110-114

With regard to the use of repression against Ukraine's starving population:

– witness O. Savchenko stated that people gathered ears of grain from the field and for that they were detained, tried. Guards patrolled the fields and from those whom they caught, they took away everything that they'd gathered and drove them away; v. 67, a. c. 73-76

– witness N. Shcherbak testified that in 1932-1933 she lived in the town of Obukhovi in the Kyiv region. Holodomor was caused by a manmade shortage of food items and their removal by the Soviet authorities due to the policy of Stalin, Kaganovich, Postyshev and the Ukrainian leadership; v. 28, a. c. 74-77

As is seen from the testimony of witness H. Maslyuk, those in power were provided with food. In 1932-1933 the famine occurred because representatives of the Soviet regime forced people to give up all grain and other food. Where people didn't want to give them up and hid them, they came and made searches and took everything by force; v. 149, a. c. 102-106

– witness N. Pyrkh stated that the Soviet regime headed by Stalin created all conditions for famine. Collectivization, then large taxes were imposed and impossible grain requisition quotas. The taxes were imposed on keeping livestock, trees, they were constantly increased. It was prohibited to gather ears of grain from the field and that was severely punished. Her neighbour who had hidden grain was arrested and imprisoned. Many Ukrainians from the villages were sent to Siberia for showing resistance to the authorities' v. 150, a. c. 98-101

– witness Dashko testified that from autumn 1932 on the instruction of the authorities a brigade of so-called "activists" came to those who didn't want to enter a kolkhoz, It took all food items from them. Affluent peasants were dekulakized, all their property taken and they were forced to move out. In 1932 the priests of two churches in the village were repressed and the buildings of the churches taken apart; v. 323, a. c. 209-213

Similar testimony was given by Deacon Myronenko and others; v. 28, a. c. 135-138; v. 66, a. c. 243-245

– witness Bashchenko testified that the head of the kolkhoz Lapin gave the peasants 4 kilograms of grain each for which he was arrested; v. 66, a. c. 72-74

– witness M. Yanenko gave testimony according to which on Ukrainian territory so-called "triyki" [troika in Russian] were formed which sentenced people to death, including for hiding

food items. Ukrainian writers and officials of various levels were also sentenced to death in large numbers; v. т. 149, a. c. 5-9

– witness L. Vinnichenko reported that her grandfather, a communist who refused to carry out the criminal orders of the Soviet regime – to take food from peasants – was convicted and exiled to the northern regions of the USSR. Representatives of the Soviet authorities acted brutally with regard to Ukrainians; v. 150, a. c. 94-97

As witness Y. Suslyuk testified, in neighbouring villages there were Jews who had their own shops, they lived well, such violence as was applied to Ukrainians was not used against them; v. 67, a. c. 83-85

– witness M. Samarska recounted how for a handful of grain which she took to feed her mother and sister, she was arrested and sentenced to a year's imprisonment and was held in prison; v.173, a. c. 105-107

Witnesses Shlyonchyk (v. т. 323, a. c. 127-131), Korshak (v. 323, a. c. 144-147), Kopysh (v. 2, a. c. 155-158), Holub (v. 2, a. c. 166-169), Dubyna. (v. 2, a. c. 170-173), Usaty. (v. 323, a. c. 174-177), Moskalenko (v. 323, a. c. 190-194), Kolesnyk. (v. 323, a. c. 199-203), Nabok (v. 323, a. c. 204-208), Sakun. (v. 323, a. c. 274-278), Yurchenko. (v. 323, a. c. 279-282) and others gave similar testimony.

With regard to the export of grain and other cereals abroad during Holodomor in Ukraine in 1932-1933:

– witness H. Shlenskova testified that all the grain was taken to the kolkhoz and guarded by soldiers. It rotted, and at that time people were bloated with starvation and dying in the street and in courtyards; v. 67, a. c. 51-53

– witness Z. Vilchynska testified that despite the famine the State leadership fulfilled its export commitments; v. 66, a. c. 65-68

– witness K. Koshchuk testified that all the grain was taken to the kolkhoz, then to the station and taken away somewhere. They didn't manage to get it all away in time and a large amount of the grain rotted while people were starving. No help was provided or came from outside; v. 66, a. c. 213-215

With regard to whether the communist authorities were aware of cases of acute lack of food for the population of Ukraine and about people starving:

– witness O. Pobukhovska testified that to survive people were forced to eat orach, lentils, frozen potatoes. The authorities knew about the famine and mortality from it, however people were not given either medical or food aid. On the contrary, the Soviet authorities did everything to leave Ukrainians without food; v. 149, a. c. 36-39

– witness H. Tsopenko reported that in 1932-1933 there was terrible Holodomor in the village. People died right on the street, near houses, in the field. She saw how they brought a full wagonload of bodies and threw them into a pit. One woman was alive and began climbing out of the pit but nobody paid any attention to her and they continued filling it in. In the neighbouring house there were people who ate people; v. 150, a. c. 44-47

According to data in the testimony of witness M. Shekhtamn, in 1932-1933 the radio and newspapers were working, however they didn't give any information about the famine; v. 149, a. c. 204-207

– witness L. Dzenenko testified that in the village of Burty during 1932-1933 everyday on average five or more people died of starvation. Their bodies were taken to the old cemetery by wagon and thrown into pits with several bodies together. In those years there was a harvest in the kolkhozes and there were enough food products. The famine was caused by the Soviet regime artificially, the country was then ruled by Stalin; v. 149, a. c. 119-122

As witness H. Horbatyuk testified, food aid was only given to the head of the village council, while other peasants helped each other as they could; v. 67, a. c. 28-30

– witness A. Oksenchuk reported that there were cases of cannibalism in the village of Novaky, a neighbour ate her own children, after which she herself died.

People at that time travelled on the roofs of carriages or on platforms to Belarus and exchanged various things for food. Her parents sent her by train to Leningrad. There and in other cities of the USSR there was no famine. At that time only “activists”, communists and representatives of the Soviet regime lived well because they received a food ration, money, clothes and shoes; v. 125, a. c. 86-89

– witness O. Rohovy testified that in the Resolution of the Politburo of the Central Committee of the CPU “On increasing grain requisitions” from 18 November 1932 there were instructions to create at local level brigades of “activists”. These “activists worked not without benefit for themselves, they confiscated from village dwellers their last baked bread; v. 66, a. c. 175-193

Analogous testimony was given by Myronenko, Savenko, Paliy, and others; v. 28, a. c. 135-138; v. 66, a. c. 234-238; v. 67, a. c. 73-76

On the lack of famine in adjacent regions of Russia and Belarus:

– witness H. Mozhova reported that in the 1920s and 1930s in their Ukrainian village a lot of Russians settled who held leading positions in the settlement administration, party and Soviet bodies. In those years many people secretly travelled to the village of Kantemirovka in Russia because there you could purchase bread, buy a cow or bullock, if anyone had the money, because in Russia there wasn't such a famine; v. 173, a. c. 132-134

– witness M. Potapova drew attention to the fact that the harvest in 1932 was good but that it was all taken away. She went on foot begging with her father to the village of Urazove in the

Belgorod region of Russia. In Russia there was no such famine. There people were not starving at all, they ate white bread and butter. In her native village during Holodomor up to half the people died – specifically Ukrainians; v. 173, a. c. 168-170

Similar testimony was given by witness H. Palahuta and others; v. 173 a. c. 135-137

With regard to cases and instances of cannibalism and eating of corpses in 1932-1933:

– witness A. Ryaba testified that in her village around Ukrainians died. Their bodies were taken away by wagons to hide in general graves at the old village cemetery in Rusaniv. The pits were dug over only when they were filled to the top with the bodies of people who had starved to death, no crosses were placed; v. 150, a. c. 5-7

– witness L. Bezzhon stated that the bodies of those who had died of starvation were buried in general graves; v. 150, a. c. 8-11

– witness I. Savchuk reported that in Kyiv at the Baikove Cemetery in 1932-1933 there was a wasteland area where in general graves they buried those who had died of starvation; they were mass graves; v. 150, a. c. 81-82

– witness M. Karlovych testified that he and his brother went around the village begging but nobody gave them anything because there was famine. During the famine of 1932-1933 seven children in his family died. They ate what they found – grass, roots of trees. In the village people were bloated and died of starvation; v. 216, a. c. 106-108

– witness M. Lisoenko claimed that for Stalin Ukraine was an object of persecution; v. 287, a. c. 167-170

– witness N. Lapchynska testified that on 7 August 1932 at the peak of harvest a resolution of the Central Committee and Sovnarkom of the USSR was adopted, the text of which was prepared with the direct participation of Stalin under the influence of the situation in Ukraine and became the main legal grounds for courts to issue sentences. Gripped by starvation, mass illness and a rising death toll they planned to deprive the Ukrainian countryside of grain; v. 287, a. c. 121-135

On mass-scale death from starvation and related issues:

– witness F. Kravchenko testified that in 1933 in her village around 600 people died; v. 173, a. c. 171-173

– witness T. Bermas testified that in her native village of Berezky there was a mass grave of victims of Holodomor 1932-1933 – around 200 people from the village died; v. 217, a. c. 50-53

– witness O. Seredyk reported that in 1932 her family was “dekulakized”. Stalin, Molotov, Kaganovich, Postyshev, Kosior and Chubar created the conditions under which during 1932-1933 in the village around 800 Ukrainians died. As a result of this among the residents of the village of Ivanivka there were cases of cannibalism; v. 28, a. c. 48-54

Analogous testimony regarding the forced removal of food items, starvation and use of surrogates for food was given by witnesses Sypaty, Kulak, Nason, Sobol, Kryukova, Shabovty, Lukyanenko, Malashenko, Kotlyar, Zhytnyk, Savenchuk, Piul, Malets, Karpenko, Ivashko, Nikytenko, Ostrovetsky, Borets, Ordynska and others; v. 323, a. c. 1-5, 6-12, 13-18, 20-21, 22-26, 29-33, 39-43, 47-51, 52-56, 57-61, 62-66, 67-69, 70-74, 75-79, 84-86, 87-89, 90-94, 95-98, v. 28, a. c. 55-61

Thus, according to the testimony of witnesses, representatives of the Bolshevik regime at local level imposed the obligation to meet impossible grain requisition quotas, with fines in kind being brought in for non-implementation; movement of peasants outside Ukraine in search of food was restricted.

At the same time, in 1932-1933 armed units, brigades and “activists” under the leadership of authorized representatives of Communist Party bodies, heads of village councils in all regions of Ukraine constantly carried out searches in villages of people’s homes and other premises and garden plots during which they took away all the grain, seeds, property and agricultural tools; they completely removed food items, prepared food, etc. In all of this violence was applied against the Ukrainian civilian population in the villages: beatings, repression, arrests, blockades of villages, settlements and even administrative districts by the military of those on the “black boards”, as well as of Ukraine’s borders to stop the exit of the population beyond its territory. As a result of this people were deprived of access to food items. In this way the Bolshevik regime starved them to death.

At the same time systematic and brutal repressive means were also applied against Party and Soviet leaders of all ranks who expressed their disagreement with the imposed grain requisition quotas and sought to help starving Ukrainian peasants by providing them with food from kolkhoz stocks.

In addition the guilt of Stalin (Dzhugashvili) in organizing the crime of genocide is confirmed by material evidence:

Archival documents: reports by M. Khatayevych to the Central Committee of the Soviet Communist Party from 12.03.1933 on the grave food situation and mortality rate from starvation in the Dnipropetrovsk region (v. 8, a. c. 341-344); a directive from 7 December 1932 No. P 4731 with written instruction of the Secretary of the Central Committee of the Soviet Communist Party on carrying out repression and setting criminal punishment for the heads of the Orikhovsky District of the Dnipropetrovsk region involving imprisonment from five to ten years and other forms (v. 17, a. c. 285; v. 19, a. c. 30);

A telegram from 1 January 1933 to the General Secretary of the Central Committee of the Communist Party Kosior with an instruction to carry out the Resolution of the Central Committee of the Communist Party “On grain requisitions in Ukraine” (v. 7 a. c. 164);

A reporting note of the Donetsk Regional Committee of the CPU, the Central Committee of the Soviet Communist Party and the Central Committee of the CPU on the situation with the spring sowing in the region and on food difficulties in the Starobelsk district (v. 9, a. c. 250-253) and

other above-mentioned documents (v. 7, a. c. 164, 167, 171-174, 206-207; v. 9, a. c. 149-150, 151-152, 153-154; v. 13, a. c. 23-27; v. 32, a. c. 111; v. 288, a. c. 125).

The guilt of Molotov (Skriabin) in organizing the crime of genocide is confirmed by material evidence:

Archival documents: the Resolution of the Politburo of the Central Committee of the CPU from 30.10.1932 “On measures for increasing grain requisitions”, adopted with the participation of Molotov (v. 256, a. c. 147-154);

The Resolution of the Central Committee of the Soviet Communist Party and Sovnarkom of the Council of the Russian SSR from 14.12.1932 (v. 9, a. c. 23-27);

The telegram of the Central Committee of the Soviet Communist Party and Sovnarkom of the USSR to the Central Committee of the CPU and Sovnarkom of the UkrSSR from 21.06.1933 signed by Stalin and Molotov which contains a categorical demand for the mandatory implementation of the yearly grain supply quota by all kolkhozes, sovkhozes and individual farmers of Ukraine (v. 7, a. c. 206-207);

The telegram of the Central Committee of the Soviet Communist Party and Sovnarkom of the USSR to the Central Committee of the CPU and Sovnarkom of the UkrSSR from 09.04.1932 signed by Stalin and Molotov “On the course of oil requisitions and export of oil” which contains the demand to meet the oil requisition quota to ensure export (v. 7, a. c. 215);

The telegram of the Central Committee of the Soviet Communist Party and Sovnarkom of the USSR to the Central Committee of the CPU and Sovnarkom of the UkrSSR signed by Molotov and Kaganovich with instructions to increase the tempo of grain requisitions (v. 7, a. c. 305-306);

Molotov’s telegram from 21.11.1932 to the regional committees of the CPU on activating the grain requisition campaign (v. 7, a. c. 320-323) and other above-mentioned documents (v. 7, a. c. 171-174 , 175-179, 200; v. 14, a. c. 184-186; v. 11, a. c. 52-54; v. 98, a. c. 86; v. 13, a. c. 22-27; v. 288, a. c. 125; v. 32, a. c. 111; v. 9, a. c. 151-152 , 153-154).

The guilt of Kaganovich in organizing the crime of genocide is confirmed by material evidence:

Archival documents: the telegram of the Central Committee of the Soviet Communist Party and Sovnarkom of the USSR signed by Kaganovich and Molotov to the Central Committee of the CPU and Sovnarkom of the UkrSSR with instructions to increase the tempo of grain requisitions (v. 7, a. c. 305-306);

A letter from the Pavlohradsky district committee of the Party from 30.03.1933 to the Dnipropetrovsk Regional Committee of the CPU on the famine and cannibalism in the village of Mezhyrichya (v. 8, a. c. 348-351);

The Resolution of the Politburo of the Central Committee of the CPU from 29.12.1932 poky ““On applying over the Dnipropetrovsk region measures passed in relation to the Odessa region”

passed with the participation of Kaganovich. This ordered Party organizations and the local authorities to take away, as part of the grain requisition quota, all grain in the kolkhozes, including the seed stocks (v. 9, a. c. 64, 67) and other documents (v. 7, a. c. 303-304; v. 9, a. c. 63-67, 153-154)

The guilt of Postyshev in organizing the crime of genocide is confirmed by material evidence:

Archival documents: the telegram to the Regional Committee of the CPU from 08.12.1933 signed by Postyshev on beet requisitions and a warning of court liability to those in top places for not ensuring the removal of beet from the fields by the end of the ten day period (v. 322, a. c.11-13);

A copy of a telegram of the Central Committees of the Soviet Communist Party and CPU from 18.09.1932 signed by Postyshev in which from the Central Committee of the CPU there was a demand for full implementation of the export quota for the fourth quarter of 1932 (v. 9, a. c. 111-113);

A letter from the Head of the UKhNU of the UkrSSR Asatkin from 22.04.1935 “On the state of the records of the population in the UkSSR” in which a sharp increase in the death rate in Ukraine in 1932-1933 is reported (v. 9, a. c. 268-270);

A reporting note of the Central Committee of the CPU to the Central Committee of the Soviet Communist Part from 16.08.1933 on the situation with food for the population and grain handed over in the kolkhozes of the Kyiv region (v. 8, a. c. 97-104);

A letter from the Kyiv regional department of the GPU to the Head of the GPU UkrSSR from 12.03.1933 on the grave food situation and increased mortality in a number of districts of the region (v. 8, a. c. 220-226);

A report from the GPU UkrSSR to the Central Committee of the CPU from 14.03.1933 on the grave food situation in the village of Shaparske in the Donetsk region (v. 8, a. c. 227) and other above-mentioned documents (v. 98, a. c. 55 , 106-107, 188; v. 9, a. c. 63-67).

The guilt of Kosior in organizing the crime of genocide is confirmed by material evidence:

Archival documents: a note by the direct line of the Central Committee of the CPU to the Chernihiv Regional Committee of the CPU signed by its Secretary, Kosior, on giving permission to apply court measures against saboteurs (v. 317, a. c. 84-86);

An excerpt from Protocol No. 90 of the meeting of the Politburo of the Central Committee of the CPU from 11.12.1932 “On organizing grain requisitions in the individual farming sector” which was sent with Kosior’s signature to all regional committees of the CPU (v. 256, a. c. 131-134);

A telegram from the Central Committee of the CPU from 05.01.1933 which was sent with Kosior’s signature to the regional orgburo of the CPU concerning the conditions for accepting individual farmers into kolkhozes (v. 317, a. c. 226);

A Resolution of the Politburo of the Central Committee of the CPU from 09.08.1932 “On measures for fighting grain speculation” which was sent with Kosior’s signature to the secretaries of regional orgburo of the CPU to ensure measures for removing those buying up grain and flour, bringing to court individual farmers selling grain at bazaars ((v. 318, a. c. 239-241) and other documents (v. 7, a. c. 61, 65-66, 67-71, 72-73, 74-75, 76-78, 79, 80-89, 94-95, 111, 170, 183-186, 189-191, 188, 202-203, 205, 243-254, 278-285, 345-346, 351, 381-383; v. 9, a. c. 62; т. 32, a. c. 109; т. 98, a. c. 55; v. 135, a. c. 76-78; v. 12, a. c. 261; v. 256, a. c. 131-134, 136).

The guilt of Chubar in organizing the crime of genocide is confirmed by material evidence:

Archival documents:

A note from the Central Committee of the CPU and Sovnarkom of the UkrSSR to the regional committee of the CPU and regional executive committee from 06.12.1933 on seconding the relevant staff to villages placed on the “black board” for merciless struggle with saboteurs, kulaks and other anti-Soviet elements, which is signed by the Secretary of the Central Committee of the CPU Kosior and the Head of the Sovnarkom of the UkrSSR Chubar (v. 321, a. c. 10-12) and other above-mentioned documents (v. 7, a. c. 111, 188; v 12, a. c. 261; v. 9, a. c. 74-76, 163-165; v. 14, a. c. 233-234, 235-236, 237; v. 15, a. c. 14-19; v. 256, a. c. 131-134, 136).

The guilt of Khatayevych in organizing the crime of genocide is confirmed by material evidence:

Archival documents:

A directive of the Central Committee of the CPU and Sovnarkom of the UkrSSR to Party and Soviet bodies from 02.01.1933 signed by Khatayevych and Chubar on voluntary handing over by kolkhoz workers and individual farmers of grain they have concealed (v. 7, a. c. 165);

A directive letter of the Central Committee of the CPU from 23.10.1932 signed by Khatayevych and sent to all regional, city and district party committees of the CPU with instructions on taking measures to increase the amount of grain coming in from individual farmers by applying unconditional penalties and other means of influence (v. 7, a. c. 180-181);

Directive of the Central Committee of the CPU and Sovnarkom of the UkrSSR from 23.01.1933 in connection with the mass exodus of peasants outside Ukraine, signed by Khatayevych and Chubar, on prohibiting the exodus of peasants from their place of permanent residence (v. 9, a. c. 163-165);

A reporting note of the Pavlohradsky district committee of the Party of the Dnipropetrovsk Regional Committee of the CPU from 20.04.1933 which confirms that the authorities are aware of the grave situation in the region (v. 8 a. c. 283-287);

A letter of the Secretary of the Dnipropetrovsk regional committee of the CPU Khatayevych to the Central Committee of the CPU from 04.03.1933 which confirms that Stalin was informed about the grave food situation, about the starving to death of people in the UkrSSR (v.8, a. c. 330-337);

A letter of the Melitopol District Committee of the Party from 11.03.1933 to the Dnipropetrovsk Regional Committee of the CPU on a worsening of the food situation in the area (v. 8, a. c. 338-340);

A report of the Dnipropetrovsk Regional Committee of the CPU from 12.03.1933 which indicates that the authorities are aware of the grave food situation and the death rate from starvation in the region (v. 8, a. c. 341-344);

A special report of the transport department of the GPU of the Katerynska railways from 12.03.1933 to the Dnipropetrovsk Regional Committee of the CPU which indicates that there were deaths from starvation at railway stations (v. 8, a. c. 345-347) and other above-mentioned documents (v. 9, a. c. 74- 76; v. 9, a. c. 163-165).

The following fact also indicates that the crime of genocide was directed specifically against a part of the Ukrainian ethnic group. According to the decision of the Politburo of the Central Committee of the Soviet Communist Party and Sovnarkom of the USSR resettlement of people from Russia and Belarus was organized at places in the Odessa, Dnipropetrovsk, Donetsk and Kharkiv regions of Ukraine where Ukrainians had been starved to death. There was thus a planned change in the ethnic makeup of the rural population in Ukraine.

According to a letter from the Deputy Head of the Donetsk Land Department Maximov to the People's Commissariat on Land Matters of the UkrSSR on the resettlement of people from the Ivanovska region (Russia) to Starobilshchyna from 13 October 1933, it was suggested that 3,500 families of resettled kolkhoz workers be spread between 14 districts of the Starobilsk group which through their position need immediate additional settlers; v. 14 a. c. 45-46

In response to the Resolution of the Politburo of the Central Committee of the CPU from 11 September 1933 "On additional settlement in steppe areas", the figure is set down of 22 thousand families resettled from northern regions of Ukraine and the procedure for their resettlement to the Dnipropetrovsk, Odessa and Donetsk regions in the fourth quarter of 1933. By a resolution of the Sovnarkom of the USSR from 31 August 1933 the All-Soviet Resettlement Committee was instructed by the beginning of 1934 to organize the resettlement in steppe areas of Ukraine of 15-20 thousand families; v. 7, a. c 363-366

By Resolution of the Central Committee of the CPU from 23.09.1933 "On measures for additional settlement in steppe areas" the decision was taken to create under regional executive committees special committees for issues related to resettlement; v. 1, a. c. 361-362

The mass deaths in Ukraine in 1932-1933 as a result of starvation, emaciation, malnutrition and concomitant illnesses are confirmed by the conclusions of the forensic medical expert assessments carried out on archival documents regarding registration of deaths:

In the Vinnytsa oblast (v. 91, a. c. 10-135, 137-207, 209-255; v. 92, a. c. 1-85, 87-204, 206-268; v. 93, a. c. 2-96, 98-222, 224-259; v. 94. a. c. 1-242; v. 95 a. c. 2-251, v. 96, a. c. 1-230);

In the Dnipropetrovsk oblast (v. 103, a. c. 134-139);

In the Donetsk oblast (v. 117, a. c. 320-331);

In the Zhytomyr oblast (v. 133, a. c. 11-329);

In the Zaporizhya oblast (v. 140, a. c. 288-301);

In the city of Kyiv and the Kyiv oblast (v. 155, a. c. 10-109, 118-180);

In the Kirovohrad oblast (v. 162, a. c. 17-150);

In the Luhansk oblast (v. 174, a. c. 159-163);

In the Mykolaiv oblast (v. 227, a. c. 199-203);

In the Odessa oblast (v. 24, a. c. 303-316);

In the Poltava oblast (v. 254, a. c. 229-327);

In the Sumy oblast (v. 261, a. c. 126-128);

In Kharkiv city and oblast (v. 282, a. c. 67-241, v. 283, a. c. 8-148);

In the Kherson oblast (v. 290, a. c. 134-136);

In the Khmelnytsky oblast (v. 300, a. c. 163-266);

In the Cherkasy oblast (v. 316, a. c. 297-302);

In the Chernihiv oblast (v. 325, a. c. 213-236).

According to the conclusions of the forensic medical expert assessment from 26 October 2009 No. 550, food is one of the main sources of life support for the human organism. A person can exist without food for a certain amount of time.

An estimated length of starvation (on condition that water is drunk) for over eight weeks can be fatal. Starvation of a person, especially over a long period, leads to the emergence of alimentary (nourishment-linked) illnesses: vitamin deficiency, microelement deficiency, dystrophy, etc which eventually result in a person's death.

The death of a person in conditions of hunger is determined by a shortage or lack of the main nutrients: protein, fat, carbohydrates, vitamins, microelements, leading to a disruption in the organism's metabolism.

If medical assistance is not provided in time to people starving in order to bring them out of a state of starvation, this leads as a rule to functional and organic disruptions in their organism, resulting in a possible restrict in capacity with a fatal outcome: v. 330, a. c. 113-116

According to the material of the criminal file, the guilt of Stalin, Molotov, Kaganovich and the other above-mentioned persons in organizing and carrying out genocide in Ukraine in 1932-1933 is also confirmed by material evidence – archival documents which indicate the enforcement at local level of decisions taken by the leadership of the Bolshevik Party;

A top secret protocol of a meeting of the Regional Committee of the CPU in the Kyiv region from 18 November 1932 No. 21 “On the implementation of the meat requisition quota”. According to this authorized representatives and grain requisition brigades in the districts were ordered in the space of 48 hours to ensure communication of the final meat requisition quotas in each village, and obligations – in each household; v. 144, a. c. 222- 224

A Resolution of the Presidium of the Kyiv Regional Executive Committee from 16 February 1933 “On the course of meat requisitions in the region”. This stated that the situation with meat requisitions in the first quarter of 1933 had been unsatisfactory; that as of 13 February 1933 it came to 29, 2%, and in sectors: by sovkhoses - 9, 4 %, kolkhoz farms – 2, 3%, individual farmers – 32, 7%, kolkhoz workers – 27, 9 %. By using sanctions, fines and absolute removal of meat, etc, it was decided to remove meat according to a firm task in a three-day period; v. 146, a. c. 42-43

A Resolution of the Kyiv Regional Committee of the CPU from 28 July 1933 which contains reports on the progress of grain requisitions and implementation of the regional committee resolution from 19.06.1933 for the Borodyansk district, and on unacceptable cases where ears of grain were cut off in the district, and on stepping up measures of security; v. 144, a. c. 156-157

A Resolution of the Presidium of the Kyiv Regional Executive Committee from 7 January 1933 “On grain requisitions for January 1933” which ordered the district executive committees to wage a decisive battle with production and selling of hand-ground flour, using such measures as removal of all grinding and home mills and holding criminally liable those guilty of secretly grinding grain; v. 146, a. c. 60

A copy of a resolution from a commission under the Kyiv Regional Executive Committee from 21 December 1932 “On removing grain from isolated points” which spoke of the need to ensure unobstructed transportation of grain from outlying areas; v. 146 a. c. 61

A copy of a Resolution of the Presidium of the Kyiv Regional Executive Committee from 16 December 1932 “On the progress of grain requisitions in the region” which allowed for the use of repression, as set out in instructions of the sovnarkom of the UkrSSR on the organization of grain requisition. The Regional Prosecutor’s Office was instructed to ensure immediate examination of court cases, in the district executive commissions wage a decisive battle with people who have ground grain on mills not included on the current network, on hand mills, etc; v. 146, a. c. 62-63

A secret circular from the Central Department of the Workers and Peasants’ Militia [RK Militia] of the UkrSSR from 22 September 1932 № 168/76 “On stepping up the struggle of bodies of the RK Militia with individuals who violate the Government Resolution banning the sale of new harvest grain before 15 January 1933”. This prohibition deprived peasants of the possibility of obtaining grain vital for their survival; v. 98, a. c. 72

Note № 029933 signed by the General Secretary of the CPU Kosior passed in person by a representative of the GPU to secretaries of the regional committees on the need to increase the amount of repressive measures and number of criminal cases opened against people who were concealing grain and sabotaging the requisitions, as well as on the swift enforcement of sentences in such cases; v. 98, a. c. 87-88

A report from the Chernihiv Regional Orgburo of the CPU to the Central Committee of the CPU from 17.01.1933 signed by the Secretary of the orgburo Markitan on the implementation by individual farmers of the grain requisition quota through only concealed grain; v. 317, a. c. 31

An act from 18 February 1933 on removal by the head of the Shyrokiivske village council from kolkhoz worker P. Panasenko of “concealed grain” and other food products: potatoes, wheat, corn, millet, flour, peas, sun flower seeds, of 8,27 centners in total; v. 98, a. c. 198

An act from 23 March 1933 on removal by the head of the Novo-Mykolaivsk Settlement Council from K. and M. Vobyachenko of “concealed grain” and other food products: beans, potatoes, corn. v. 98, a. c. 198

A Resolution of the Central Committee of the CPU and the Presidium of the Central Control Commission “On the Drabivska Case” from 7 May 1932 which upheld the decision of the Kyiv Regional Committee of the CPU on dissolving the Drapivske Bureau of the district Party commission, envisaging arrests of former leading workers of this district, carrying out a purge of the district Soviet apparatus, etc; v 7, a. c. 338-340

Resolution of the Mykolaiv City Committee of the CPU from 23 December 1932 on removing natural stocks in kolkhozes, including seed stocks; v. 212, a. c. 53-55

Resolution of the Odessa Regional Executive Committee from 31 December 1932 “On imprisoning in a concentration camp former members of the CPU” according to which the decision was taken to imprison for various terms “for sabotage of grain requisition and betraying the interests of the Party” of 50 former members of the Party, of the Odessa Party Organization, expelled by Resolution of the Regional Committee from 30 December; v. 212, a. c. 93

Resolution of the City Party Committee “On measures to step up grain requisitions in the Mykolaiv city district” from 23 November 1932, this prohibiting the use of any natural stocks in the kolkhozes; v. 214, a. c. 141-142

A telegram of the Chernihiv Regional Orgburo of the CPU to the Central Committee of the CPU from 23 January 1933 signed by the Secretary Markitan “On applying repressive measures to implement grain requisition”. This speaks of stepping up the pace of grain requisition by using measures of a repressive nature in the Borovystky, Burynsky, Barvynsky, Bubnovsky, Nedrihailivsky, Prylutsky and Romensky districts of the Chernihiv oblast; v. 317, a. c. 49

A letter from the Prosecutor of the High Court from 20 July 1933 № 1325/T on imposing criminal liability on kolkhoz workers and individual farmers for cutting ears of grain on their own personal vegetable plots; v. 98, a. c. 172

A letter from the Dnipropetrovsk district, the acting heads of the regional court and the Organization and Instruction Department [Orginstr] from 12 July 1933 № 261-135-263, addressed to all Prosecutors and judges of the Dnipropetrovsk region about timely use of repression; v. 98, a. c. 173-176

Acts from 15 and 18 January 1933 on removing all property from Makar Yabuklov and Fedor Bahon for not fulfilling the contracting quota and hiding under the stove grain and potatoes, and other documents; v. 98, a. c.178, 179

A complaint of resident of the village of Khotov in the Kyiv city zone V. Myronenko to the All-Ukrainian Central Executive Committee from 30 July 1932 over the forced placing in communal ownership by the kolkhoz of his livestock; v. 146, a. c. 118-119

Letter of the Head of the City Council № 886 to all village councils of the area (rajon) on stepping up work on grain requisition among individual farmers, and immediate use of repression against kolkhozes put on the “black board”; v. 98, a. c.181

Act from 23 March 1932 of the Commission of the Novo-Oleksandrivska Village Council on removal and “full sale” of the property of P. Shevchenko for failure to meet the grain requisition quota; v. t. 98, a. c.182

Booklet of Instructions for 1932 to Party workers going to villages in the city zone to carry out checks of the course of the economic-political campaigns, v. 147, a. c. 89-90

Operational report of the Head of the operational troika to the Head of the Mykolaiv District Department of the GPU on providing permission to arrest and exile families subject to “dekulakization”, and eviction of the population in village councils of the Varvarivsky district, v. 212, a. c. 81-83

Resolution from 9 February 1932 of the IV Session of the All-Ukrainian Central Committee of the XII term “On creating regional executive committees on the territory of the UkrSSR”. According to this, five regions (oblasts) were created, namely: the Kharkiv, Kyiv, Vinnytsa, Dnipropetrovsk and Odessa regions with administrative-territorial units which were part of them, and administrative-territorial units of the Donbas area directly subordinate to the centre; v. 11, a. c. 276-282

Order of the OGPU from 2 April 1932 № 290t (Moscow) “On identifying workers in the economic units of the OGPU in the staff of district departments and the elimination of economic abuses”, according to which in spring 1932 there was increased attention from Soviet bodies to the economic sphere and agriculture, including by bodies of the OGPU. New positions were introduced in the district department of the GPU who were to carry out their work in certain areas of the economic through the growth of industrial enterprises of local and Soviet-level importance. In developing the network of sovkhoses and MTC [machine and tractor stations – servicing and repairing agricultural equipment at kolkhozes, etc] special representatives on economic work were introduced in all district departments; v. 26, a. c. 114-117

OGPU Order № 0017 from 25 January 1933 (Moscow) “On the organization of Political Departments in the MTC, sovkhozes and setting up in them the position of deputy head of the political department for work with OGPU”. According to this Order, OGPU bodies implementing the decision of the Central Committee of the Soviet Communist Party organized political departments in each MTC, kolkhoz and sovkhoz which were given the task of directly fighting signs of counter-revolutionary behaviour on the entire territory of the kolkhozes which were served by MTC and also sovkhozes; v. 26 a. c. 44

Letter from the Secretary of the Odessa Regional Committee of the CPU to the Secretary of the Mykolaiv City Party Committee from 27 March 1933 on measures to intensify the struggle with decentralization of grain requisition within districts, and also to create troikas consisting of the secretary of the district party committee, the head of the district executive committee and the authorized representative of the GPU; v. 212, a. c. 84-85

Resolution of the Mykolaiv City Committee of the CPU from 4 August 1932 on bringing to answer the heads of the village of Balabanivka in the Mykolaiv rajon for disrupting the grain requisition quota; v. 212, a. c. 100-101

Circular from the GPU UkrSSR № 164/SPO from 19 June 1933 “On Chekist servicing of the kolkhozes” which was sent to all heads of the regional departments, heads of the city district departments and district representatives of GPU and the deputy heads of political departments of the MTC for the GPU with an explanation of the provisions of the directive on organization of a network of agents in the kolkhozes and MTC which service them, on the basis of the plan drawn up; v. 26, a. c. 105

Circular from the GPU UkrSSR № 308/SPO from 5 December 1933 (Kharkiv) “On servicing the spring sowing” sent to all heads of the regional departments, border units, DTO, city district departments, district representatives of the GPU UkrSSR, deputy heads of the political departments of the MTC and sovkhozes. This demanded that they step up their agent work, create an agent apparatus to penetrate the counter-revolutionary underground and undercover plans and intentions of organized counter-revolution; v. 26, a. c. 107-112

OGPU Order №1138/c from 8 December 1932 (Moscow) “On agent – operational work in the villages” which stated that the so-called counter-revolutionary element had chosen to organize sabotage of the grain requisition as their main form of struggle with the Bolshevik regime and stressed the need to activate agent work in the villages; v. 26, a. c. 38-41

OGPU Order № 0022 from 29 January 1933 (Moscow) “On stepping up agent – operational work in the villages on counter-revolutionary elements in the city linked with the villages”, and other documents; v. 26, a. c. 45

To ensure implementation of their criminal plans to perpetrate genocide, the regime used measures to create party activist units at local level. For example, the Resolution of the Secretariat of the Mykolaiv City Party Committee from 3 May 1933 envisaged approving norms for ensuring leading bodies in the village, beginning from May up till 15 July 1933. This Resolution established norms for providing the leadership of the village with food; v. 212, a. c. 143

Letter to A. Matveyev from his brother on 20 March 1932 in which he reports of unlawful actions by the local authorities against poor households in the village and workers in the city; excessive taxes, removal of clothing, arrests for not paying taxes; v. 212, a. c. 117-120

Application from S. Havrylenko to the department for requisitions of the Mykolaiv City Council from 7 January 1933 to return underage orphans grain removed by a brigade of the Bohoyavlenk Village Council during a search; v. 213, a. c. 20

News of there being prepared cereals in the Berezansk grain storage unit as of 21 September 1932; v. 148, a. c. 69

Information containing data about the amount of cereals in the grain storage unit “Zahotzerno” of the Pereyaslavsk station as of 22 September 1932; v. 148 a. c. 70

An information overview of the state of concentration and of implementation by the Odessa office “Exportkhliv” of quotas for loading steamships during the period from 16 to 21 November 1932 according to which in 3 ports of the region there were 15 grain steamships with 25,000 tonnes of grain loaded in Odessa, in Mykolaiv – 32,000 and in Kherson – 12,000 tonnes of grain; v. 214, a. c. 43-47

Reporting note from the head of the group of social service of the Kyiv City Control Commission of the Worker and Peasant Inspectorate [WPI] “Zaslavska” to the regional Control Commission of the WPI on an increase in Kyiv of the number of uncared-for children, especially aged from 1 to 4 years. According to the note, beginning in January 1932 the number of such children had increased each month; in January there were 34; in February – 98; in March – 103; in April - 144, in May– 227, in June– 223, in July– 155. During a check unacceptable cases were found of a lack of care in treatment of children (dirt, a large number of bodies of dead children piled up, etc). Almost all the children had arrived from raions and oblasts, with the flow increasing: in May – 502, in June– 1454, in July– 852 people; v. 144, a. c. 99-100

Resolution of the Presidium of the Kyiv City Control Commission from 13 September 1932 “On providing for uncared-for children in the “Okhmatdit” system” which spoke of cases of children being abandoned at up to 4 years, and an increase in mortality among them. It is stated that the administration of the “Okhmatdit” Institute has been issued an instruction to not bury the bodies of dead children one by one, but to gather a large number for them to be buried at one time; v. 144, a. c. 96-98

Resolution of the Presidium of the Kyiv City Council of the XI term from 3 February 1933 “On eliminating the problem of uncared-for children”. Items 9 and 10 of this indicate a large influx of children from outlying areas who make up 68% of the number of uncared for children; v. 144, a. c. 210– 211

Report on the work of the commission fighting the problem of uncared-for children under the Presidium of the Kyiv City Council from 1 September to 6 November 1932 which states that 2,368 uncared for children have been found and placed somewhere. At railway junctions blockade units have been organized to stop the flow of uncared-for children. According to data

from the State Sanitary Inspectorate the flow of uncared-for children is increasing by around 500 per month. The quarantine reception centres are 200-300% overloaded; v. 146, a. c. 180-184

Protocol of a meeting of the secretariat of the Mykolaiv City Committee of the CPU from 24 April 1933 on a prohibition on issuing grain to the public on days when the kolkhoz works have not gone out to work in the fields. Furthermore court bodies, the GPU and militia at local level are told to impose liability on the management of kolkhozes for violations of this decision; v. 1, a. c. 154

Order of the GPU UkrSSR from 15 January 1933 № 15 on group attempts by families to get out in the direction of Poland, and other analogous orders in which there is information about group infringements of the border on the Dniester river and attempts by people to flee to Poland (GPU Orders from 7 June 1933, № 247t and № 248); v. 26, a. c. 150-152, 153, 154

OGPU Order from 14 July 1932 № 645/c (Moscow) “On increasing the number of border guards of the PP [authorized representatives] of the OGPU Belarusian SSR”. In accordance with this there was a 3,000 man increase in the number of border guards of the PP OGPU BSSR. This Order shows that the decision was taken in connection with the constant increase in the number of cases where starving people were illegally crossing the border; v. 26, a. c. 120

The crime of genocide in Ukraine is also confirmed by material evidence – documents that show that grain was exported from the country in 1932-1933:

Telegram from the Deputy Head of the Council of Employment and Defence of the USSR from Moscow to Kharkiv to the Central Committee of the CPU and “Exportkhliv” in Ukraine from 27 August 1932 № 95628. This stated that of the shipping plan fixed by the Government in August to ports of 190 thousand tonnes of grain, only 20 thousand tonnes had actually been shipped. The party leadership in Ukraine was told to immediately ensure shipping by the end of the month, in the first instance of 30 thousand tonnes of wheat, 20 thousand tonnes of barley and 10 thousand tonnes of rye, of the need to expedite shipping from Ukraine for export of 170 thousand tonnes of grain barley; v. 7, a. c. 216

Resolution of the Mykolaiv City Party Committee “On loading export grain steamships” from 15 December 1933 which established daily norms for transporting grain to the elevator in order to ensure that the steamships were loaded in the port by 25 December 1933; v. 212, a. c. 107

Information about ships which passed through the Mykolaiv port from January – December 1932 carrying grain from Ukraine abroad; v. 211, a. c. 177– 184, 186- 188

Information about ships which were loaded with grain in the Mykolaiv port from January – December 1933; v. 211, a. c. 185, 189-196

The plan for export of loads from the USSR during the third quarter of 1932 according to which the sizes of the grain loads and other cereals from the ports in Kherson and Mykolai were established. This data suggests that the export of grain in the third quarter was:

- from the Kherson port – 90 thousand tonnes. The destination: France, Italy, Egypt and Greece;

- from the Mykolaiv port – 253 thousand tonnes. The destination: North America, Germany, Holland; v. 211, a. c. 199

Information about wheat, rye, barley, oats, corn and other grains, as well as cereals, amounting to 339,312, 675 kilograms being loaded onto steamships in the Mykolaiv Seaport in 1933. The loading was carried out entirely in Mykolaiv onto 41 steamships, with 14 steamships having extra loads added in other ports. Of these 42 foreign steamships were for Western Europe, 6 for the Far East, 1 Soviet steamship, and 6 Soviet steamships were also for Western Europe; v. 211, a. c. 208-211

Resolution of the Mykolaiv City Party Committee “On measures for loading export vessels with grain” from 20 November 1933, in accordance with which it was decided to keep to a schedule of delivery to the elevator of 6 thousand tonnes of grain per day to ensure the loading of 5 steamships which were waiting; v. 214, a. c. 81

Other archival documents.

The battle waged by the Stalinist totalitarian regime against the “Ukrainian national liberation movement” is also confirmed:

by material evidence:

archival documents – the initiating by the GPU of group criminal files against the “Union of Liberation of Ukraine” [CVU, 1929-1930); “Counter-revolutionary pernicious organization in Ukrainian agriculture” (1930); “Military-Officer Counter-revolutionary Organization” (1930-1931), “Ukrainian National Centre” (UNC, 1930-1932), “Labour Peasant Party” (“TCN”, 1931); “The Ukrainian Military Organization” (UVO, 1932-1933) and others; v. 22, a. c. 121-144

Furthermore, according to the Conclusions of the Forensic Psychological Expert Analysis from 17 December 2009 № 10588, as a result of the creation of conditions of life leading to longstanding deprivation of food and of the possibility of finding food (1932-1933 in Ukraine) changes took place in people’s psychological state which could lead them to commit suicide, kill for cannibalistic purposes or to feed on the corpses of close relatives or other people who had died.

Hunger is one of the most potent factors influencing a person’s psyche and all their behaviour; the sense of hunger and its being experienced are all a single psycho-physiological process.

As a result of Holodomor in Ukraine in 1932-1933 there may have been a shattering of people’s psyche, since longstanding hunger causes a fall in energy, emaciation, apathy, and demoralizes behaviour (brings about a psychological breakdown); v. 330, a. c. 126-130

According to data contained in the Conclusion of the Institute of Social and Political Psychology of the Academy of Sciences of Ukraine from 30 November 2009 № 02-15/409, during the period 1932-1933 a large number of people in Ukraine experienced severe physical and psychological suffering as a result of longstanding malnutrition and hunger.

The actions of the Stalinist totalitarian regime during the 1930s bore the hallmarks of political technology, they caused a breakdown in the psyche of the population living on Ukraine's territory; such a psychological has far-reaching consequences such as psychological trauma for the direct victims and elements of this being passed on over generations (the specific features of these psychological consequences and means of overcoming them by descendants in the third generation require special research).

There was a depressive effect and weakening by hunger of virtually all factors determining human behaviour: self-protection, risk threshold, reproductive sexual instinct; religious, moral, aesthetic feelings, etc; v. 330, a. c. 134-152

Confirmation of the deliberate creation in Ukraine in 1932-1933 of conditions of life directed at destroying a part of the Ukrainian ethnic group as such is found in the numerous facts of such asocial phenomena as cannibalism in Ukraine. This is confirmed by material evidence – 1,022 criminal cases over cannibalism and feeding on corpses carried out in various regions of Ukraine specifically in 1932 – 1933 and only during that period; v. 24, a. c. 1-123, 124-246, v. 25, a. c. 106, 153

Death from starvation in 1932-1933 is confirmed:

by material evidence – the books containing death registers during the period 1932-1933, with these numbering 3,186 which are held in Ukraine and protocols of their checks during which the fact was established of an increase in the death rate from starvation and concomitant illnesses during the period 1932-1933.

In Ukraine 857 mass burial sites of victims of genocide have been identified

v. 68, a. c. 2-78, 82-85, 90-93, 98-101, 104-107, 110-114; v. 102, a. c. 10-19; v. 127, a. c. 3; v. 139, a. c. 1-10; v. 151, a. c. 1-5, 7-13, 15-21, 23-28, 30-36, 38-45, 47-52, 54-59, 61-65, 67-73, 75-80, 82-86, 88-92, 94-99, 101-107, 109-114, 116-122, 124-129; v. 162, a. c. 1-12; t. 174, a. c. 8, 40, 47-49, 58, 92-99, 107, 111-114; v. 217, a. c. 1-159, v. 218, a. c. 1-177; v. 236, a. c. 1-174; v. 237, a. c. 259-260; v. 250, a. c. 1-297; v. 251 a. c. 1-257; v. 259, a. c. 1-95; v. 261, a. c. 52-59; v. 272, a. c. 1-257; v. 290, a. c. 2, 7-11; v. 299, a. c. 1-209; v. 301, a. c. 2-6; v. 326, a. c. 76-82, 87-93; v. 309, a. c. 1-208; v. 310, a. c. 1-240; v. 311, a. c. 1-214; v. 312, a. c. 1-247

The criminal investigators also received documentary evidence of events in the UkrSSR during Holodomor which are testified to in the reports of the Italian consulates in Kharkiv, Kyiv, Odessa, Leningrad and the embassy in Moscow for 1932-1935. For example, in the report of the Italian consulate in Kharkiv Sergio Gradenigo to the Italian Embassy in Moscow "On the famine and Ukrainian issue" from 31 May 1933 № 474/106 it is stated that "Famine is continuing to rage and destroy people and it is simply impossible to comprehend how the world can remain indifferent to such an evil and how the international press can calmly observe the mass murder

which has been organized by the Soviet Government. There is no doubt that this famine is artificial and specially created to “teach the peasants a lesson”. “The ethnographic material should be altered” one high-ranking official in the local GPU said cynically. Through barbaric requisitions the Moscow Government has not simply created a shortage of food (that would be putting it much too mildly), it has created a situation whereby there are no means of existence for the Ukrainian rural areas, in Kuban and the mid Volga”; v. 38, a. c. 1-6, 7-132, 133

Confirmation of the perpetration of genocide against a part of the Ukrainian ethnic group is also found in documents of German diplomatic institutions in 1932-1933 with reports about the actions of the Bolshevik regime in the UkrSSR and other archival documents; v. 39, a. c. 1-296

According to data in the Conclusions of the Forensic Comprehensive Historical and Legal Expert Assessment from 28 December 2009, as a result of deliberate and systematic actions by the leadership of the USSR and UkrSSR in Ukraine during the second half of 1932 and first half of 1933 a crime was committed which falls under Article 442 § 1 of the Criminal Code. The highest Party and Soviet leadership passed and enforced decisions aimed at the deliberate deprivation of people in rural areas of Ukraine of all food items and of their access to food which led to the mass starving to death of representatives of a part of the Ukrainian ethnic group as such since the absolute majority of the rural population was made up of Ukrainians, and the absolute majority of Ukrainians were peasants.

On the territory of Soviet Ukraine conditions of life were created which were aimed at destroying a part of the Ukrainian peasantry as a proportional element of the Ukrainian ethnic group which bears the hallmarks of the crime of genocide as per Article 442 § 1 of the Criminal Code of Ukraine; v. 330, a. c. 175-251

Thus, the criminal investigators have established that the crime of genocide in Ukraine in 1932-1933 was organized and perpetrated by the heads of the communist Bolshevik Party who were members of the Central Committee of the Soviet Communist Party and the Central Committee of the CPU, namely: Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych.

On the basis of the above, bearing in mind that the crime of genocide was organized and perpetrated by Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych who are all dead and cannot therefore be brought to bear criminal liability, and the criminal investigation was needed to establish all the circumstances of the crime perpetrated; guided by Articles 1 and 2 of the UN Convention from 9 December 1948 “On the Prevention and Punishment of the Crime of Genocide”, Article 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms from 4 November 1950, the UN Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity from 26 November 1968; Article 62 of the Ukrainian Constitution; Article 6 § 1.8, Article 34 § 1.2, Article 130 of the Criminal Procedure Code of Ukraine [CPC], the criminal investigation unit, having agreed its decision with the Prosecutor General of Ukraine, sent the criminal case for examination by the Kyiv Court of Appeal in accordance with current criminal procedural legislation.

Having heard the report of Prosecutor O. Dotsenko who considers it necessary to terminate the criminal case on the basis of Article 6 § 1.8 of the CPC in view of the death of Stalin, Molotov,

Kaganovich, Postyshev, Kosior, Chubar and Khatayevych, who as stated in the conclusion of the criminal investigation unit, perpetrated the crime under Article 442 § 1 of the Criminal Code, having checked the material of the case as to the actual circumstances of the organization and perpetrating throughout 1932-1933 of the crime of genocide against a part of the Ukrainian ethnic group by means of the material, the Court of Appeal states the following:

The reason and grounds for initiating a criminal case over the perpetrating of genocide in Ukraine in 1932-1933 were an application from Ukrainian National Deputies H. Omelchenko, O. Chornovolenko, the Head of the Association of Researchers of Holodomor in Ukraine, L. Lukyanenko, the Head of the Vasyl Stus Memorial Association, R. Krutsyk, the Head of the Ukrainian Institute for National Remembrance I. Yukhnovsky and a Statement from members of the public A. Hlukhovska, A. Nosenko, H. Vasylyeva, V. Solomky, M. Manko, P. Metly and H. Krasovska which contained information about the crime of genocide, as well as sufficient factual data about the perpetrating on the territory of Ukraine in 1932-1933 of the crime of genocide by means of an artificially created Holodomor contained in the material of the check into the above-mentioned applications, carried out by the Security Service of Ukraine [SBU], v. 1, a. c. 30-34

In accordance with the requirements of Article 97 of the CPC, the SBU, which following Article 24 § 3 of the Law on the Security Service of Ukraine from 25.03.1992 p. № 2229-XII is also the detective inquiry [diznannya] and criminal investigation body, lawfully accepted the above-mentioned Appeal and Statement containing information about the crime of genocide, and according to the results of the preliminary criminal check instigated the given criminal cases over elements of the crime set out in Article 442 § 1 of the Criminal Code of Ukraine which are indicated by the factual circumstances discover during the investigation.

There were no grounds for passing another decision as envisaged by Article 97 of the CPC, such as refusing to initiate the given criminal case or sending the Statements and Appeals which contain information about the crime of genocide to other law enforcement agencies and State bodies or departments since according to the provisions of Article 112 § 3 of the CPC in a case concerning the crime set out in Article 442 of the Criminal Code, the criminal investigation is carried out by SBU investigators.

On 25.09.2009 at their press conference the heads and representatives of the SBU Press Service informed that they had initiated a criminal investigation over the perpetrating of genocide in Ukraine in 1932-1933, that is over elements of the crime set out in Article 442 § 1 of the Criminal Code.

Article 236-7 of the CPC states that the “decision by the body of detective inquiry, criminal investigation or Prosecutor to initiate a criminal case against a specific person or over a crime having been perpetrated may be appealed in a local court according to where the body is located, or to the work of the official who passed the decision, following the rules of jurisdiction”.

The above-mentioned decisions by investigators of the Central Investigation Department of the SBU on 22 May 2009 to initiate criminal investigations over the perpetrating of the crime set out in Article 442 § 1 of the Criminal Code – genocide, and from 25 December 2009 to initiate criminal proceedings in relation to Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and

Khatayevych over elements of the crime set out in Article 442 § 1 of the Criminal Code – were not appealed.

Articles 213 and 214 of the CPC set out grounds and procedure for terminating a criminal case at the stage of pre-trial investigation, including under the circumstances stipulating in Article 6 of this Code.

According to Article 229 § 1.3 of the CPC, having checked a criminal case, the Prosecutor or his deputy terminates it, having taken a decision to this effect following the requirements of Article 214 of this Code.

Neither the criminal investigation body nor the Prosecutor availed themselves of the procedural powers given them, having reached the above-mentioned conclusion that the decision in the case should be taken by the court.

The Court of Appeal is convinced that the decision of the criminal investigation body to pass the given criminal case to the Kyiv Court of Appeal is well-founded and lawful on the following grounds.

In the case law of domestic criminal proceedings the criminal case in question is absolutely unique and has specific procedural features.

The uniqueness and specific nature of this criminal case is explained by well-known procedural reasons – the death of the people indicated in it who perpetrated the crime of genocide, in connection with which it is subject to termination (Article 6 § 1.8 of the CPC) and those gaps and failings which objectively exist in Ukraine's criminal procedure legislation.

According to Article 62 of the Constitution, “A person is presumed innocent of committing a crime and shall not be subjected to criminal punishment until his or her guilt is proved through legal procedure and established by a court verdict of guilty.”

Thus, regardless of the fact that the people who, according to the conclusion of the criminal investigation body, organized and directly perpetrated the crime of genocide with relation to a part of the Ukrainian ethnic group, have died; bearing in mind the legal significance of the decision by the criminal investigation body in the case over the given crime having taken place, and it was perpetrated specifically by Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych, the given decision should be checked by a court since, in accordance with Article 124 § 2 of the Constitution, “The jurisdiction of the courts extends to all legal relations that arise in the State”.

Article VI of the UN Convention from 9 December 1948 “On the Prevention and Punishment of the Crime of Genocide” also envisages that “Persons charged with genocide or any of the other acts enumerated in article III (they are also cited in the disposition to Article 442 § 1 of the Criminal Code) shall be tried by a competent tribunal of the State in the territory of which the act was committed”. Via the sanction in Article 442 § 1 of the Criminal Code punishment is envisaged for the crime of genocide, including life imprisonment.

According to Article 34 § 1.2 of the CPC appellate courts of the regions (oblasts), the republic of the Crimea, the cities of Sevastopol and Kyiv are competent to examine criminal cases involving crimes which envisage a sentence of life imprisonment.

Thus the above-mentioned provisions of domestic legislation and the 1948 UN Convention, ratified by Ukraine on 22 July 1954 demonstrate the correct and legal balance of the position, according to which the issue of checking the factual circumstances of perpetrating the crime of genocide of a part of the Ukrainian ethnic group and the conclusions of the criminal investigation body regarding them and the passing of a decision that the case should be terminated specifically by the court, in this case the Kyiv Court of Appeal.

Furthermore provisions set out in Article VI of the UN Convention from 9 December 1948 exclude the jurisdiction of the given criminal case to the court of another country, including the Russian Federation, in whose capital – Moscow – in 1932-1933 a number of decisions were taken which resulted in Holodomr in Ukraine being artificially created as a major method for perpetrating the crime of genocide of a part of the Ukrainian ethnic group since the case should be examined “by a competent tribunal of the State in the territory of which the act was committed “

As one sees from the material of the case, it was these provisions of the Convention which the SBU was guided by in launching and investigating a criminal case under Article 442 § 1 of the Criminal Code.

The arguments of the criminal investigation body about the force of Article 442 having retroactive force over the period during which the crime of genocide via Holodomor 1932-1933 are based on the following provisions of domestic and international legislation.

Article 58 of the Constitution establishes the general rule according to which “Laws and other normative legal acts have no retroactive force, except in cases where they mitigate or annul the responsibility of a person.”

The given constitutional provisions are reflected in Article 5 of the Criminal Code “Retroactive force of the law on criminal liability in time”.

At the same time, according to Article 49 § 5 of the Criminal Code the fact that a lot of time has elapsed is not applied as grounds for waiving criminal liability (or equally as grounds for recognizing the fact that a crime was perpetrated) “shall not be applied in the case of crimes between committed against peace and safety of mankind, set out in Articles 437 – 439 and Article 442 § 1 of this Code”.

Article 442 “Genocide” is contained in Section XX of the Criminal Code: “Crimes against peace, safety of mankind and international order”.

The essence of the above-mentioned domestic legislation which envisages criminal liability for committing genocide complies with the provisions of international legislation which envisages

criminal liability for crimes against peace and human safety is based on it and in complete agreement with it.

In accordance with the UN Convention from 9 December “On the Prevention and Punishment of the Crime of Genocide”, Article 1 of the Law “On Holodomor 1932-1933 in Ukraine” from 28.11.2006 № 376-V states that “Holodomor 1932-1933 in Ukraine was an act of genocide against the Ukrainian people”.

Article 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms from 4 November 1950 envisages that the principle of non-retroactivity of criminal law “shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations”.

The UN Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity from 26 November 1968, ratified by the UkrSSR on 25 March 1969 envisages that genocide is punishable “even if such acts do not constitute a violation of the domestic law of the country in which they were committed” ((Article 1 of the Convention).

According to Article 9 of the Ukrainian Constitution the above-mentioned international normative legal acts are part of the national legislation of Ukraine since the Verkhovna Rada agreed to make them binding. Their provisions comply with the essence of Articles 21 and 22 of the Constitution according to which “All people are free and equal in their dignity and rights. Human rights and freedoms are inalienable and inviolable” (Article 21) and “Constitutional rights and freedoms are guaranteed and shall not be abolished” (Article 22 § 2). .

There are thus no legal prohibitions on applying paragraph one of Article 442 of the Criminal Code retroactively with respect to the actions of Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych in organizing and directly perpetrating genocide of a part of the Ukrainian ethnic group by artificially creating Holodomor in Ukraine in 1932-1933, as is stated in the Conclusion of the Central Investigation Department of the SBU.

This conclusion of the court of appeal is also based on the following.

The Preamble to the UN Convention from 9 December 1948 “On the Prevention and Punishment of the Crime of Genocide” states that the civilized world condemns genocide as an “odious scourge” from which humanity must be liberated and recognizes that “at all periods of history genocide has inflicted great losses on humanity”.

According to the substance of Article 1 of the Convention genocide, whether committed in peacetime or during military action is a crime that violates the norms of international law and against which countries (the signing parties) commit themselves to take measures to prevent and punish such actions.

Having checked the factual circumstances of the case laid out in the resolution of the criminal investigation body, the court of appeal, on the basis of thorough analysis and comprehensive

analysis of the evidence gathered in it in their entirety, finds well-founded and proven the conclusions laid out in the resolution that Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych committed the crime correctly qualified under Article 442 § 1 of the Criminal Code as genocide of a part of the Ukrainian ethnic group.

The essence and elements of the crime of genocide are set out in the beginning paragraph of Article II of the 1948 Convention which states that “genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such”.

It is generally recognized in the doctrine and practice of international law that for qualifying criminal acts like genocide it is necessary to prove that the person who committed the crime had special intent (*dolus specialis*) to destroy only the group indicated in the Convention and the direction of their criminal behaviour was against the designated group as such.

Therefore genocide is distinguished from other crimes against humanity, in the first place, by the nature of the intention, and not the number of victims, secondly, by the direction not against people in general, but against a clearly defined circle of types of human groups, thirdly it is directed not against individual members of such groups, but against the groups as such.

According to the disposition to Article 442 § 1 of the Criminal Code the target of the given crime is the safety of the existence of this or that national, ethnic, racial or religious group.

Thus, for genocide what is typical is the fact that the members of the groups stipulated in the 1948 Convention, just as in part one of Article 442 of the Criminal Code, are destroyed in whole or in part through their belonging to such groups.

Thus the ethnic makeup of the participants in the crime do not constitute its legal hallmark, and therefore do not influence the qualification of the specific unlawful actions established by the criminal investigation body committed by Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych as the crime of genocide.

The circumstances of the case established prove that the target of the criminal actions indicated in the resolution was the safety of existence of the Ukrainian ethnic group in part which is confirmed by collected and tested evidence of the conditions of life created for them and aimed at their partial physical destruction by carrying out Holodomor in Ukraine resulting in the death of 3 million 941 thousand people.

According to the norms of current Ukrainian and international legislation a national group (nation) is what has developed historically, an enduring community of people typically with a common territory, economic links, their own language, specific features of life, culture, spirituality. The part of the Ukrainian ethnic group against whom in 1932-1933 the crime of genocide was directed fully corresponds to the above-mentioned aspects.

The objective side of the crime of genocide, set out in Article 442 § 1 of the Criminal Code is also stipulated in the case. Actions have been established, as a result of which by artificially

creating conditions of life which led to Holodomor 1932-1933, the Ukrainian ethnic group was destroyed in part.

The evidence gathered by the criminal investigators confirms that the crime of genocide organized and perpetrated by Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych was aimed not against members of other ethnic groups who also suffered from Holodomor 1932-1933, but to a much lesser extent than ethnic Ukrainians, but specifically against a part of the Ukrainian nation.

It is unqualifiedly proven that Holodomor was planned by the above-mentioned people and carried out as one of the stages of the special operation against a part of the Ukrainian ethnic group as such since it was the Ukrainian nation, and not ethnic minorities who acted as the bearer of State-creating self-identification by leaving the USSR and establishing an independent Ukrainian State. It is for this reason that the direct target of Holodomor 1932-1933 was the Ukrainian ethnic group and its considerable factor – the Ukrainian peasantry.

According to the circumstances of the case established by the Criminal Investigation Unit the main role in ideological provisions, planning, organizing and carrying out Holodomor belonged to a non-Ukrainian international group made up of Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych.

Participation in the given group among the above-mentioned people of ethnic Ukrainian Chubar in no way influences the qualification of the given crime perpetrated by artificially creating in 1932 – 1933 as genocide since neither domestic criminal legislation nor international criminal law, in the first instance the above-mentioned Conventions, make its qualification (or any other crime either) dependent on the ethnic origin of the criminal

The 1948 Convention and provisions of Article 442 § 1 of the Criminal Code do not link the qualification of specific cases of genocide with the nationality of the people who committed them.

In Article IV of the Convention on the Prevention and Punishment of the Crime of Genocide passed on 9 December 1948 it is merely stipulated that: “Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals”.

The perpetrator of the crime set out in Article 442 of Ukraine’s Criminal Code is general.

In determining whether there was such a crime it is of no significance whether it was perpetrated by a representative of the so-called title nation or ethnic minority, Caucasian or Negroid, believer or atheist.

It is equally of no importance whether the perpetrator and the victims belong to one race, national, ethnos or faith.

In the given criminal case the criminal investigation body has identified the following perpetrators of the crime set out in Article 442 § 1 of the Criminal Code: Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych.

The criminal investigation body – the Security Service of Ukraine – has established that the ideologue behind, and person who ordered and organized Holodomor in Ukraine in 1932-1933 as a means of carrying out the crime of genocide was Stalin who played a leading and key role in planning the crime, formulating the mechanism for perpetrating it and exercising control over its being carried out. As General Secretary of the Central Committee of the Soviet Communist Party to whom the Politburo was subordinate, Stalin was the initiator of all the above-mentioned principal party decisions on organizing Holodomor in Ukraine.

The specialized components of the central mechanism for carrying out Holodomor in Ukraine were the extraordinary grain requisition commissions created by decisions of the Politburo which was headed by people in Stalin's closest circle.

V. Molotov, member of the Politburo and Head of the Sovnarkom of the USSR, was appointed head of this specialized commission in Ukraine. L. Kaganovich played a role in the work of this specialised commission whose makeup was not clearly defined. Kaganovich was a member of the Politburo and Secretary and Head of the Agricultural Section of the Central Committee of the Soviet Communist Party, who was himself from Ukraine, knew the state of affairs in Ukraine and from 1925-1928 was General Secretary of the Central Committee of the CPU

As well as Kaganovich, P. Postyshev carried out special functions in Ukraine. In accordance with Resolution of the Central Committee of the Soviet Communist Party and Sovnarkom of the USSR "On grain requisitions in Ukraine" from 19 December 1932, the two men, together with the republic's leadership were instructed to take all necessary measures to meet excessive grain requisition quotas which were fatal for Ukraine's rural population. As has been established, it was for this purpose that Kaganovich and Postyshev were in Ukraine from 20 to 29 December 1932. From January 1933 Postyshev was appointed Second Secretary of the Central Committee of the CPU and First Secretary of the Kharkiv Regional Committee of the CPU (while remaining Secretary of the Central Committee of the Soviet Communist Party until February 1934).

As a person close to Stalin, he effectively controlled the First Secretary of the Central Committee of CPU, Kosior. Endeavouring to ensure implementation of unreal grain requisition quotas and thus effectively organizing Holodomor, Postyshev played a decisive role in crushing the national bent in the CPU, neutralizing and subjecting to repressing those representatives of the Bolshevik Party who spoke out against excessive grain requisition quotas.

Kosior was the First Secretary of the Central Committee of CPU, Chubar was the Head of the Sovnarkom of the UkrSSR and Khatayevych, during the period from October 1932 to January 1933 – the Second Secretary of the Central Committee of CPU, and from 29 January 1933 the First Secretary of the Dnipropetrovsk Regional Committee of the CPU, They, together with other leaders of regional and district committees of the Communist Party of Bolsheviks, both that for the Soviet Union, and the CPU, heads of district executive committees, authorized representatives of regional committees of the CPU and heads of the State Political Department [GPU] of the UkrSSR, material in relation to whom in a decision from 28 December 2009 was separated from

the criminal case into separate proceedings (v. 330, a. c. 252-253), were in the Ukrainian core of organizers of Holodomor 1932-1933 and were direct implementers of the crime of genocide perpetrated against a part of the Ukrainian ethnic group.

In order to increase control over their implementation of the criminal decisions issued by Stalin, the Politburo subordinate to him and the Sovnarkom of the USSR, aimed at organizing and perpetrating Holodomor in Ukraine, the top people in the Ukrainian leadership were at the same time in the highest Soviet Party bodies. Kosior was a member of the Politburo of the Central Committee of the Soviet Communist Party from 1930; Chubar was a candidate for membership of this same body from 1926-1935.

From the subjective side the crime set out in Article 44 of the Criminal Code is characterized by guilt of direct intent.

A special feature of genocide in the forms set out in paragraph one of this Article is the objective – destruction in full or part of any national, ethnic, racial or religious group. It has been proven that the parameters of Holodomor in Ukraine comply with the requirements of provisions of the 1948 Convention.

The criminal investigation body has fully and comprehensively established the special intention of Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych – to destroy a part specifically of the Ukrainian (and not any other) ethnic group and has objectively proved that this intention applied specifically to a part of the Ukrainian ethnic group as such.

The reasons and motives for carrying out the crime of genocide (crushing the national liberation movement of the Ukrainian peasantry and preventing the creation of an independent Ukrainian State), the question of where (the territory of Ukraine), and when (1932-1933) the crime was perpetrated also found confirmation in the material of the case.

On the basis of a thorough analysis and comprehensive assessment of the circumstances presented in the resolution regarding the crime of genocide committed, the evidence amassed which confirms this and the conclusion that it was perpetrated by Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych with direct intent, namely in order to destroy a part of the Ukrainian ethnic group as represented by the Ukrainian peasantry, the Court of Appeal finds that the criminal investigation body has established and proven the subjective side of the crime as set out in Article 442 § 1 of the Criminal Code.

There are thus no legal grounds for terminating the criminal case because of the lack of events of the crime or because of the lack of the element of the crime set out in Article 442 § 1 of the Criminal Code (items 1 and 2 of Article 6 § 1 of the CPC).

According to the information provided in SBU Letter № 5/1/1-22941 from 25 December 2009, Stalin died on 5 March 1953; Molotov – on 8 November 1986; Kaganovich – on 25 July 1991; Kosior died (was executed) on 26 February 1939; Chubar died (was executed) on 26 February 1939; Postyshev died (was executed) on 26 February 1939 and Khatayevych died (was executed) on 27 October 1937; v. 329, a. c. 158-159; v. 10, a. c. 138.

In accordance with Article 6 § 1.8 of the CPC, a criminal case, initiated with respect to a person deceased, should be terminated.

Pursuant to the requirements of Article 237 of the CPC “Issues which are ascertained by the judge during the preliminary review of a case”, the judge ascertains whether there are grounds for terminating the case.

According to Article 248 § 1 of the CPC “given circumstances envisaged by Article 6 ... of this Code, the judge in his or her motivated ruling terminates the case...”

Having examined the case at preliminary examination stage and concluded that the criminal case needs to be terminated on the above-mentioned grounds, the Court of Appeal states that it cannot be scheduled for court consideration by a panel of judges since such examination with regard to people who are deceased is not allowed for by Ukraine’s current criminal procedure legislation with the exception of cases stipulated in Article 6 § 1.8 of the CPC when the proceedings in a case are needed for the rehabilitation of the deceased, or the reinstatement of a case against other people due to newly discovered circumstances.

Charges against Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych under Article 442 § 1 of the Criminal Code were not put forward by the criminal investigation body and could not be in view of their death. For this reason a prosecution conclusion was not drawn up.

There are no grounds for the rehabilitation of Stalin, Molotov, Kaganovich, Postyshev, Kosior, Chubar and Khatayevych, with no conviction over the given criminal case having been imposed against them. Furthermore the criminal investigation has established and proven that they committed the crime set out in Article 442 § 1 of the Criminal Code.

The Court of Appeal also points out the lack of grounds as set out in Article 246 of the CPC for returning the criminal case for further investigation since given the specific features of the case the criminal investigation has been fully and comprehensively carried out and on the basis of its results, as has already been stated, the criminal investigation body issued an objective and lawful decision to send the criminal case for the examination of the Kyiv Court of Appeal whose place it is to terminate it.

On the basis of the above, guided by Articles 6 § 1.8, 240 and 248 of the Criminal Procedure Code of Ukraine, the Court of Appeal

HAS RESOLVED

To terminate the criminal case initiated over the committing of genocide in Ukraine in 1932-1933 against Stalin (Dzhughashvili), Joseph Vissarionovich; Molotov (Skryabin), Viacheslav; Kaganovich, Lazar; Postyshev, Pavel; Kosior, Stanislav; Chubar, Vlas and Khatayevych, Mendel in connection with their death. According to the conclusion of the criminal investigation body – the Central Investigation Department of the Security Service of Ukraine – in order to crush the national liberation movement in Ukraine and prevent the building and affirmation of an independent Ukrainian State, by creating conditions of life aimed at the physical destruction of a

part of Ukrainians through Holodomor 1932-1933 which they planned, deliberately organized the genocide of a part of the Ukrainian ethnic group as a result of which 3 million 941 thousand people were killed, that is, they directly perpetrated the crime envisaged in Article 442 § 1 of the Criminal Code of Ukraine.

Cassation appeals may be made for seven days following the issue of this ruling, and the Prosecutor may make a cassation appeal to the Supreme Court of Ukraine.

Judge of the Criminal Chamber of the Kyiv Court of Appeal, V.M. Skavronik