

Decision

In the name of  
The Republic

made by the National Court on May 2, 1947

of

Indictment No. 174/46-5 brought by the  
National Prosecutor March 7, 1947 as  
broadened at the trial on April 25, 1947

After trial which took place April 14-16,  
April 21-26, April 28-30, and May 2, 1947

as follows:

The accused Dr. JAN KAPRAS, born January 17, 1880  
in BRNO, retired University professor, residing in Prague  
and the accused DOMINIK CIPERA, born August 2, 1882 in Prague,  
former member of the Board of Directors of Bata s.s. in Zlin,  
now retired, residing in Prague

are acquitted

according to § 252 (E) of the Criminal Procedure Act of the  
indictment that they allegedly at the time of the increased  
endangerment of the Republic, in Prague and elsewhere, in their  
capacity as the members of the so-called Government of the  
Protectorate and as members of the Government of the so-called  
Second Republic, and Dr. Jan Kapras, in addition as president  
of the National Czech Council, and Dominik Ciperka, in addition  
as chairman of the Board of Directors and manager and later as  
general manager of the company Bata s.s. in Zlin, and, therefore,

as persons who due to their leading position in political and economic life were obliged to be a patriotic example to their fellow citizens, supported the Fascist and Nazi movement and in press, broadcasting and in public meetings agreed to and defended the enemy government on the territory of the Republic and individual illegal acts of the occupation commands and authorities and organs subordinated to them, whereby they allegedly committed a crime against State according to Section 3, subsection 1 of the Retribution Statute of January 24, 1946 in the wording as published by Ministry of Interior on February 18, 1946 No. 23/46 SB.

REASONS.

A.

[This section of the decision deals solely with activities of Dr. Kapras and Mr. Cipera as members of the Government of Prime Minister Beran and Prime Minister General Elias.]

B.

The indictment of the accused Dominik Cipera, as responsible for the activity of the company Bata s.s. Zlin during the war, commenced with the allegation that during the occupation this company engaged itself completely in the German services because allegedly the representatives of the company were interested in achieving as large profits as possible without regard to the fact that by increased production the enemy was supported and so that allegedly the war production during the war was steadily increased and

eventually reached direct war production of 80% of the entire production of the said company.

The accused Dominik Cipera stated in his defense that this indictment of the prosecution did not correspond to the facts and that the Germans already at the time of their arrival in Czechoslovakia after March 15, 1939 brought with them complete information about the Czechoslovak industries, about their equipment and particularly about the output of the companies producing machines. From the very beginning, the Germans acted everywhere according to a standard scheme, namely, they appointed into each factory one so-called "Abwehrbeauftragter", which means an organ of police nature who cooperated with the Gestapo and supervised the people, and then a so-called "Industriebeauftragter", who executed industrial supervision and who received his orders from a so-called "Rüstungskommando" and who ordered the program for the production of the factory. This part of Cipera's defense was confirmed by the deposition of engineer K. Staller, at present regional manager of the metal and machinery industry in Slovakia, and the National Court considers to be proved by him that the enemy government immediately after the occupation of the Czech countries was anxious to make use by every means and to the limit the industrial potential of all factories

which during the occupation came under its power. The enemy government proceeded according to a scheme prepared in advance, namely, they appointed in each factory a supervisor (so-called Industriebauftragter) and established a branch of the military Gestapo (so-called Abwehrbeauftragter). The duty of the former was to supervise the subordination of production to the needs of the occupying power and the latter arranged for the arrest of those who were suspected of opposing that subordination. In addition, a network of spies was set up, usually Germans from the frontier countryside and paid Czech traitors, who were in continuous contact with the aforesaid organs appointed by the enemy government. This system, however, did not prevent a defense against the orders supporting the war efforts of the Reich; what was needed was to delude the said organs in different ways and to corrupt them if necessary. This was feasible only by persuading them that they were not violating the orders of their superiors. For that purpose it was necessary to develop adequate tactics against those organs because it was evident that if all the Czech executives were removed it would mean that the whole industrial plant would be completely reorganized for war production. In the deposition of Engineer K. Staller there are several examples given by him of Zbrojovka in Brno and of the famous factory in Vsetin, and he also mentions that he happened to get in hand a document from which he realized that the Germans had taken into account the fact of the "gvejK" way of a slow-down of production by the executives and sabotage acts by the workers, and that they also had taken

into account that they would not be able to eliminate these factors and, therefore, it would be necessary to take into account in the Czech territories, production reduced by 20%.

The accused D. Cipera further stated in his defense that the Abwehrbeauftragter Duchek, who was appointed by the Germans, organized for himself a machinery of spies and informers based on a so-called Wertschutz, and he had his confidants even among the Czech employees, and that the situation of the company was further aggravated by the fact that several Czech employees at the time of the occupation declared themselves to be of German nationality.

This part of the defense will be dealt with at another place later on when dealing with other facts. However, it should be mentioned at this point that in the taking of evidence it appeared that the aforesaid Duchek developed the organization described by the defendant Cipera and that because of the fact that some of the Czech employees declared themselves to be of German nationality, the work of the loyal Czech employees who attempted to violate German regulations was made difficult.

The accused D. Cipera further stated in his defense that shortly after the occupation began the Bata factories and particularly the machine shops were visited by German military authorities and that the machine shops were placed under permanent military supervision initiated by Captain Kupfer and later Dr. Rostenmayer who took a permanent residence in Zlin.

This part of the defense has also been fully con-

firmed by witnesses, and the National Court considers the following, therefore, to be proved:

1. By the testimony of Rainer Malik, that shortly after the occupation began a German military commission consisting of officers of the German Army came to Zlin to examine the machine shops. It was the witness who had to show them the machine shops; however, he did it in such a way that they were unable to get an exact picture as to their output. He showed them to that end, only those departments which were unfit for military production. This military commission departed; however, very shortly thereafter a new one appeared consisting again of officers of the German Army and the witness tried, according to the instructions he received, to delude them, pretending the machinery was worn out or camouflaging its real function, etc. At that time one of the employees by the name of Joseph Gronych, who before the occupation pretended to be a loyal Czech, told the military commission that they were not correctly informed and that their informant (the witness Rainer Malik) was a fanatic Czech patriot. It was only engineer Hugo Vavrecka who succeeded in smoothing out the differences.

The testimony of Rainer Malik proves further that after the departure of this military commission, there came to Zlin a Captain of the German Army named Kupfer and further a certain Dr. Rösner of the Rüstungskommando with an order to introduce in the Bata company a program for the production for the German military forces. Dr. Rösner commanded that deliver-

ies be made to the German forces, namely, measurement gauges and some other instruments. However, the witness did not start to work on this order, pretending that he did not have adequate equipment for it. In the meantime Dr. Rustemayer came to Zlin to remain permanently. He inspected the machine shops and declared that he would provide machine tools and in fact he provided the machine tools. Thus there was no excuse for not delivering. After that the deliveries of machinery for the German military forces was determined by Dr. Rustemayer himself without consulting with the Czech executives of the company, and it was also he who made all decisions relating to the machine shops. After his arrival all conferences with the Czech executives were discontinued.

The witness Hainer Malik also confirmed that Duchek was appointed as the Abwehrbeauftragter. Duchek was a former draftsman of the Bata company and, therefore, he was fully familiar with the conditions of that company. It was also he who introduced the machinery of spies and informers among the Czechs in the individual workshops, the result of which was that the Czech employees began to mistrust each other because they were not sure who was a spy and who was not. In that way he made it very difficult for the loyal Czech employees to attempt to violate the German requirements. The feeling of mistrust created in that way also made difficult the work of the management of the company, particularly because the treacherous employees who declared themselves to be of German nationality were fully familiar with the operations and informed the German.

authorities. Thus it was rather difficult to oppose the German requirements.

2. The National Court also considers to be proved, by the testimony of Hynek Bata, that when the Germans occupied the country they were interested first in the machine shops of the Bata company which represented about 12% of the factory's employees; further that the Germans were fully informed about the output of the company and that, namely, in the year 1940 they separated a certain part of the machine shops by a fence. This part was guarded by so-called Werkschutz and this enclosed part of the workshops was completely taken out of the hands of the Czech management and access to it was forbidden.

3. The National Court considers to be proved by the testimony of engineer Hugo Vavrecks that the production for military purposes was, in fact, conducted as a factory within the factory of the Bata company and was completely out of the hands of the Czech management. That part of the factory buildings was enclosed and guarded by Werkschutz and none of the Czech management was permitted to enter. Also the Czech management did not have knowledge of the exchange of letters between this department and the German authorities, which never dealt with the Czech management about the orders.

4. The National Court considers to be proved by the testimony of Dr. Karel Cvachovec that the Bata company in Zlin was a perfectly organized enterprise with a larger output than any other factory of similar size and that therefore the German authorities insisted on deliveries to the German military forces. To oppose this was unfeasible because of the nature of



the organization of the company and because the war production was directed by the Germans themselves with respect to the requirements of the war. The Germans were fully familiar with each individual factory in the Republic and with its management and that was the reason why they were also interested in the Bata company. It was not possible to say that the German authorities placed orders with the Bata company, because so-called orders were nothing else but a command from the responsible German authorities. It was for that reason that the representatives of the Company visited Germany and not for the purpose of getting orders. The only purpose was to deal with the details of the directives received. What the Germans attempted was to transform the factory fully into an armaments factory, and in particular, the Company Klöckner Werke attempted to transfer to Zlin its factory which had been damaged by bombing in Germany. This, however, the management of the company succeeded in preventing. Under these conditions, it was beyond possibility for the company to refuse directly German directives; however, the management did not show any zeal in complying with the directives. It was shown on the occasion of one inspection that in a department designated for war production there were instead produced refrigerators. This witness confirmed further that Dr. Miesbach pointed out that the Czech executives instead of being anxious to achieve the largest possible output were doing everything possible to make the contribution of the Bata company to the war efforts of the Reich as small as possible. The witness confirmed further that on the basis of his personal knowledge the accused D. Cipera never attempted to increase the war production, but on the contrary, that he as well as the other

members of the Czech management created obstacles for the Germans.

The testimony of Miesbach, a Reich German, also agrees with these testimonies that the division for war production was controlled by a German Rustemayer, who from the year 1939 up to September 1, 1944 was in charge of the whole war production division, and that it was not necessary to acquire orders for the Company because the procedure was such that the Protectorate received a certain command which was then divided by the Association of Industry among the individual factories, which were supposed to do the delivery. The Management was interested in participating, but the reason was that otherwise the production of shoes would be completely abolished and the machinery for that production would be transported to the Reich. The German efforts to dispose of the shoe production and transfer the machinery to Germany dated from the very beginning, and it was not possible to counteract them in another way than by also producing something for the armaments industry.

In this connection D. Cipera stated in his defense that the Czech management of the Company Bata was facing three problems after March 15, 1939. First, they had to follow the basic program of the production of the Company, i.e., to supply the population of the country with shoes, the needs of which according to an official estimate were 75% supplied by the Company Bata.

Further, they had to take care of the employment of about 50,000 employees with earnings that would enable them to

live in a decent way, and, finally, they had to protect the floor-space of the plant in order to prevent the Germans from intruding on it with their armaments production.

That was the reason why the Czech management had to prevent itself from being completely eliminated, because that would have meant that the Germans would usurp the management of the whole business, that the major part of the employees — at a later date without any doubt — would be transported to Germany and forced to work there in war production and that the shoe-machinery would be taken away and placed at the disposal of the German competitors. The accused maintains, therefore, that under these conditions the Company could not refuse in principle, the enforced orders directed by the Germans to the machine shops and that the Czech Management under pressure could not do anything else but to violate the German directives in many different ways. About the details as to how the German directives, serving the purposes of an enemy government, were violated the National Court found in agreement with the defense of the accused D. Cipera, the following facts which the National Court considers to be proved by witnesses:

1. According to the testimony of Joseph Zborilek, at present deputy general manager of the leather and rubber industries and who during the War was employed with the Company Bata as manager of its Rubber Division, the full capacity of this Division was never fully used during the War and worked only about 25-30 percent. In the frame of this reduced use of the capacity of the Rubber Division the German requirements were covered to about 40-45%. In the Rubber Division were produced

tires, special wheels and bolsters. After the German employees were drafted for military service and left the Company and in the workshops remained only Czechs, the tires were produced purposely in such a way that their durability was very low (something between 15-17,000 KM) while the other factories were producing tires with a durability of about 35-45,000 KM. After the Germans realized this the witness defended himself by saying that the Company Bata would produce tires of the same quality as other factories, if she would get the same raw materials as the other Companies. The Company produced then a certain series of tires using 90% genuine rubber, with a durability up to 30,000 KM. The tests of this series lasted to the end of the War, and in that way the Rubber Division protected itself against the results of the German examinations of tires taken from the stocks of tires produced in the normal way and which continued to be of an inferior quality. At the very beginning of the occupation the witness agreed with the accused Cipera and Hlavnicka that they would oppose work for the German forces, and in case they would be forced to take over some production, then they would take over only such production as would not have any practical importance for the War. For example, it was known in the Rubber Division that the Red Army has no bolsters in its tanks, considering them as not useful, and that was the reason why they preferred to take over the production of bolsters for the Germans. Further, they produced so-called special wheels in order to prevent acceptance of orders for such products as could do a good service to the German Army. It was known that the so-called special wheels had no practical importance in the

War and that their production was supported by the inventors of these wheels because that was the way in which they were able to stay at home and not go into the battle line. The people at the company plant figured out that the steel which would be used for the production of these special wheels could not be used for other purposes more important for the War. In that way the management of the Company achieved the result that the Rubber Division of the Company did not produce any item which could be used for German military purposes. The Czech management pretended that by the production of these useless items, tires, special wheels and bolsters, the capacity of the Division was completely exhausted and the Germans were misled in that respect. It is true that in the Rubber Division there was also produced vulcanized membranes for V-2, but in such a way that the product did not have the technical qualities required and for that reason were returned to the Company. A similar situation existed in the machine shops in which were produced, for example, rubber presses for our need after the war. In November 1944, the Company was ordered to transfer the Fatra Company to Germany and the management succeeded in preventing this transfer of this factory to Germany by exaggerated transport requirements. The violation of the German requirements was done in agreement between the witness and D. Cipera. The German efforts to achieve as high a production as possible were also counteracted in the machine shops in the way that the times for individual operations were fixed very high; for example, an operation for which 12 hours was fixed could in fact be done in 5 or 6 hours and the calculated time of 12 hours was applied.

Consequently, the output of that department was only half.

2. The National Court considers to be proved by the testimony of Bohuslav Beveik and by his deposition that during the occupation he worked with the Bata Company as the manager of the technical departments of the Company, this enabled him to confirm that due to the assistance of D. Cipers and Hlavnicka the management of the technical departments succeeded, despite the German pressure, to achieve that the major part of the Bata machine shops did not work on military orders, but to the contrary produced mainly shoe machinery and spare parts for the shoe machinery, and that new shoe machinery was also under construction. The draftsmen were kept busy by working on projects for peace goods production. A German order to buy an electrical furnace in order to double steel production was thwarted by pretending that there was a defect in the hydraulic equipment of the furnace and in that way a postponement in ordering the furnace was achieved up to a time when the furnace which was offered was already sold and a new one was not obtainable for a period of two years. In the year 1942 the Company was ordered to start working on steel castings for gun barrels, the equipment for which was bought at a very high cost. However, afterwards with the knowledge and approval of the accused D. Cipers the work developed in such a way that after nine months of different tests the Germans declared that they had lost interest in the continuation of the work. When the Germans required the production of casted steel mantles it was pretended that the Company did not have the presses needed

for that purpose, while in fact the Company had all of them except one and despite the fact that the presses were only 30% used. The Germans forced the presses to be ordered with a delivery term of one and a half years and the accused E. Cipera signed this order despite his knowledge of the actual capacity and equipment of the work-shops, because it was clear to him that in that way he supported sabotage in the workshops. After the presses were delivered they were left idle and the required production was not started. Due to a certain disinterest of Dr. Hustemayer who felt that the end of the war was not very far off the employees of the department were not persecuted. This witness further confirmed that in cooperation with Engineer Hugo Vavrecka he succeeded by simulated data in convincing the Germans that their plan to transfer to Batov the production of the damaged Klöckner factories, requiring the employment of an additional 60,000 people, was not feasible.

By a deposition of Bohuslav Seveik which he confirmed before the Court as his testimony, it was further proved that in November and December 1939 he got in Moscow a large order for machine tools for the U.S.S.R. for 40,000,000 crowns. At the same time the German Dr. Pathen from OKH was anxious to get an order for 600 machine tools for the German forces, and despite the fact that this resulted in a certain tension it was negotiated simultaneously

with Stankoinport in Moscow, and the aforesaid machine tools were sold to the U.S.S.R. by relying on the fact that Dr. Pathen confirmed the order after a delay of 24 hours.

When the Germans required the production of the measurement gauges to be stopped and transferred for reasons of efficiency to the Company Havlik, it was achieved that this production remained with the Company. When the production of routers F1 and F2 had to be stopped in order to make possible a production of ammunition, the Company succeeded in not having the production of routers F 1 and F 2 stopped by providing a sufficient number of orders and making a great number of castings. In a similar way the production of routers FU and F 2 was safeguarded. When on May 20, 1943 the Department of Labor ordered the young workers to be released for forced labor in Germany the order was not followed and the workers were saved from forced labor.

On the basis of a letter from OKH of January 16, 1943 negotiations were started regarding the production of automatic machine tools. The management believed that in that way they would get some raw materials and they would also prevent the workers from being forced to go to Germany. The management was aware that the drafts and the technical description of the machinery was incomplete and that the delivery of those machines would not be possible for one year or more.



The Germans ordered that 15% of the capacity of the workshops be used for repairs of machinery damaged by bombing. By false statement about the number of employees and about the difficulties in production it was achieved that for that purpose not more than 5% was used. After March 29, 1944 the Company was required to start immediately the production of 75 machines for the production of ball bearings and the management succeeded in cancelling completely the order of certain of these machines and in reducing the number of the remaining to eight. In addition to this, the delivery was delayed a full five months. In a similar way the Company succeeded in causing a delay in the production of excavators.

When on May 7, 1944 production of routers F 1 was forcibly stopped and the machines and labor released in order to be put at the disposal of the Company Löwe in Berlin, the management succeeded in counteracting this plan on the basis of an agreement with regard to the production of other machine tools.

In the fall of 1943 Dr. Wiesbach made efforts to equip workshops for castings for submarines and construction of a new factory building and dwellings. This was also thwarted by pretending that a shortage of electric power, steam and coal existed, despite the fact that the power

station was almost finished and equipped for an output three times larger than needed.

During the war about 800 apprentices were employed as operators of machines and in that way the output of these machines was reduced 50%.

3. The National Court considers to be proved by the testimony of Miroslav Schubert that in the office of the Company Bata in Prague there was not one man who would deal with the orders of the German military forces, which means that the Czech management of the Company was in opposition to the work for the German forces. This witness noted that when the Germans wanted something from the Bata Company for use by the military forces, they did not deal with the management of the Company, but to the contrary, they used the teletype and the telephone of the Prague office to get in touch directly with the Germans [In Zlin]. In particular, it happened several times that they came in touch in that way with the German's Abwehrbeauftragter Luchek.

4. By a deposition of Thomas Konvicka the National Court considers to be proved that the management succeeded in keeping busy about 1,800 employees in the machine shops and about 110 draftsmen for civilian production, in no way connected with the war and that Dr. Miesbach was misled by false statements and was under the apprehension that the production in those civilian departments was of importance to the war and it was only toward the end of the war that the trick was discovered. In this way several hundreds of workers, born in the years 1921, 1922 and up to 1924, were saved from being forced to go to the Reich by keeping them on the payrolls of the machine shops where they worked on things having nothing to do with the production for the German forces; thus they were on the payroll of the machine shops for the Wehrmacht and in that way they were kept in safety. Also the students of the universities closed by the Germans were protected from being transported to forced labor in Germany in that way that they were also kept on the payrolls of the workshops for the Wehrmacht, while in fact they were working in many different departments of the Bata company. This was possible because the Labor Department was fooled by false requirements for the labor needed for the machine shops. The German efforts for an efficient war production were counteracted in such perfect fashion that German Inspector Jaisle stated that the Bata company was next to the worst among 42 factories examined by him. By twisted daily reports Dr. Miesbach was for a very long time also kept

under the impression that everything was in the best order despite the fact that 50% of the machinery was left idle. Towards the end of the war when the production in the machine shops was slowed down the Germans ordered the workers of the machine shops to be employed for the digging of trenches and the Labor Department issued an order to call 1,050 persons for that purpose. However, after long negotiations the management succeeded in reducing this requirement to 850 persons and in fact, only about half of that number was really drafted, because in the list of drafted persons were many persons who either were on leave or had medical certificates that they were unable to do any work. Towards the end of the war there was established a group of reliable employees of about 80 in number under the pretext of civil defense and they guarded the plant against German attempts to destroy the plant.

Against the indictment that the management of the company considered the profits first without any regard that increased production supported the enemy, the accused D. Cigera stated in his defense that quite to the contrary the output of the machine shops was reduced by more than 25% by adjustments made in the time calculations. The same earnings were preserved for the workers by registering them in higher wage classes; thus their earnings remained the same in spite of their up to 50% reduced output.

In that respect the National Court considers to be proved by the testimony of Dr. Vladimir Krajci that in the

machine shops the earnings were kept at the same high level by adjustments in piece rates and that in spite of the low output the wage policy directed by the accused D. Cipera followed the line that the workers being satisfied with their earnings would not be anxious to increase their output. During the war the earnings in Blin were increased by about 140%. It was upon the initiative of D. Cipera who took care of it that in case of German investigation those higher earnings were explained by a pretended higher output. In general, according to this witness the Bata company maintained purposely the earnings on as high a level as possible, and that every increase in the wages in other factories was followed by at least the same increase in wages in the Bata factories in spite of the fact that the wages were higher than the official rates. The accused D. Cipera was responsible for all that, and the regulations about "Lohnstop" according to which it was prohibited to increase the earnings by extraordinary allowances without special approval were circumvented in different ways; for example under the pretext of loans for clothing, for purchase of potatoes, etc. Of course the company never intended to collect these loans and never did.

The accused Dominik Cipera stated in his defense that in the same way as were thwarted the German efforts to make full use of the machinery, were also violated the regulations concerning the control of metals. He stated that in the 42nd week of 1939 the balance of the steel and other metals amounted to

K 26,000,000.- and in the 15th week of 1945 the balance amounted to K 68,000,000.- Because material very important for the war was involved, the German interests were damaged in an extremely sensitive place. This defense is confirmed by a deposition of engineer Frank Hubes of May 26, 1945.

Further, Dominik Cipera stated that the regulations concerning the control of material and machinery were also successfully violated and that, for example, the company had on stock 1,647,000 KG of materials which had to be registered according to the edict issued on November 23, 1940. The company registered 1,101,000 KG, but actually handed over only 258,000 KG. According to the edict issued on March 14, 1942 there had to be handed over all machines which up to the end of the year 1941 were in use less than 15 days. This edict covered machines the weight of which was at least 1/2 million KG and in reality not one of these machines was discarded. In a similar way, also were eluded the regulations concerning colored metals, for example, there were successfully hidden in the stockrooms of the company at the disposal of the national economy of the liberated Czechoslovak Republic about 400,000 KG of crude copper and red alloy. This defense was also fully confirmed by the aforesaid deposition of engineer Hubes.

The accused D. Cipera further stated in his defense that all Czech members of the management agreed to continue

the production of civilian shoes as long as possible and not to solicit orders of military shoes and in case that these would be enforced to try to keep them on as low a level as possible. He asserted that after the first German order was delivered the quality of the shoes was so poor that the Company was fined K 600,000.- for that reason, and consequently, not one pair of shoes was delivered to the Germans up to the end of 1942. When at a later date the Company was forced to accept small orders it was predominantly shoes with wooden soles, slippers and canvas shoes, and these orders did not amount to more than 1-1/2% of the entire production of shoes and were successfully used as a pretext for employing workers of those young years who were subject to the draft for forced labor in Germany. This defense was fully confirmed by testimony of Vladislav Horak by which the National Court considers to be proved that in 1942 German officers came to Zlin and negotiated with the Management of the Company. The witness was invited to those negotiations because of his knowledge of the German language. These officers demanded delivery of military shoes. They disregarded the statement that the Company did not produce military shoes and forced a display of samples of workshoes. They were interested in a sample of farmer-boots and required a quotation for about 100,000 pairs. The accused D. Cipera said to the witness at that time that it seemed as if the Company would not have any chance of avoiding this order but that they were not

going to do something special. After this order was placed, and shortly after the shoes were delivered, the Company received back several pairs of completely damaged shoes and was blamed for sabotage, because the shoes delivered by the Company were contrary to the prescript as far as material was concerned and the workmanship as well. The consequence was an investigation by the military authorities in Berlin and the Company was fined K 1,000,000.- which fine was later reduced to K 800,000.- with the warning that the Company Bata is not fit to receive orders for military shoes. The witness Vladislav Horak attended the investigation and was held responsible for the sabotage. On that occasion the accused D. Cigera advised him to divert the blame to the German officer who accepted the shoes and in that way the witness escaped the punishment with which he was threatened; however, he was dismissed by the Germans from his position and replaced by a German Peikert. The witness knew that subsequently no military shoes were delivered except a few quite small orders. Whether these small orders were or were not used as an excuse for not sending the Czech workers to the forced labor in Germany the witness did not know; however, he knew that very many young people in that category were employed in the shoe-work shops during the whole war. In accordance with a further part of D. Cigera's defense this witness confirmed and the National Court considers to be proved, that there were employed by the Company Bata in the production of shoes also independent artisans from the countryside of Zlín in order to protect



them from being sent by the Labor Department to Germany for forced labor. The witness further confirmed that on the occasion of the first command for military shoes the behavior of the Germans was impudent and that they hinted that their requirements had to be followed even to the detriment of the production of civilian shoes. The objection that the Company had not enough material they rejected, saying that they would supply the material themselves but the order had to be fulfilled.

The National Court further considers to be proved by the testimony of Joseph Adam, who during the war and during the occupation was in charge of the shoe-workshops of the Company Bata, that at the time when the restriction of production of civilian shoes was threatened by the shortage of imported raw materials and the danger arose that the Germans would either force the production of military shoes, the material to which they would supply, or would send the employees of the Bata Company to the Reich, and that at that time D. Cipera together with Hlavnicka arranged for a conference of managers of all departments and that at this conference it was agreed upon the initiative of D. Cipera, that the best preventative would be to start the production of shoes from substitute material, first, by using wooden soles, which would help to sustain the production of civilian shoes and to keep the workers employed in the country where they are at home. After the substitute materials were introduced into the production the number of workers was increased because the Germans were not

familiar with this kind of production and therefore were unable to get oriented. This action was a full success.

Also by the testimony of Joseph Bevera was proved that the Company attempted to avoid orders for the German army and the first delivery which resulted in a fine of K 800,000.- the witness described in the same way as the witness Horak. He also confirmed that the Company Bata distributed small orders among the local artisans and protected them in that way from being drafted for another labor by pretending that they were working on military orders for the Company Bata although in reality the Company Bata produced an insignificant amount of military shoes. This witness also confirmed a further part of D. Cibera's defense that due to the loyalty of the majority of its employees the Company was successful in its sabotage-policy and succeeded in keeping the total output far below the actual capacity which was only 80% used while the Germans were led to believe that all departments were working to the maximal output.

By the testimony of Hynek Bata the National Court considers to be proved that the orders of shoes for Germans represented not more than 1 - 2% of the total production of shoes, that in that amount was involved a very small quantity of military shoes and that the fact that the Company was forced to produce a certain amount of shoes for Germans was used as a pretext to employ young workers in order to protect them against forced labor in the Reich and that in this way

the local producers, who in fact participated in this production only by lacing the insole to the upper, were also protected against the Labour Department. In the shoe workshops the Company employed loyal patriotic workers and foremen and in cooperation with them the Company succeeded in reducing the output to 60% of the actual capacity by persuading the Germans that the factory was working at full speed. A further favorable consequence of it was, that the equipment which the Germans wanted to transport to the Reich was protected in that way.

The accused D. Cipers further stated in his defense that during the occupation the management stockpiled raw materials in an inconspicuous way, hiding them for the time after the war. The truthfulness of this defense the National Court considers to be proved by the testimony of Joseph Severs and in detail considers to be proved the following facts:

(1) By the testimony of engineer Dr. George Kubelik that he was during the occupation secretary and later on general secretary of the economic section of the leather industry and that shortly after the beginning of the occupation there was a conference in this section dealing with the problem as to how to keep away from the German economy hides and leather, in order to have a certain amount of that material in stock at the disposal of the economy of the liberated Czechoslovak Republic. The result of these consultations was the decision to gradually prolong the

period of time required for the tanning process, and the witness confirmed that the tanning process of the Company Bata, which required 30 days by using imported tanning materials of a high quality which during the war were either not available at all or in a restricted quantity, was purposefully prolonged and the hides were stockpiled in the tanning-pits, and that after the war there was disposable about 2,000,000 KG of hides which had been taken away from the German economy.

(2) By the testimony of Br. Vaclav Samec that he was during the war employed in the tanneries of the Company Bata and that in August 1939 Hynek Bata advised him to hold back in the workshops goods in process in order to be able to ask for additional hides to be worked on and that in that way the Germans were prevented from taking away hides or finished leather. The Management of the Company gave a directive to its tanneries to prolongate purposefully the period of time for tanning and so it happened that the period of time normally required for tanning was by far transgressed and in that way was thwarted the German efforts to get as big a quantity of leather as possible and the witness confirmed ~~seconding~~ to his personal knowledge and according to hearsay that in this way a considerable quantity of hides was taken away from the German economy.

(3) By the testimony of Hynek Bata that from the very beginning of the occupation the period of time for the

tanning process was purposely prolonged and in that way were taken away from the German economy valuable raw materials and about 2½ millions KG of hides were saved for the time after the war.

(4) By the testimony of Jaroslav Trojala that the Germans prescribed for the tanning of sole leather a period of time of 5 months but that this period of time was purposely prolonged up to 15 and 18 months and in that way were stockpiled hides for the production in the liberated Republic and about 2,000,000 KG was rescued. The initiative was with Hynek Bata, however, the risks were carried also by the accused D. Cipera, to whom the plan was reported and who backed the scheme. Towards the end of the war in 1945 when it was already clear that the end of the war was near, D. Cipera was kept informed that a considerable allotment of hides was lured away from the Germans with the intention to make it safe for our economy. To this fact is to be added that the National Court considers to be proved by the testimony of Hynek Bata that the hides in that way lured away from the Germans in the time shortly before the end of the war amounted to 24,000 KG and that the whole quantity remained to the benefit of our economy.

The accused D. Cipera further stated in his defense that not only goods in process were stockpiled but also finished leather. In that respect, the National Court considers it to be proved by testimony of Hynek Bata that the Company

Bata had in its stockrooms over 1,000,000 KG of bands, partly of its own production, partly bought from other producers in violation of the German regulations. After the Control Board in Prague received knowledge of that it ordered the bands to be shipped; however, the shipping was delayed in such a way that at the end of the war in the stockrooms of the Company were stockpiled over 600,000 KG of bands; 600,000 KG of sides and shoulders and about 3,000,000 square feet of upper leather which were hidden in different places.

According to B. Cigera's defense, in a similar way, over 600,000 KG of textiles were stockpiled which were sufficient to ensure our production after liberation. The textiles held back were taken away from the German war economy and this represented a serious sabotage of the German interests. In that respect the National Court considers to be proved by testimony of Joseph Caa that he was during the war employed with the Company Bata and was in charge of the department purchasing textiles (at present he is manager of Czechoslovak textile industries) and that Kunc, the secretary of the Department of Economy, allotted to trustworthy Czech companies, and Kunc considered also the Company Bata as such, yarn in quantities exceeding the approved consumption and in that way made possible the stockpiling of reserves for a continuous production of shoes and tires after the war. The yarn

allotted in excess was kept on stock "K" in complete secrecy and amounted at the end of the war to about 170 - 200,000 KG. It was a pure cotton yarn maceo. Consequently, its quality was much better than the quality of the yarn used during the war. In a similar way a considerable amount of silk was stockpiled despite its scarcity and also from this material was left over for the time after the War a considerable remainder. About all that D. Cipera was kept informed, approved it and while making plans for the production after the war together with the witness, endeavored to have as high stocks as possible in order to be able to start production immediately after the war.

(5) By the testimony of Jaroslav Matula that during the occupation he was employed with the Company Bata and was in charge of the department producing stockings and that the maximal consumption of yarn was 300,000 KG in the course of three months. However, upon the initiative of D. Cipera the requirements in yarn were increased to 400,000 KG and this quantity was requested to be allotted by the Department of Economy although it was not used. The idea was to create in this way reserves which would remain hidden from the German authorities. According to the German directives the left-overs of allotments of one period had to be transferred to the subsequent period. In agreement with the Czech management of the Company Bata, i.e., D. Cipera, J. Hlavnicka, and engineer Malota, this directive was not followed, but to

the contrary the Company always requested a new and complete allotment. These manipulations were carried on in agreement with the Czech officers of the Department of Economy in Prague. In that way the production of stockings was ensured after the liberation of the republic. In the same way were created reserves in the spinning mill at Batov.

(6) The National Court further considers to be proved by the deposition of Vladimir Metulik that the edicts about the controlled economy were sabotaged by fictitious orders for the Bata Company in Simonovany in Slovakia and consequently the department producing stockings had -- in Trebic alone -- at March 31, 1945 about 500,000 KG of raw materials left over and ensured for the Republic.

Contrary to a command of K. H. Frank in February and in March 1945 about 1,000,000 pairs of hosiery were dispatched to Slovakia which were to have been seized for the benefit of the German population injured by bombing. To Frank was sent a negative report and about 1,000,000 pairs of hosiery were sent by trucks to Slovakia and there partly sold and partly separately stockpiled to make sure that the Germans would be unable to haul them away from Slovakia.

The accused D. Cipera stated further in his defense that the Company Bata during the occupation was producing rubber soles and solings although this was forbidden and was delivering the rubber soles and solings



to its own repair shops and also to independent shoemakers. For that purpose the Company was using reclaims from its own reclaim station, and this was illegal, because this material was to be kept for other purposes. The production of these soles was purposely inefficient in order to give employment to a great number of workers. In the repair shops the mending of rubber shoes was organized on a large scale which was a good service especially for farmers. In that respect the National Court considers the following to be proved:

(1) By testimony of Hynek Bata that in order to take rubber away from the German economy the Company Bata made an illegal use of reclaims by producing "black" rubber soles and solings and supplying them to their own repair shops and to independent shoemakers and in that way took away from the German economy thousands of carloads of rubber during the occupation.

(2) By the testimony of Joseph Severa that the concealed raw materials were used for the production of "black" shoes and according to the estimate of the witness in this way were produced about 5,000,000 pairs of shoes during the war.

The accused D. Cigera stated further in his defense that during the occupation the Management of the Company endeavored to preserve the machinery for the

liberated Republic and for that reason produced shoe-machinery and spare parts which was prohibited. The stocks of spare parts were considerably higher than in peace time and also the number of workers for the maintenance of these machines was increased. Also the overhauling of machines was more frequently made. That was the way by which the machines and the workers were protected from being taken and used by the Germans for other purposes. By testimony of Hynek Bata it was proved that in fact the Management of the Company endeavored to keep the machinery in good condition in order to keep them ready for service to our economy after the war and that the machine tools were used for the production of new shoe machinery and spare parts and that consequently the Germans were unable to use these machine tools for military purposes.

Further, the accused D. Cipers asserted that the Management of the Company protected the machinery and spare parts from being hauled to Germany, which the Germans attempted to do especially towards the end of the War. For that purpose the machines were purposely transferred to stockrooms outside of Zlin, to which access was difficult. For example, to places without a railroad or without a siding and similar, and that in this way there was concealed from the Germans 1,800,000 needles; and tools for the shoe workshops of a value of K 1,000,000; and that was at the time of issuance of an edict according to which needles had to be surrendered

because the German factories producing needles had been bombed. Towards the end of the war the attempts of the Germans working in the factory to make production impossible by transporting away the equipment for the production of needles were counteracted by delaying negotiations, and then by slowing down the packing and loading into the cars, and eventually the cars were moved to a side-track somewhere near to Prerov from where they were easily directed back to the factory after the end of the war and were in fact rescued.

In that respect it was established by testimony of Joseph Adam and by a declaration of engineer Malota, which he declared to be his testimony, that in fact it was upon the initiative of the accused D. Cipera that the machinery and the spare parts were removed to stockrooms outside of Zlin and that purposely places without a convenient railroad connection were chosen in order to make it impossible for the Germans to haul the machinings to the Reich. In this way were also rescued for the production after the war about 2,000,000 needles of first class quality and various tools and equipment for shoemaking such as claw-hammers, awls and similar in value of about K 1,000,000. After the factories producing needles in Germany were bombed the Germans were interested in getting the needles from Zlin. They were informed about the needles in stock in Zlin, which the factory needed for itself and on the other hand the needles stock-

piled in the aforesaid stockrooms outside of Zlin were concealed from the Germans and thus they got nothing. Towards the end of the war the Germans attempted to stop the production of the factory by hauling out of Zlin the machines for the production of needles. This was counteracted by the Management of the Company who slowed down the dismantling of the machines and after the machines were loaded into cars, the cars were moved to a station near to Prerov or Kojetin and thus the Germans could not get hold of them.

The accused D. Civera stated in his defense that during the occupation the number of employees was increased from 40,000 to 50,000 and on the other hand the output was skillfully decreased and that in this way workers were protected from being drafted for forced labor in the Reich, especially youths, University students and officers of the Czechoslovak army.

In that respect was found first by testimony of Rynek Bata that the output in the workshops was purposely slackened in order to protect the floor space and also to keep employment for the workers; it went so far that in the year 1945, 500 pairs of shoes were produced daily by 66 operators while in 1938 for the production of 1000 pairs daily, i.e., a double quantity, only 111 operators were needed.

By a deposition of Frank Valtar, which he has taken as his testimony on the witness stand, was further

proved that upon a distinct directive of D. Cigera officers of Czechoslovak Army were hired by the Company; for example, General Zahalka; Colonel Regentik; Major Horky; Major Skopal; Captain of General Staff Malik; Major Homola; Captain Asmus; Lieutenant Vesely and tens of other officers and non-commissioned officers; further, legionnaires fired from the Civil Service; further, fired and pensioned gendarmes and, after the Czech Universities were closed, an opportunity was given to the students to get employment with the Company Bata and that was also done upon a directive of the accused D. Cigera.

Political prisoners who returned from concentration camps were given employment with normal earnings, although according to a rule of the Gestapo they were not permitted to get a job except in a very subordinate position with very poor earning prospects. This was also carried on upon a distinct wish of the accused D. Cigera and very often against a clear German interdiction.

By the testimony of Hynek Bata was proved that in 1939-40 in the Slovak and Velsch countryside there was intense German propaganda for going to work in the Reich and this propaganda had a certain success among the workers who started to leave for Linz and other towns in Austria. In order to counteract this the Company Bata started to hire new people who were in that way protected from being drafted

for forced labor in Germany at a later date.

By the testimony of Dr. Vladimir Krejci the National Court considers to be proved that during the occupation there was a danger that some people would be tempted by the possibility of a higher income to go to Germany and that the Company Bata faced this danger by a policy in personal matters which made possible high earnings for its employees and that for that reason the Company violated regulations concerning the so called "Lohnstop".

Toward the Germans it was pretended that there was not a diminishing but an even increasing need of labor, and in that way the number of employees was increased during the war and the witness referred to statistics which he produced. In that respect the directives were given by D. Cipera either to the witness or to the manager of the personnel department. A further consequence of this policy was that to thousands of employees an opportunity was given to work in their Fatherland and they also were protected against forced labor in the Reich.

In this connection it was proved by the testimony of Kynek Bata that for that reason the Company paid wages of more than 100% higher than was allowed by the German regulations, and that the occasion of the 50th jubilee of the Company was used for a distribution of about K 54,000,000 -- among the employees in order to increase their income.

Already at another place it was stated that the National Court considers to be proved that the wages in Zlin were increased by about 140% during the war as proved by the witness Dr. Vladimir Krejci. According to the testimony of Dr. Vaclav Samec the average wage in the sole-leather tannery was about K 300-- weekly in 1939 and in 1941 already K 600-850- weekly. The wages in the upper-leather tannery were approximately K 300- weekly in 1939 and in 1941 about K 550-800- weekly. In the last years of the war the wages were still higher. In the textile department, as the witness stated according to his personal knowledge, the wages were increased by about 140%. Dr. Miesbach pointed this out and the witness had to explain to him this increase as a change from three shifts to two. The witness Hynek Sata testified to the same effect and the National Court considers to be proved by his testimony that in the production of leather shoes wages were tripled in comparison with the year 1938, although production was reduced during the occupation.

The National Court considers further to be proved by the testimony of this witness that wages were 100% higher than was stipulated by the edicts, and that the Company did not seek to make profits is clear considering the fact that in the year 1939 the wages amounted to 24% of the total turnover; in the year 1940 31% of the turnover; in the year 1941 38% of the turnover; in the year 1942 41% of the turnover; in the year 1943 43% of the turnover and the same in the year 1944.

The wages paid out amounted to:

K 566,000,000.-- in the year 1939  
K 743,000,000.-- in the year 1940  
K 1,070,000,000.-- in the year 1941  
K 1,295,000,000.-- in the year 1942  
K 1,432,000,000.-- in the year 1943  
K 1,418,000,000.-- in the year 1944

By the testimony of Joseph Adam the National Court considers further to be proved that although the wages were higher the operations were less extensive because some of them were reduced up to 50% because of the restrictions imposed by the supervising authorities. Before the war a worker operating at a Lasting machine lasted 1000 pairs of shoes daily but during the occupation he did 500 pairs only and got the same wage as for 1000 pairs.

It has been proved by the testimony of Jaroslav Novak, who during the war was in charge of the Department Store, that the witness was called by the accused D. Cipera and manager Hlavnicka shortly after the occupation began, and they gave him instructions to purchase as much as he could of commodities which the employees could then gradually buy in the future and in that way the real buying power of their wages would be preserved. Even at a later date, when the purchase of commodities became rather difficult, the accused D. Cipera insisted that the purchases be made even though the commodities had to be purchased on the black



market at higher prices. However, to the employees the commodities were to be sold at official prices and the resulting loss was to be charged to the Company. In the event that there was no possibility to charge the Company with losses without arousing the suspicion that the Company was trying to keep the employees supplied with commodities which were not obtainable on the official market, the difference between the purchase price and selling price was covered by the accused D. Cipera, Joseph Hlavnicka and Hynek Bata, and perhaps also by others from their personal accounts and the witness confirmed that in that way D. Cipera contributed from his personal income considerable sums for providing commodities for the employees of the Bata Company.

As far as the decreasing of output in the workshops and in the whole factory is concerned, the National Court has made several findings. The accused D. Cipera stated, in his defense, that during the occupation the evening school which was attended by the apprentices after working hours was abolished, and that a day school was organized in such a way that after each three months of practical schooling in the workshops they spent one month in the theoretical professional school. In that way the output of the apprentices was decreased by 1/4. The working hours for the pupils of the professional school were reduced to 35 hours and later

to 30 hours weekly. For the aged workers special workshops were organized with a very low output and daily working program, and in that way on one hand a decrease in output was achieved and on the other a protection of the floor space in which the Germans were particularly interested was achieved, as mentioned above.

All these facts the National Court considers to be proved by the testimony of Hynek Bata, who confirmed that the output of the apprentices was decreased by having them attend a day school during the working hours instead of an evening school, and that after every three months of schooling in the workshops there followed a month of theoretical schooling in the professional school, and that the working hours of the professional school students were decreased to 30 hours weekly, and that there were organized special workshops for aged workers with a very low output with the idea to decrease the total output of the factory.

The witness Rudolf Pluhacek confirmed and the National Court considers to be proved by his testimony that the accused Dominik Cipera always, while speaking to the witness, hinted very clearly that the witness was to try to counteract the interests of the occupying power, to slow down the production and to protect the employees, especially such people as were anxious to get a job because otherwise they were threatened by the draft.

Also, by the testimony of the engineer Matej Hradek, it was proved that in order to cut down the working hours the practice was introduced to have one month of theoretical schooling follow every three months of practical schooling in the workshops, and that the evening school for the apprentices was abolished and schooling during the working hours introduced, that the working hours for the apprentices were reduced to 35 hours and later to 30 hours weekly. According to this witness the Germans realized that it meant actually a decrease of the output because considering the number of students there were thousands of working hours involved daily. The witness admitted that this action would not have been possible if it had not been for the support of D. Cipera who backed this idea and who to the Germans referred to their legislation concerning youth.

To the indictment that upon the initiative of the management of the Bata Company and thus with the approval of the accused D. Cipera, on April 26, 1940 an application was filed with Oberlandrat in Zlin asking for an extension of the working hours from 8 hours to 10 hours daily, the accused D. Cipera stated in his defense that he had no personal knowledge as far as this application is concerned because he did not give his approval in advance and that at the time he was working in Prague in the Ministry of Public Works and that on the occasion of his visits to Zlin he did not read the outgoing mail and that he did not discuss similar details with anybody. He first pointed out that the letter involved was written in "Prussian German" with which no one at the Bata Company was

familiar, and it could be assumed therefore that this application was obviously written by a German from the Reich, Dr. Rustemayer, who actually signed the letter and then gave it to the Company for their signature.

In this respect, even the indictment admitted that the application involved was not signed by the accused D. Cipera. However, it was asserted that the person who signed the letter on behalf of the Company could not have done it without a resolution of the whole management. This assumption of the indictment, however, was rebutted by the testimony of DR. Karel Cvachovec who confirmed that the accused D. Cipera was not the chairman of the Management Board and that all members of the Board were equal and that what one of them decided was a final decision. Only in cases of doubt the member of the Board who had to decide called another member of the Board who happened to be present and, if necessary, also additional members of the Board and in cooperation with all members of the Board called together in this way, the case was decided. Of course, the accused D. Cipera enjoyed within the company a high esteem as a consequence of his personal qualities. However, he himself did not make any use of it. These facts proved by the witness DR. Cvachovec are in accord with Section 227-231 of the Commercial Law in which are stipulated cases for which collective decisions of the Board are needed, and this applies also to companies which do not have special stipulation in their by-laws. Also according to Criminal Law which is governed by the principle: "Societas Delinquere Non Potest", which means that

a limited company cannot be subject to a criminal action, and, therefore, it would be possible in this case to make D. Cipera responsible only if it could be proved that he actually had done something which could be designated as a crime in that respect, or if it could be proved that he was an accomplice in a crime according to Section 5 of the Criminal Law. However, nothing similar was proved of the accused. According to the facts already set forth which the National Court considers to be proved, the accused D. Cipera was still the Minister of Public Works at the time when the application was filed and visited Zlin only on Saturdays and Sundays, and, therefore, it is obvious that he could not be familiar with everything that was going on in the factory. It was proved by a photostatic copy of the application for an extension of the working hours that, in fact, the application for the extension of the working hours was written in unusual German language, and was signed by Dr. Rustemayer, who was appointed by the enemy government for the Bata Company as so-called Industriebeauftragter, as already mentioned in another place in this decision. It was also proved by the testimony of engineer, Frank Malota, that although he had seen the accused D. Cipera on the occasion of his visits to Zlin and had spoken to him, he never discussed with him the application for the extension of working hours and the witness assumed that, in fact, the accused D. Cipera never had knowledge of this application. For these legal and factual reasons the National Court acquitted D. Cipera in that respect.

On the basis of all the facts proved, the National Court found to be groundless the accusation that Bata a.s. entered into the service of the Germans. The proved facts show that during the occupation there was in the factories of Bata a.s. a loyal striving among the management (including D. Cipera) and the Czech employees for ingenious and audacious sabotage of those measures of the enemy government the purpose of which was to serve the military objectives of Germany and only employees of German origin and some of the Czech employees who after March 15, 1939 denied their Czech nationality because of the great pressure on the Czech nation, hindered the sabotage efforts of the Company and its loyal Czech employees.

To the indictment that the volume of production was increased during the war and that eventually the direct war production reached 80% of the whole production, the accused D. Cipera stated that this indictment was in no way supported and that only the machine shops and a part of the rubber-workshops were concerned with armaments production, and that with regard to the number of employees, only about 8% took part in the armaments production in the year 1942, and towards the end of the War about 2% of the total number of employees took part.

In this respect the National Court considers to be proven, by statistics with respect to the turnover of the Bata Company established by "Bata Narodni Podnik" Bata National

Enterprise<sup>7</sup> and produced at the trial by the prosecutor, that the direct deliveries of the Bata Company to the German Forces amounted to:

K428,329,738.30 in the year 1943

K378,481,573.10 in the year 1944

K88,854,228.40 indirect deliveries in the year 1943

K181,360,137.30 indirect deliveries in the year 1944

the total turnover in the year 1943 was K5,327,728,518.95; the total turnover in the year 1944 was K3,217,513,862. From these statistics it is clear that in 1943 the direct War production represented roughly 13% and the indirect deliveries 3%, totalling 16%, and in the year 1944 the direct deliveries represented roughly 11% and the indirect 6%, totalling 17% of the whole production. By these statistics, the assumption on which the indictment was based is refuted. The National Court is of the opinion that these statistics prove that the Bata Company cannot be reasonably found guilty of during the War engaging itself completely and indiscriminately in the German service and in that way supported the enemy. Although the Bata Company could not avoid the necessity of working for the German Forces, what no company in the Czech occupied countries could successfully avoid as proved by the testimony of Dr. Karel Cvachovec and by the deposition of engineer Staller, it is not possible to agree with the indictment that the Bata Company engaged itself completely in the German service.

With respect to the documentary evidence produced by Bata n.p., the National Court did not consider it necessary to

deal with the testimony of Dr. Ivan Hely, who stated that from his activity in the department selling the products of the Bata Company, he knows that sometimes more than half of the turnover went on account of deliveries to the Germans and that in armaments production were employed more than 40% of the employees and that indirectly all of them were working for the Germans, because in that respect the National Court considers an authentic document to be more reliable proof.

To this it should be added that in that respect, the testimony of Hynek Bata was more correct in comparison with the statistics produced by Bata n.p. than the testimony of Dr. Hely because Hynek Bata confirmed on the witness stand that the deliveries for the German Forces in contrast to the total production of the Company amounted to something between 8 and 9% of the total turnover. The witness Hynek Bata came to this conclusion on the basis of notes referring to the wages paid out and to the total turnover, and related results were proven and have been mentioned already in the course of this decision.

During the trial it was also established by the testimony of Cyril Nemeš, whose deposition (Enclosure Number 128) was confirmed on the witness stand, that at the time the Germans started to retreat in the East, they realized the necessity of having fortifications in the West, and the management of the Company received a secret message that they were obliged to send to Frank a list of all machines used for building purposes and that these machines would have to be sent to the East as well as to the West.



Immediately after receiving this message the management sent all these machines to Slovakia and Hungary. Dr. Miesbach was blamed for that by Dr. Bertsch in a very rough manner, and he immediately telegraphed that the machines which had been sent to Slovakia were to be sent back at once. However, the witness, after a consultation with D. Cipera, arranged that the machines would not be sent back and, in fact, they were never returned.

The indictment further held the accused D. Cipera criminally responsible for everything that was going on in the Bata Company during the occupation because he allegedly was the chairman of the management board and the general manager as well as the essence of the business; it was alleged that he knows how to influence people to respect his will.

In that respect, the National Court considers to be proved by the testimony of engineer Hugo Vavrecka that the accused D. Cipera was neither chairman of the management board nor general manager of the Bata Company and that at the end of 1938 the Company was managed by the "Spravni Rada," the chairman of which was Jan Bata up to 1942 when the by-laws of the Company were changed, and after that there was no chairman of the management in order to make it impossible for the Germans to seize that function for Dr. Miesbach, which was proved by the testimony of Dr. Karel Cvaschovec. The organization of the Bata Company was highly decentralized and all managers and foremen enjoyed considerable autonomy. It was in the tradition of Thomas Bata that everybody was to bear responsibility and was to know how to make decisions.

This tradition was carried on even after his death and for that reason no bureaucratic hierarchy was in existence in the Bata Company. There were no formal meetings of the management and no formal resolutions. The consultations were held by telephone, if necessary, and in case some of the members of the management were missing the decisions were made without them. In cases of doubt, the last word was finally with Thomas Bata during his lifetime; after his death with Jan Bata and after he left, the decisive word was with Hlavnicka; it was only after May 1943 that similar decisions were transferred to the accused Dominik Cipera, not legally, but via facti, mainly for the reason that he was available in the factory at any time. Nobody had the title of general manager. However, it sometimes happened that some of the employees, especially the newcomers, used to, according to Czech custom, address the executives as general managers. It was Joseph Hlavnicka and D. Cipera who were addressed by the title of general manager by the newly hired employees who had not been with the Company before, and Joseph Blazek by the title of central director without any actual legal reason.

This testimony agrees also with the testimony of Dr. Karel Cvachovec, and the National Court, therefore, came to the conclusion that the accused D. Cipera was neither general manager nor chairman of the board of management of the Bata Company, and that, therefore, the indictment could not be sustained that D. Cipera, with respect to his alleged position, was criminally responsible for everything which, according to the indictment, was going on at the Company

during the occupation. For that reason the National Court examined each incident for which D. Cipera was held responsible by the indictment whether or not it occurred upon the initiative of D. Cipera. In that way it was established that the accused D. Cipera had no relation to the application for an extension of the working hours as well as with the so-called quotations for the German Forces, which are mentioned in the indictment. Although the existence of these so-called quotations was proved by copies filed under the number 191, it was found that not one of them was signed by the accused D. Cipera.

Because, as previously stated, D. Cipera could not be made criminally responsible for other persons in the Company, the National Court did not consider it necessary to examine closely D. Cipera's defense that the documents called by the indictment "quotations" were not quotations in the usual sense of the word, but represented only so-called reports of calculations which the German military authorities either approved or corrected, and then [Independently] gave an order including price and delivery terms.

The indictment of D. Cipera alleged that the German war economy was considerably supported when the Bata Company hired some Reich Germans during the war.

In that respect the National Court considers to be proved by the testimony of Rainer Halik that shortly after the occupation began a committee consisting of officers of the German Army visited Zlin and examined the machine shops, and were

misinformed by the witness, which was revealed by one Joseph Gronych as heretofore mentioned. Shortly after that a captain of the German Army, Kupfer, and Dr. Rosner of Küstungskeuhand came to Zlin with an order to introduce, at the Bata Company, a production schedule for the German Forces. At a later date, Dr. Rustemayer took up permanent residence in Zlin and himself made all decisions concerning the machine shops. By the testimony of engineer Hugo Vavrecka, the National Court considers to be proved that during the occupation the management of the Bata Company faced the decision as to the policy to be followed in order to achieve the result that the factory would work for the German economy as little as possible, and yet avoid a forcible Germanization of the Company. The original intention of the executives was a gradual restriction of production resulting in certain stoppages and in that way to outlive the War. However, shortly after the beginning of the occupation, Reich German, Dr. Bernhuber, came to Zlin allegedly for the purpose of investigating how the currency regulations were followed by the Bata Company. The manner in which he tried to get information from all departments indicated that his actual mission was to prepare the way for the complete taking over of the Company by the Germans. The management of the Company was notified by its legal attorney in Germany, Dr. Ludwig, that Dr. Bernhuber was notorious as an official wholesale "barisator." Engineer Hugo Vavrecka, who was appointed by the Bata Company to keep in touch with Dr. Bernhuber, realized that he was a ruthless man with strong personal ambition and obviously

followed the Nazi goals, and that was the reason why Vavrecka tried to eliminate his influence by a complaint to the Oberlandrat Dr. Hopf in Zlin, pointing to the way in which Bernhuber interfered with the internal methods of the Company. Dr. Hopf himself did not know of what the real mission of Bernhuber consisted. However, he investigated the case and after a few days he showed the witness a telegram saying that Bernhuber was appointed by the so-called Reichs Protektor to take care of the Reich interests within the Bata Company. In December, 1939, Dr. Bertsch, who at that time was economic adviser to the so-called Reichs Protektor, invited the representatives of the Bata Company [to a meeting] and he intimated to them that the German interests in the Bata Company could not be protected in any other way than by transfer of the capital stock. It was clear to the management that what the Germans were after was to seize the plant and take over complete control of the Company and that Dr. Bernhuber was chosen to be the future managing director. The management was aware that this would mean complete and exclusive subordination of the production potential of the Bata Works to the German war economy, and, therefore, they decided to prevent it in some way. They started complaining to Dr. Bernhuber, and eventually they achieved the result that Dr. Bertsch abandoned his original request for a German participation in the capital stock, which the accused D. Cipers consistently had resisted. However, Dr. Bertsch intimated to the management of the Company that there must be a German in the management and he promised that, if one were taken into the management,

he was inclined, as far as he was concerned, to consider the Bata case closed up to the end of the war. That was the reason why the management of the Company started discussions with the former legal adviser to the Czechoslovakian Embassy in Berlin who was also the legal attorney for the Bata Company in Berlin, Dr. Ludwig, and asked him to find a German who would be ready to be nothing more than a puppet in the Bata Company. The management of the Company started discussions with Dr. Ludwig because they knew of his anti-Nazi orientation, and they knew that he assisted political refugees and that he was legal adviser to the Czech Embassy. Dr. Ludwig recommended Dr. Miesbach to the Company and he assured the management of the Company that Miesbach was quite harmless. In fact, the witness confirmed that Dr. Miesbach in comparison to Dr. Bernauer was less dangerous as far as the defense of the Czech interests was concerned. The accused D. Cipera himself admitted that after that Dr. Miesbach was engaged by the Company and a contract was concluded with him, a photostatic copy of which is filed with the Court. As the copy shows, this contract was concluded with Dr. Miesbach on May 30, 1940 and by this contract Dr. Miesbach became a member of the management of the Bata Company, starting July 1, 1940.

In spite of the promise of Dr. Vertsch that by the appointment of Miesbach he considered the case of Bata to be settled up to the end of the war, Dr. Miesbach returned from Prague on one occasion in the autumn of 1941 and again presented to the management of the Company the request for German partici-

portion in the capital stock of the Company and for a change of by-laws of the Company in accordance with German legislature. It was quite clear to the management, who in the meantime, had become sufficiently acquainted with Dr. Miesbach's personality to know, that this request did not originate in Miesbach's head, and, therefore, D. Cipera decided to go to Prague himself and see Dr. Bertsch in order to become orientated in the circumstances and with Dr. Bertsch's ideas. After his discussion with Dr. Bertsch and after his return from Prague, D. Cipera informed the management of the Company that what Dr. Bertsch intended to achieve was a change of by-laws by which a board of supervisors would have the power to appoint the members of the management board, in accordance with the German legislature. Further, D. Cipera communicated to the management his feeling that Dr. Bertsch believed that the occupation was a permanent state of affairs and because he was active at one time in a section of some German ministry dealing with matters concerning the leather industry, he apparently wanted to assure himself of a position after the war and he had chosen the Bata Company apparently for that purpose.

The Management of the Company then decided that they would make use of this in their tactics against the penetration of other Germans who flooded the Czech countries with the aim to enrich themselves and with a large program for Germanization, and the Management believed that if they

offered a position on the Board of Supervisors to Dr. Bertsch, who was fully occupied with his official functions in Prague, they would achieve the results that no German would come into the Company and that Dr. Bertsch would be less dangerous because he would not have time enough to intervene in the business of the Bata Company. The accused D. Cipera informed the Management of the Company that Dr. Bertsch was ready to start negotiating in that respect, subject to the approval of Frank.

However, Dr. Bertsch did not get the approval of Frank and Dr. Marotske was appointed as the German on the Board of Supervisors. When the question of a German participation in the capital stock of the Company was revived the accused D. Cipera insisted consistently that this participation was not permissible, and for that reason he came to an agreement with Dr. Bertsch that Dr. Miesbach and Dr. Marotske would be issued proxies for the general meeting of shareholders for a so-called qualified minority, i. e., for 26% of the capital stock. This was of no practical significance because the Board of Supervisors, although supposed to have influence on the appointment of the Management, in reality, was not able to make any use of it because the accused D. Cipera succeeded in obtaining a stipulation with respect to the aforesaid agreement that the present Management could not be replaced by another one for a period of 5 years. The Management of the Company believed that before



this period of time elapsed, in 1947, the Czech Republic would be already liberated.

This testimony of Engineer Hugo Vavrečka is also in general agreement with the testimony of Dr. Karel Cvachovec, who confirmed, particularly, that the Germans were anxious to get hold of a part of the capital stock in the Bata Company and that the Czech Management considered it to be its duty to counteract these efforts because they were aware that it would result in an unlimited German power in the Company. Eventually, the Czech Management succeeded in arranging things in such a way that the Germans did not get a participation in the capital stock; that, in the Management which consisted of 7 members there was only one German, namely Dr. Miesbach, and on the Board of Supervisors which consisted of 5 members there were two Germans, namely, Dr. Marotzke and General Schuetze. The German authorities were interested in setting up a Board of Supervisors in accordance with the German legislation concerning corporations because, according to this legislation, the Board of Supervisors was entitled to appoint the Management. After the Board of Supervisors was set up this power was thwarted, for in the By-Laws of the Bata Company a provision was incorporated that the members of the Management could not be removed for 5 years, and thus the Board of Supervisors was unable to make use of its power to appoint a member before the year 1947. The witness Dr. Karel Cvachovec confirmed, in agreement with other proof, that the

Czech Management opposed in that respect the German requests as long as possible and he also confirmed that Dr. Bernhuber was a man very well informed in this sphere of activity and for that reason he was very dangerous for the Bata Company, because it was only natural that his interests crossed the interest of the Bata Company, which first of all was anxious to continue its own tasks that it was fulfilling in our national economy up to that time. The fulfillment of these tasks, however, was put in jeopardy by the presence of Dr. Bernhuber by virtue of his aggressiveness and his experience in economic matters, and, therefore, after things were settled in the aforementioned way he was replaced in the Management by Dr. Miesbach, which represented considerable improvement. By the testimony of Dr. Karel Svachovec the National Court considered it to be proved that the German efforts to get hold of the capital stock of the Bata Company met with the resolute resistance of the accused and of course, as is known, the Germans did not get hold of any part of the capital stock. The resistance of the accused D. Cipera, which was proved, represents considerable success against the German efforts, because in that way it was achieved that the Germans did not completely seize the whole management and did not transform this Company into a purely armament factory.

It was proved that the appointment of the German members of the Board of Directors and of the Board of Supervisors

respectively was not a defeat for the Czech management but under the circumstances was a favorable result of the efforts of the defendant D. Cipera to prevent the Germans from taking the stock of Bata a.s. and thereby the entire business. Consequently, it was not in support of the German economy as it would seem according to the indictment, but it was a thwarting of the German interest and, particularly, the admission of Dr. Miesbach into the Management represented initially a certain advantage, because this German replaced Dr. Bernhuber who was an exponent of the enemy government and who in general was more dangerous. The admission of Dr. Miesbach into the Management represented a certain advantage also in opposing for a certain time the fight for German participation in the capital stock. The National Court believed, in this connection, that in reaching a legal opinion in the matter it is quite irrelevant what salary was fixed for Dr. Miesbach or what his special duties were, when by his admission the Czech Management got rid of the most difficult German exponent imposed on them. Therefore, the fact that the accused D. Cipera signed the contract concluded with Dr. Miesbach, which was proved, cannot represent an illegal act and a crime according to Section 8, Subsection 1 of the Retribution Decree, when the accused D. Cipera did not intend by this contract to support the Nazi movement and when he was interested only in preventing the

Czech members of the management from being completely removed, and the Management of the Bata Company from being seized by the Germans. For these same reasons, it is not possible to consider in any other way the intrusion into the Board of Supervisors of Dr. Marotzke and Dr. Bertsch, who replaced Gen. Schuetz on the Board of Supervisors, and the proxies for the two Germans (Dr. Marotzke and Dr. Miesbach) for the general meetings of the Company representing 36% of the capital stock; this is true, particularly, considering the fact that the creation of a Board of Supervisors was brought about so ingeniously that this Board of Supervisors could not use its power to appoint a new Board of Directors prior to the anticipated end of the war and thus not before the liberation of the Czechoslovak Republic.

The indictment accusing D. Officers of supporting the increasing German influence in the Company, and by this increasing the armament production, was based on so-called documents of the Stechovice archives St. VI H 102/41 str. 43,724 and 43,725, in which the indictment alleged there to be proof that the increase in German influence and increase of armament production was not enforced by the occupying power, but was upon the initiative of the Management.

The National Court believes, however, that it was