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Minister of Justice Gives Speech on Projected
Criminal and Civil Procedure Codes
Otechestven Front, Sofia, 3-16 Feb 1952

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MINISTER OF JUSTICE GIVES SPEECH ON PROJECTED CRIMINAL ~~AND CIVIL~~
PROCEDURE CODES⁴ -- Sofia, Otechestven Front, 3 Feb 52

Yesterday at 1500 hours the fifth regular session of the National Assembly continued its work. The Vice-President of the Bureau of the National Assembly, Iliya Radkov presided over the meeting.

The People's Representatives unanimously adopted the proposal of the Chairman of the Council of Ministers, Comrade Vulko Chervenkov, for the election of the following new members to the government: Nikola Trayanov -- Chairman of the Office for State Supply and Reserve, Demir Yanev -- the Minister of National Education, and Ruben Levi -- Chairman of the Committee for Science, Art and Culture.

The new members of the Government were confirmed by the constitutionally established oath.

The People's Representatives unanimously voted for a bill to change and supplement the law on weights and measures.

Then the National Assembly considered the projected Civil Procedure Code.

Speeches were made on the project by the Minister of Justice, Radi Naydenov, People's Representative Ivan Chonos -- on behalf of the Parliamentary Group of the Bulgarian Communist Party BCP -- and People's Representatives Yanko Markov -- on behalf of the Parliamentary Group of the Bulgarian National Agrarian

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Union (BZNS), after which the National Assembly unanimously adopted the code.

Then Iliya Radkov made a brief speech and declared the fifth regular session of the National Assembly adjourned.

Speech of the Minister of Justice, Comrade Radi ^NMaydenov:
Comrades and People's Representatives;

In Article 3 of the law for the judicial system of the USSR it says: "In all its actions the court educates the citizens in the spirit of devotion to the Motherland and the cause of socialism, in the spirit of exact and steadfast execution of the law, of a considerate attitude toward socialist property, in the spirit of labor discipline, of an honorable attitude toward state and social duty, and in the spirit of respect for the rules of the socialist Society."

It must at once be added that in particular socialist criminal justice is that action of the court which is expressed in a particular procedural form, and which is directed at the defense of the established social structure and legal order by applying the criminal laws of Bulgaria against traitors to the Motherland, against those who injure and damage socialist property, and those who commit other crimes. From this it is clear that the activity of the court is of very great importance.

The basic purpose of criminal procedure is to discover who is guilty of having committed a crime and to mete just punishment to him. The attainment of this goal depends to a great extent on the clarity, exactness, and flexibility of the procedural forms.

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Bulgarian socialist laws can best show their essence through the correct and exact conduct of a criminal case.

Marx and Engels said that one spirit has to inspire the trial and the law because the trial is the expression of the law and the manifestation of its essence.

The law for criminal procedure with its amendments and supplements, which has already been revoked, was partially suited to the new needs, but this was not enough.

After the adoption of Bulgaria's new criminal laws the next thing that presented itself was to work out a new Criminal Procedure Code.

We propose such a project to you. In its makeup the principles embodied in the Dimitrov Constitution on People's Courts and public prosecution have been taken into consideration, along with Soviet legislation, chiefly the Criminal Procedure Code of the RSFSR and scientific works on Soviet criminal procedure. The new procedure laws of Poland and Czechoslovakia were also used, but with Bulgarian idiosyncrasies and needs being taken into account.

The goal which is pursued in the performance of legal procedure actions by the court and parties in the trial of a criminal case is the disclosure of the truth. In order to be able to attain such a goal, the parties are granted all the necessary procedural expedients for the protection of their rights and lawful interests. Socialist democracy here means judicial democracy, i.e., the guarantee to all citizens of the opportunity

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to use their procedural rights to the fullest extent.

As long as the accused is not acknowledged guilty, he is considered innocent and must be treated as such. He has the right of defense and this is guaranteed him in every instance.

In the socialist state the personal interests of the citizens are treated equally with public interests. This situation is reflected in the decree, according to which, if in a case of private nature the public prosecutor decides that it is necessary for him to intervene to protect public interest, he becomes the accuser and the case cannot be closed by reconciliation.

In order for the interests of the state institutions and enterprises, cooperatives, and other public organizations to be safeguarded, it is provided that the public prosecutor can bring a civil claim before the court which is trying the case, if the socialist organization concerned has not done so.

We must strive to turn the okoliya court, which is closest to the people, into a basic People's Court; therefore, it is given the trials of all cases besides those which have to do with crimes against the People's Republic of Bulgaria, especially important crimes against the administrative order, public property and national economy, and especially important crimes in office, which are prosecuted in the okrug court as the first instance.

But the okrug court can always seize and decide a case which is in the jurisdiction of the okoliya court for cases in which the court could take such a step. The same right is also given to the Supreme Court which, if it is considered expedient, can seize and

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decide any case in the jurisdiction of the okrug court.

Throughout the trial the court is not limited to any fixed period of time to gather its evidence, which it does officially and at the request of the parties, provided this evidence is of importance in clearing up the case. It evaluates separately and all together the pieces of evidence gathered, on the basis of its inner conviction.

The witnesses must tell the truth before the court, which they promise to do. The accused cannot be compelled to confess by threats or other coercive measures.

These rules guarantee the surest possible disclosure of the truth.

Our people's democratic state is a state of the workers, of the people, and all citizens are socially obligated to be vigilant; and if they find out that a crime of general nature has been committed, they ought to inform the public prosecutor, the police magistrate [sledovatel], the People's militia, or some other state official. Of course, this social obligation must not turn into informing; therefore, those who testify to someone's having committed a crime, are reminded that they will be held responsible for falsely informing. Anonymous reports can be used by the investigating officials only to make a preliminary secret check.

An important provision by which actions committed in bad faith are combatted, no matter what official has committed them,

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states that the defendant who is acquitted can seek redress from the officials responsible for the harm done to him by unfounded or irregular criminal prosecution, if these officials have acted in bad faith.

The court of appeals is for revision and cassation. The court of appeals examines the case at the appeal of the defendant or at the protest of the public prosecutor. The public prosecutor can make a protest in the interest of the accused or in the interest of the defendant, even with respect to a civil claim.

New written evidence and self-confession are presented before the court of appeals. This court is not restricted merely to a discussion of the grounds specified by the parties, but must officially and completely examine the regularity of the verdict.

The Bulgarian people's democratic state cannot tolerate irregular verdicts; therefore, the project provides for the revision by a control board of every verdict not subject to appeal or which cannot be revoked. The permission for this revision can be obtained at the proposal of the chief prosecutor of the Bulgarian People's Republic or of the President of the Supreme Court in cases of a violation involving the essence of a law. This revision has no time limitation.

Under circumstances cited in the law, the case can be reopened; but if the verdict is one of acquittal, the case can only be reopened within one year from the time of the disclosure of new evidence, but not later than 3 years after the verdict has gone into effect.

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Keeping in mind the fact that the purpose of punishment is to reform the perpetrator of the crime, and acting in accordance with the principle of socialist humanism, the project provides for a postponement of the serving of the sentence in the event of illness, pregnancy, birth, or completion of economic tasks with a deadline. In an instance where a mother is arrested, her children up to seven years of age are placed in a childrens' home if there are no relatives to care for them. In the case of severe illness or exceptional circumstances of a family or social nature, the serving of the sentence can be interrupted for up to one month.

There are special rules for cases conducted against minors. All cases against minors are tried by the okoliya court and a jury chosen from among teachers and parents. The case is tried behind closed doors at a session in which no other cases are tried.

The presence of the accused -- the young people and their parents, guardians, or trustees is compulsory. Data concerning the social origin, immediate environment, living conditions, degree of intellectual development, and physical condition of the minor are gathered during the investigation and the court inquest.

All of these rules have been formulated for a purpose which is pursued in punishing the minor, this purpose being to re-educate the minor and train him for socially useful labor.

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The project also includes rules for the trial of cases by military tribunals, and for cases in transportation.

Finally, we must mention that the basic socialist principles on which the project is built have left their imprint in the separate provisions. These principles are: the people's participation in jurisdiction, the elective office of judges, the equality of all citizens before the court, the strict observance of socialist legality, procedural guarantee for the parties, the principle of seeking material truth, of the judges' freedom of conviction, of public trial, of immediacy, of verbal procedure and debate. Such a requirement was also set forth for speedy trials both in inquests and before the court.

Comrades and People's Representatives, the importance of the proposed project for a new Criminal Procedure Code is great because with its adoption by the court into everyday practice the confirmation of socialist legality will be aided, and through it, the building of socialism in Bulgaria.

The Speech of the People's Representative, Comrade Ivan Pashov:

Comrades, People's Representatives:

The projected Criminal Procedure Code submitted for consideration by the National Assembly represents a new, valuable contribution to Bulgarian legislation and the legal structure of the people's democratic Bulgaria. The new Criminal Procedure Code (NFK) replaces the old Law for Criminal Procedure (ZNS), which was

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repealed by the one article Law which repealed all laws decreed before 9 September 1944. It is true that after 9 September 1944 -- from 1946 to 1951 -- the Law for Criminal Procedure was amended nine times to make it correspond with the new jurisdiction, with the structure of the Bulgarian people's democratic state. But, in spite of the many patches in the Bulgarian Criminal Procedure Code, it was still inappropriate for the new jurisdiction in criminal cases, because it bore deep traces of the monarcho-fascist past.

The true and consistent democracy of the new Bulgarian criminal law is expressed not only in its objectives, but in the methods and forms by which it achieves these objectives. It is in accordance with its nature that the people's democratic state, formulated its really popular, consistently democratic courts, procedural rules, and forms, in which its essence is revealed. Without strict observance of these forms neither could the objectives of people's democratic justice be realized, nor could its real and consistent democracy be preserved.

The procedural forms (principles) which comprise the procedural guarantees for the citizens of the Bulgarian People's Democracy were instituted on the basis of these fundamental principles in the Dimitrov Constitution of Bulgaria. All the necessary procedural expedients for the protection of their rights, freedom, and interests are at their disposal.

These same procedural principles, forms, and expedients are widely reflected in the proposed project for a new Criminal Procedure Code. The more important of them are as follows:

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1. The principle of the people's participation in jurisdiction is one of the most important democratic principles through which Bulgarian jurisdiction in criminal cases can be made democratic. The Bulgarian principle of elected jurors was introduced after the institution of the new law for the Formation of People's Courts (UNS) in March 1948, with an amendment to the Law for Criminal Procedure of 1948. This principle was introduced into the proposed project for absolutely every legal instance in criminal and civil cases which is a first instance, through a new amendment to the Law for the Formation of People's Court (ZUNS)
-- reference: Paragraph 6 in "Temporary Rules."

2. The elective office of judges was instituted in accordance with Article 58 of the Constitution, which established the principle. Judges are elected by the okrug People's Soviets. On this point the great Lenin also said that the judges should be elected directly by the people and should not be required to have any qualifications for eligibility.

3. The life tenure of judges is a bourgeois principle, completely reactionary in essence, which has not found a place in the Dimitrov Constitution of Bulgaria and has been rejected from Bulgarian legislation. Lenin declared himself completely and decisively against this reactionary principle, because through it the bourgeoisie try to maintain judge-bureaucrats who are loyal to their class in office.

4. The principle for the independence of judicial power. Article 56 of the Constitution of the People's Republic of Bulgaria

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establishes that the judges are independent; when they issue their verdicts, they are subject only to the law. They deliver their decisions and verdicts on behalf of the people. No one can interfere in their work of making decisions. The courts apply the letter of the law equally to every citizen.

5. The principle of the equality of all citizens before the court (Article 56, Paragraph I of the Dimitrov Constitution). This principle is set forth and implemented in Article 3 of the Law for the Formation of People's Courts: "The courts apply the laws equally to all citizens regardless of sex, nationality, race, religion, origin, social and material position, and education." This important and basic principle is also set forth in the proposed project for a new Criminal Procedure Code (Articles 3 and 4 and others).

6. The principle of procedural guarantee, i.e., giving all citizens the same necessary expedients for defense.

This important principle is set forth in the Dimitrov Constitution; and in the project for a Criminal Procedure Code in Articles 2 and 3 it is decreed explicitly: "The citizens are granted all the necessary procedural expedients for the defense of their rights and legal interests." This principle is also developed in other texts of the project. Today it is explicitly decreed in Article 36, Paragraph II of the project for the Criminal Procedure Code, that the court is not restricted to any fixed period of time to gather its evidence provided it is important in clearing up the case; according to Article 201 of the project, evidence can be brought forth and

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gathered right up to the conclusion of the court investigation -- the legal proceedings are carried on for the purpose of disclosing the truth in the case (Article 2 of the project).

7. The principle of the right of defense. This principle is set forth in Article 82 Paragraph 6 of the Dimitrov Constitution and Article 3 of the Law for the Formation of the People's Courts; the text is also set forth explicitly in Article 8 of the project. There is no restriction of this right for the defendant, and even Article 175 of the project provides for the appointment by the court of a court lawyer when the crime is punishable by death or imprisonment for not less than 10 years. The project even contains provisions by which the police magistrate and public prosecutor are obliged to gather evidence and to make an investigation of both the circumstances which might expose the accused and those which might be in his favor.

8. The remaining fundamental principles of criminal procedure are as follows: (a) the principle of public trial; (b) the principle of material truth; (c) the principle of immediacy and verbal procedure; (d) the principle of debate (the principle of prosecution); (e) the principle of official initiation; (f) the principle of the judges' freedom of conviction; (g) the principle of a speedy trial of the case. All of these principles are extensively embodied in the foundation of the proposed project for the Criminal Procedure Code.

All of these principles are very important; and if they are not observed, the goals and objectives of criminal procedure cannot be achieved.

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Comrades, People's Representatives, The proposed project for a Criminal Procedure Code will be a mighty weapon for disclosing and rendering ineffective those who commit crimes against the Bulgarian People's Republic, against the people's power, against socialist property, against the national economy, against state secrets, etc.

On behalf of the Parliamentary Group of the glorious Bulgarian Communist Party (BCP) I declare that we will unanimously vote for the proposed bill for the Criminal Procedure Code.

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ON THE CRIMINAL PROCEDURE
OTECHESTVEN FRONT, 14 Feb 52

On 1 Feb 52 the National Assembly adopted the new Criminal Procedure Code. With this code and the new Civil Procedure Code the building of Bulgarian socialist judicial legislation is completed.

The Criminal Procedure Code is based on altogether new principles in accordance with the Dimitrov Constitution and Soviet legislation. It has also been formulated in conformance with specific Bulgarian conditions.

The preliminary project for this code was subject to wide public discussion. It was circulated in all departments, in social organizations, in the public prosecutor's office, in the courts, in the lawyers' collectives, in many People's Soviets of Workers' Deputies, to professors who are specialists in this material, and others. The remarks, proposals, and recommendations made were discussed; many of them were taken into consideration and changes were made in the original texts. This improved project was examined and discussed in detail by the Legislative Commission attached to the National Assembly, which heard a great many specialists and representatives of many departments and made further revisions. After the project was examined by the Council of Ministers, it was adopted by the Plenary Session of the National Assembly and on 5 Feb 52 published in the Izvestiya of the Presidium of the National Assembly.

The disclosure of the truth in a criminal case in Bulgaria is the fundamental objective which the new code poses. All formal

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restrictions which hinder the attainment of this goal have been removed.

According to the provisions of the code, evidence in a case is gathered both at the initiative of the court and at the request of the parties. In this respect no fatal time limits are provided for. Even after the conclusion of the court inquest the court can decree that new evidence be gathered if it feels that the case has not been cleared up sufficiently. Furthermore, the Supreme Court, as the court of appeals, must officially revoke an appealed verdict if it considers the evidence gathered to be insufficient. The investigating officials, the public prosecutor and the court must gather evidence both for and against the accused.

The citizens are given all the procedural expedients for the defense of their rights and legal interests.

The defendant is innocent until sentenced. This law stems from the basic principle that one cannot be held responsible unless proven guilty. Not only is the principle of the presumption of guilt, which was supported by some bourgeois criminalists in the past, repudiated, but the reverse principle is set forth explicitly in Article 8 -- the accused is considered innocent until proven guilty. The right of defense is guaranteed and the defense is given full possibility to carry out its task.

Stemming from the principle that the purpose of punishment should not be to subject the accused to physical suffering or the degradation of his human dignity, the Criminal Procedure Code provides

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for his proper treatment. The accused cannot be compelled to confess by promises, threats, or duress. The accused can bring forth evidence in his own defense during the investigation and the preliminary inquest and before the court without any restrictions or time limits.

The person who has suffered from the crime can, in every stage of the trial, institute himself as a private prosecutor together with the public prosecutor. He can bring civil suit in a criminal case if he has suffered harm from the crime committed.

Instances in which a person can be arrested are clearly set forth. The public prosecutor must be informed not later than 48 hours after every arrest. The public prosecutor must either confirm the arrest, if he has legal grounds for it, or free the person. Even the police magistrate cannot order an arrest without bail without the permission of the public prosecutor.

The public prosecutor directs and supervises the investigation and preliminary inquest. In his hands is concentrated the prosecution of persons who have committed any kind of crime. He revokes the irregular actions of the officials of the investigation and the preliminary inquest.

The court has extensive rights in permitting evidence to be brought before it, in evaluating it, and in determining punishment. It is independent and directs itself according to the law and its own inner conviction. The law gives the court broad possibilities to make an all-round evaluation of the crime committed by the defendant and to determine just punishment. The court can mete punishment even under the minimum prescribed by law without re-

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strictions. The court can propose suspended sentence in many more cases than previously; the serving of the sentence, can, in this way, be postponed in every sentence in which there is imprisonment for a term of up to three years.

An important innovation is the so-called preparatory session. Since the case goes into court with an indictment, it is introduced at the preparatory session. At the session the court examines the indictment to see if there are sufficient grounds for it; and if it thinks they are sufficient to try the accused, it issues a decision to put him on trial. Otherwise, the court must either close the case or stop it if there are grounds, or return it for re-examination. The court must also close the case when it thinks that the action prescribed to the accused does not constitute a crime. In this way, it will avoid putting anyone on trial without sufficient evidence; it will limit delay, loss of time, and pressure on innocent citizens. The principle is established that the court has the final say in bringing the accused to justice, which is a very important procedural act.

The procedure before the court of appeals is set forth in an entirely new manner. The okrug courts (appeals against verdicts delivered by okoliya courts) and the Supreme Court (appeals against verdicts delivered by okrug courts serving as the first instance) will function as courts of appeal. If the appeal against the verdict is not signed, examination is not denied; the appellant is invited to sign it. The accidental omission of the appellant's signature is not subject to fatal results as formerly. All formal attitude toward procedural actions is abolished.

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Another entirely new procedural institution is the principle of the examination by a control board, which is absolutely unknown in bourgeois legislation. The purpose of this examination is to revoke and correct irregular verdicts which have gone into effect and have, therefore, not been subject to appeal. Socialist legislation does not wish to put up with any defective verdict, whether or not it has been effected. The enforcement of the verdict must not become an insurmountable formal obstacle to correct the injustice wrought by a verdict, if that verdict is obviously wrong.

But the principle of examination by the control board must be used carefully, in order not to turn it into a third instance, which socialist procedural law does not recognize. Therefore, the right to propose that a verdict which has gone into effect be examined by the control board is granted only to the Chief Prosecutor of the People's Republic and to the President of the Supreme Court. They will propose it if, after an appropriate check, they are convinced that the pronouncement of some verdict permitted a very real violation, which is grounds enough for revoking the verdict by the usual appeal, but which was not corrected in this way.

In both regular appeal and examination by a control board, the situation of the accused cannot be made worse if the public prosecutor has not made a protest against the verdict of the court of the first instance. This is still another guarantee to the accused provided for in the new code.

Judicial competency is determined informally and unmechanically, taking into account the punishment for individual crimes provided for

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in the law, and the nature of the crime and its danger to society, for this is the most characteristic and fundamental factor in every crime, according to the socialist concept.

The serving of the sentence is arranged for to ensure the educational effect of the punishment meted. The re-education of the criminal so that he will observe the rules of the socialist society is one of the chief objectives of jurisdiction.

According to the order instituted in the new law, criminal cases will be examined before both general and special courts. Therefore, it is both a general and a special procedural code for criminal cases.

A special order is also provided for the examination of cases against minors.

The format of the code is entirely new. Subjects are arranged according to importance and the connection between them; the order is consistent, and this facilitates finding individual principles and provisions.

The wording of the individual texts is clear. Strictly legal language, which made comprehension of the law difficult, has been avoided. This code can be comprehended not only by specialists, but by the broad masses of the people. However, the preciseness and correctness of what has been formulated has in no way been neglected.

The new Criminal Procedure Code will help in the disclosure of crimes and the meting of just punishment to the criminals, in the

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education of the workers, in stimulating them to conscious observance of the laws to adherence to state and labor discipline, and to enthusiastic creative labor in the building of socialism in Bulgaria.

Naum Khristov, Member of the
Legislative Council at the
Ministry of Justice

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SPEECH OF THE MINISTER OF JUSTICE, ~~COMRADE RADE NIKOLEV~~ ^{ON THE CIVIL PROCEDURE CODE}

Otechestven Front, 5 Feb 52

Comrades, People's Representatives:

We propose for your approval the project for a new Civil Procedure Code which will set forth the rules by which civil cases will be tried by our People's Courts.

In laying down the principles and composing the text of the project we have adhered to the principles of the Dimitrov Constitution, we have used the valuable experience of the Soviets. We have had before us the procedure laws of Poland and Czechoslovakia. We have also taken our own conditions into account.

The proposed project has 488 articles in which new material is set forth, while revised laws, which settle earlier procedure codes, amount to over 1,200 articles. It is understood that the brevity of the code in no way detracts from its clarity.

Much could be said about the project, but I will ask your attention on only the more important material or rather on new postulates which have been instituted in our socialist Civil Procedure Law.

The Bulgarian people's democratic state, which expresses the will of the workers, is interested in the proper application of laws, in justice. Even when the violation of a law infringes upon private interests, the Bulgarian state cannot stand idly by,

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but must be vigilant through its officials. And therefore, the procedure of a civil case can begin not only at the petition of the party concerned but also at the request of the public prosecutor.

The courts should not be placed^s before which parties appear to seek resolution of a dispute under civil law, to outstrip and outwit one another while Justice [Themis] sits idly by with her eyes blindfolded. Therefore, the parties participating in the trial of a case must exercise their procedural rights conscientiously and conform to the rules of the socialist society.

The right to seek the protection of the court is fully guaranteed to every person in the country. In addition, the parties must be sure that the judges and jurors who take part in their case will decide the dispute impartially and that they can be removed if interested in the outcome of the case or if found having special relations with the parties, which would cause sound grounds for doubt as to their impartiality.

The principles of the ability to act and represent the parties have been clarified and made more precise, and this will make it possible to rectify omissions permitted in the ability to act and represent. The lack of sufficient funds should not be an obstacle to the citizens seeking the protection of their rights. Therefore, the plan gives the Chairman of the okrug court and the okoliya judge the right to free persons from having to pay taxes and costs.

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The competency of the okoliya court is extended, because that court, which is closest to the workers must be developed into a basic People's Court.

Manifest is the care that has been established with regard to socialist organization; for if it is disclosed in the trial of a case that a state institution or enterprise or public organization is interested in the decision, the court must inform the organization concerned.

Evidence, including confession, is evaluated in its totality. "Self confession" is uncrowned. It is no longer "the queen of evidence" but only ordinary evidence, for one party can, because of its own considerations, confess on purpose to harmful circumstances to it. Decisive oaths are abolished as incomplete and dangerous evidential proof.

Citizens should know that they must put the agreements which they conclude in written form, because this gives them a greater guarantee of proving their case, which is in their interest. Therefore, witnesses are not allowed in the settlement of agreements where the sum of money involved amounts to over 20,000 leva.

Objections to witnesses because of kinship and other reasons are also not provided for but the testimonies of these witnesses are evaluated with reference to all the other evidence in the case, keeping in mind the possibility that they might be interested.

The witnesses are not heard under oath but they give their promise to tell the truth, and the court reminds them that they

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must answer before the law and the people if found guilty of perjury.

For greater expediency and with regard to the all-around role which the court has to play, the project arranges for the decision and the motives to be announced at the court session in which the case is concluded with the exception that in complex cases the court can postpone the announcement of its decision for 7 days.

In cases judged by the okoliya court, the court of appeals is the okrug court, while in cases judged by the okrug court the Supreme Court is the court of appeals. The court of appeals examines the case by revision and cassation. Only written evidence and self-confessions are permitted to go before this court. This is not a formal and restricted appeal as was the cassation appeal under bourgeois law, which closed its eyes to even the most obvious violations.

The court is a state organ which settles disputes having to do with civil rights and it should not be used as a place to stage the trumped up suits by which parties settle their shady deals. Civil rights relations must be honest and open. The rules of socialist society require this. Therefore, the project does not give protection to trumped up (false) cases, just as it does not allow a decision which has been made in a trumped up case and effected to be contested.

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The people's democratic power will not tolerate irregular decisions. The project contains the principle worked out and made more precise, for review by a control board of every decision which has been effected, and in which a basic law has been violated.

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ON THE CIVIL PROCEDURE CODE
OTECHESTVEN FRONT, 16 FEB 52

The socialist nature of the new Bulgarian civil law pre-termines the socialist nature of the Bulgarian Civil Procedure Code. Its rules have been made in conformance with social democracy, the interests of the workers, and the objectives of justice.

First of all the functions of the court are set forth in the code. The court is obliged to examine and decide on every petition made to it for the defense and aid of personal and property rights. It must take an active part in the all-round clarification of the actual rights and relations of the parties, in the establishment of material truth. It directs the parties while fulfilling its procedural actions, in order that their interests may not be harmed because of ignorance, illiteracy, or other reasons. The court must point out to the parties that they have not brought forth evidence for certain circumstances which are of importance in deciding the case. It can also officially gather evidence.

The court, therefore, is not only the audience in the trial of the case. It actively participates in clarifying the actual relations, because the Bulgarian people's democratic state is interested in the proper protection of personal and property rights, and of the interests of the citizens, which are protected by law. Therefore, only when the court considers a case absolutely cleared up does it bring the debating to an end and deliver its decision. It evaluates all the evidence in the case and the arguments of the parties on the basis of its convictions, also keeping in mind the facts of importance in the law under dispute which have appeared

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after the petition was submitted.

Justice is also meted through active participation of the parties to whom the code grants and guarantees procedural rights. But under fear of being held responsible for harm they might cause, the parties must exercise these rights in good faith and in accordance with the rules of the socialist society. Emphasis is laid on the fact that the parties are obliged to tell the truth before the court. The parties can introduce new circumstances and search for new evidence until the conclusion of the debating. Along with this they are given the opportunity to exhaust all the evidence at their disposal. The dispute between the parties must be exhausted completely in the trial of the case. Therefore, the plaintiff can, in every stage of the case in the first instance, change the grounds of his suit, if the court deems it appropriate for the defense of the defendant. The plaintiff can also, without changing his grounds, increase, decrease, or change the amount of damages ^ehe is seeking. And before the conclusion of the debating, he can also change his suit from one which seeks settlement of damages to one in which the defendant is punished. The parties must aid and abet the court in good faith in clearing up the case.

Justice is also meted with the aid of other persons, such as witnesses, etc., for which rules are also given -- first of all, in cases where the testimony of witnesses is not permitted. No one has the right to refuse to testify except the close relatives explicitly mentioned in the code. Requests that witnesses be barred for reasons of kinship or other causes are not provided for, but the testimonies of such witnesses are evaluated by the

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court in relation to all the other data in the case, keeping in mind the possibility of these people's interest in the case. The witnesses do not have to take an oath, but they promise to tell the truth, for they are reminded that they will have to answer before the law and the people if guilty of perjury.

On the spot examinations and check-ups are allowed not only to check other evidence, but as independent evidence also. However, in the mental test of a person, the court must act in such a way that it will not injure his personal dignity.

Confessions by the parties are evaluated by the court with respect to all the evidence in the case. The decisive oath is abolished as inappropriate proof.

The trial of the case and a correct decision on it educates the citizens. When a concrete civil rights case is settled properly on the basis of the application of Bulgarian socialist laws to the letter of the law, the court will show the power and importance of these very laws. It is in this way that the court educates the citizens to have respect for, and faith in, Bulgarian socialist laws as a powerful means of safeguarding and protecting the interests of the people's democratic state and the workers. Therefore, the code provides that the trial of the case as a rule, be held verbally at an open session and that the decision and motives be announced by the president at the session of the court at which the trial of the case is concluded. At the same time, the people's supervision of the action of the court is realized.

The rules for the procedure before the court of appeals are precise and clear. By these rules the court of appeals becomes a

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real revision and cassation court, which does not have to stand helplessly by before any glaring violations that are permitted, but is officially obligated to investigate the regularity of the decision in its entirety. It revokes the decision and sends the case back for a new trial when the decision contradicts the law, when essential procedural rules are violated, when the evidence gathered is insufficient, and when there are no grounds for the decision. The people's democratic state cannot permit irregular decisions. Therefore, it is given this broad possibility to correct it, for an irregular decision can be revoked even after it has gone into effect -- if the Chief Prosecutor of the People's Republic and the President of the Supreme Court so propose.

The code states in detail, rules of procedure for special cases. The following have been newly introduced into the procedure for matrimonial cases: Before the proceedings for a divorce case there are reconciliation proceedings, in which the okoliya judge must not restrict himself only to the explanations of the parties in the case, but must himself try to clarify the actual relations between them and establish the real motives for the divorce. If the court is convinced that there are no serious grounds for divorce, it must explain to the parties the lack of grounds in their motives for divorce and help them to make a reconciliation. Proceedings for a divorce case cannot be conducted without an attestation to the effect that the proceedings conducted for a reconciliation have been unsuccessful. In addition, a suit for divorce based solely on the guilt of the plaintiff cannot be honored if the other spouse insists that the marriage be preserved.

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In the temporary decrees of the code, Article 44 of the law for persons and families, which permitted divorce if the parties firmly and seriously agreed to it, has been revoked. Under this law, divorce was misused. It was revoked because it resulted in a frivolous attitude toward marriage.

In the part on legal partition certain instances have been set forth in a new way: instances in which there is, among the property, a house which cannot be divided with one of the co-heirs and his spouse having no home of their own. At the petition of the co-heir the court gives him the house as his share and divides the rest of the inheritance among the remaining co-heirs; in shares equal to the first co-heir's, if such an equal distribution is not possible, it makes payment for their shares.

Confiscation by administrative decree provides, among other things, for the sale of movable chattel, by bargain stores of the state trade enterprises if such stores do not exist, the chattel is sold through other stores of the state or trade enterprise. The sale is made for 90 percent of the amount at which the chattel was evaluated.

Last of all protective and notary procedures are set forth for the establishment of facts of legal importance and others, and also notary procedure.

The new Civil Procedure Code, published in the twelfth issue of the Izvestiya of the Presidium of the National Assembly of 8 Feb 52, went into effect on 12 Feb 52. It will be strictly implemented by the People's Courts of Bulgaria and will aid in the formation of socialist legal consciousness and the strengthening of socialist legality.

Kalin Tsakov, Member of the Legislative
Council of the Ministry of Justice