

4 February 1953

MEMORANDUM FOR: DEPUTY DIRECTOR (PLANS)

VIA : Chief, PF and Chief, PH

SUBJECT : Investigation of the NDJ Complex,
Special Report HR/4-53

REFERENCE : Special Report HR/3-53, Investigation and Handling
of the League of German Youth (NDJ) by the Russian
Government, dated 30 January 1953.

1. On 31 January 1953, the implications of the Russian legal proceedings against the entire NDJ complex were discussed in a telecon with the German Mission at which measures to prevent further publicity regarding U.S. interest in both the NDJ and its para-military adjunct, the Apparat, were reviewed. We were advised that the U.S. High Commission is strongly opposed to any attempt to remove the case to an Allied tribunal. The German Federal authorities and the State Department are equally opposed to any such attempt. The West German Federal Government, however, is prepared to remove the case from the Russian Courts after the pre-trial examinations of the NDJ leaders.

2. During the pre-trial examinations, the defendants have been instructed to maintain the principle that the NDJ and the Apparat were two separate organizations. The former NDJ Chairman, Paul Luth, will, if necessary admit that the NDJ, as well as many other German youth groups, received private American financial aid as well as official and private German funds, but will not indicate official U.S. interest. It is possible that official U.S. interest may be demonstrated by evidence now in the Russian Government's possession. On the other hand, there is a chance that the investigating judge may be satisfied with Luth's explanations and that the case will be removed to Federal jurisdiction before any substantial amount of probing on this issue takes place.

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3. The following is a recapitulation of the situation as we understand it:

a. The pre-trial examinations of the HDJ members of the Investigations Court of Land Hesse were scheduled to begin on 2 February 1953. Ehardt Peters, whose activities as Chief of the Apparat have already been acknowledged as being in the U.S. interest, will plead that his activities were carried out on U.S. instructions given to him by the former Apparat case officers, [] [], and that, therefore, these activities do not constitute illegal acts under present West German law. The other four leaders will state that the HDJ, itself, never received any instructions either directly or indirectly from [] [] and that the activities of the HDJ have been the legal, normal operations of a West German youth organization dedicated to combating Communism. If questioned as to the source of funds for this organization, the former Chairman Lauth will admit that money came from a number of sources, including private Americans.

b. The Federal Government is preparing to remove the case from Hessian jurisdiction in about a week. This action will be taken in exercise of the power of Federal authorities to remove to Federal level any case pending before any State judge in West Germany. The ground of such removal will probably be that the case involves foreign relations which are within the exclusive domain of the Federal Government. The purpose of the removal will be to silence the publicity about the case as soon as possible, which can best be accomplished if the Federal Prosecutor were in a position to find no evidence of illegal activities warranting prosecution.

c. Whether or not charges against the defendant of illegal activities can be sustained in proceeding before a Hessian or a Federal court appear to turn on the defendant's responsibility and intentions with respect to the compilation of the so-called "prescription lists". These have been characterized as a "political activity" not authorized in connection with the paramilitary activities of the Apparat for which the U.S. has admitted responsibility and which are accordingly not subject to prosecution in a German court. It has been suggested, and the German Federal authorities apparently concur, that compilation of the lists was a

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perfectly legitimate intelligence activity of the Apparat undertaken for security purposes. (The defendants have contended, incidentally, that the lists were to be handed over to Allied authorities and not acted upon by the organization, itself). Accordingly, West German officials suggested that the U.S. High Commission give them an expanded statement covering the intelligence, as well as paramilitary, activities of the Apparat. This statement would presumably be signed by General Trumett.

4. If, at the trial, evidence is offered to establish that the activities of the Apparat cannot be justified as authorized internal security measures of the organization, or if there is evidence to prove that the NDJ carried on similar activities independently of the Apparat, it may be necessary to state that [] authorized the activities (thus protecting the Germans from prosecution) but to admit, at least privately, that in so doing [] exceeded his authority. We are not enthusiastic about such a measure and advised the German Mission to adopt it only as a last resort.

4. The Acting U.S. High Commissioner, Mr. Reber, approved in substance the above arrangements on 30 January 1953. He will, of course, be consulted in working out further details as discussed in the Telex. Mr. Brewster Norris, a representative of the State Department Bureau of German Affairs, was present at the Telex here in Washington and concurred generally in the procedure outlined above. The invocation of Allied High Commission Laws 13 and 62 was discussed exhaustively with Mr. Reber in the field and with State Department representatives here. As the conclusions in the Telex indicate, use of these laws was rejected by State Department representatives as politically unwise. West German governmental officials concur generally in this view. However, it may prove necessary to invoke Allied High Commission laws as a last resort, even though it would require public acknowledgment of official U.S. interest in the NDJ as well as the Apparat.

5. We will keep you informed of further developments.

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Chief, Eastern European Division

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