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DEPARTMENT OF STATE AIRGRAM

1510-445-CZEC/HOLEJKA, Nestor

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A-314
NO.

SECRET

TO : Department of State

365 JAN 17 AM 9 21

Copy No. 1, Series A

HANDLING INDICATOR

ANALYSIS & DISTRIBUTION SECTION

FROM : Amembassy PRAGUE

DATE: January 14, 1966

SUBJECT: Request for Extradition of Nestor HOLEJKA

REF : Department's A-31, September 16, 1965

DECLASSIFIED AND RELEASED BY
CENTRAL INTELLIGENCE AGENCY
SOURCES METHODS EXEMPTION 3B2B
NAZI WAR CRIMES DISCLOSURE ACT
DATE 2002 2006

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Under cover of its airgram under reference, the Department returned the Foreign Ministry's Note of May 10 and accompanying documents relating to the extradition of Nestor Holejko. The documents were returned to the Embassy in order to obtain translation of all documents into English and for certification by the Ambassador on Foreign Service Form No. 36.

The documents in question were transmitted to the Foreign Ministry by Note dated October 29 with the request that English translations of all documents be prepared and that they be returned to the Embassy for certification by the Ambassador. The note further stated that the Embassy would then return the documents to the Foreign Ministry in order that the formal request for extradition might be filed by the diplomatic agent of Czechoslovakia in the United States in accordance with the provisions of Article XI of the 1925 Extradition Treaty.

The Embassy has now received the documents from the Foreign Ministry for the Ambassador's certification. Several points, however, arise in connection with such certification on which the Department's guidance would be appreciated.

Excluded from automatic downgrading and declassification

FORM 4-62 DS-323

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In Out

Drafted by: EW Burgess:ms

Contents and Classification Approved by: BE Blankinship

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From Prague

First, the crime specified in the warrant of arrest and statement of charges (copy attached) is "public endangerment" which is not a crime specified in the Extradition Treaty. But 11 FAM 150 notes that the treaty designation of the crime should be specified on Form No. 36. How should the crime be specified for certification by the Ambassador? Should the Embassy return the documents to the Foreign Ministry with a request that Holejko's crime be specified in the language of the treaty?

Secondly, we note that the Form 36 provides that the Ambassador certify that the documents are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of Czechoslovakia. What evidence that this is in fact the case would be considered an adequate basis for the Ambassador to so certify? Would a note to that effect from the Ministry of Foreign Affairs suffice to establish this point?

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The Department's airgram under reference also raises the question of Czechoslovak motivation in seeking Holejko's extradition.

The Embassy has no information concerning Holejko other than that provided in the extradition documents themselves. In a general sense, we consider that the request for extradition is linked to the desire of the Czechoslovak Government to perpetuate the memory of Nazi crimes during World War II. By thus playing upon legitimate popular fears of Germany, the government doubtless hopes to justify its policy of close association with the Soviet Union which it has pursued since the end of World War II and particularly since the Communist takeover in February, 1948.

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From Prague

In the case of Holejko, the government might also desire to establish a case against the United States for harboring a war criminal (in the event of extradition refusal) and subsequently publicize this case, should circumstances make this seem desirable, as evidence of American protection of Nazi collaborators.

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Action Requested:

It is requested that the Department furnish guidance as requested above concerning the question of specification of the crime in accordance with the extradition treaty and concerning acceptable evidence that the documents are admissible by Czechoslovak courts.

For the Ambassador:

Edward W. Burgess

Edward W. Burgess
First Secretary of Embassy

Encl: Copy of Warrant of Arrest
and Summary Charges

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