

CHAPTER IV

CONSTITUTION Annex I - Part I

Section C

Valid Objections

**SECTION C — CONDITIONS UNDER WHICH “REFUGEES” AND
“DISPLACED PERSONS” WILL BECOME THE CONCERN
OF THE ORGANISATION**

1. “1. In the case of all the above categories except those mentioned in Section A paragraphs 1 (b) and 3 of this Annex, persons will become the concern of the Organisation in the sense of the Resolution adopted by the Economic and Social Council on 16 February 1946 if they can be repatriated, and the help of the Organisation is required in order to provide for their repatriation, or if they have definitely, in complete freedom and after receiving full knowledge of the facts, including adequate information from the Governments of their countries of nationality or former habitual residence, expressed valid objections to returning to those countries.”

2. Persons may become the concern of the Organisation in one of two constitutional ways. One way provides for those *who can* (i.e., as forcible repatriation is not now normal policy in the countries of residence of refugees and displaced persons, *who are willing*) be repatriated (1) and in respect of whom the help of the Organisation is required (2). The other way is for those who refuse repatriation; it is not open unless the individual concerned has expressed valid objections to repatriation based on adequate information.

3. It should be remembered that a person must be a refugee or displaced person according to Section A or B before this Section C begins to be applied. Thus for example it would not be true to say that all persons wishing to be repatriated became the concern of the Organisation (3).

4. As adequate information must precede valid objections it is proper to consider them in this order.

5. “(b) *Adequate Information.* — The following shall normally be considered “adequate information”; information regarding conditions in the countries of nationality of the refugees and displaced persons concerned, communicated to them directly by representatives of the Governments of these countries, who shall be given every facility for visiting camps and assembly centres of refugees and displaced persons in order to place such information before them.”

(1) *Geneva 4204*: Petitioner was a Slovene who fled into Austria in May 1945, alone; she believed herself a widow. There was no indication of German ethnic origin. She claimed that she had applied for repatriation and was awaiting an answer from the Yugoslav authorities. Ruled within the mandate, eligible for repatriation only.

(2) *Geneva 4126*: Petitioner was an Italian who had lived in France working as a mason until 1944. He was then taken to Germany for forced labour. He wished to be repatriated to Italy, had an identity card issued by the Italian Repatriation Mission in the French Zone of Germany and had the promise of repatriation to Italy by the Italian authorities. Ruled to be a displaced person but not within the mandate because, although he wished to be repatriated and could be, the Organisation's help was not needed.

(3) *Geneva 4124*: Petitioner was an Italian who had lived in France from 1925 to 1937 when he was expelled. He then worked in Luxembourg until 1940 when he went on his own account to Germany because, as he stated, work was easier to find and more remunerative. Now, as he could not find work in his own professional category, he wished to be repatriated. Ruled to be neither a refugee or displaced person and not within the mandate.

6. Adequate information includes :

- (a) all printed material furnished by the governments of the countries of origin and distributed in a manner which one could expect to reach all displaced persons, and
- (b) information given directly to the displaced persons by representatives of the Governments of the countries of origin.

7. The intent of this provision was to make sure that no refugee or Displaced Person was prevented from returning home by propaganda against repatriation. The responsibility for providing "adequate information" rests with the Governments of origin, but the responsibility of IRO is to "open the door" for adequate information. It will be observed that whereas some refugees and Displaced Persons have already received "adequate information", others have not.

8. In view of the fact that there is a considerable discrepancy in all IRO areas of operation regarding adequate information about conditions in countries of origin, it will be the responsibility of the Chiefs of Field Offices to determine who in their area has or has not received such adequate information. Before a Chief takes a decision regarding adequate information he will make sure that the Organisation's policy has been executed, as laid down in Provisional Orders No. 21 and 80 and any subsequent directives which may be issued in implementation of those orders.

9. It would, however, be against the intention of the Constitution to delay unduly the rendering of assistance when the Government of origin is unable, or unwilling to do its part; for "it should equally be the concern of the Organisation to ensure that no *bona fide* and deserving refugee or Displaced Person is deprived of such assistance as it may be in a position to offer". (Para. 1 (f) of General Principles of Annex I.)

10. "(a) *Valid Objections.* — The following shall be considered as valid objections :

- (i) Persecution, or fear, based on reasonable grounds of persecution because of race, religion, nationality or political opinions, provided these opinions are not in conflict with the principles of the United Nations, as laid down in the Preamble of the Charter of the United Nations.
- (ii) Objections of a political nature judged by the Organisation to be "valid" as contemplated in paragraph 8 (a) of the report of the Third Committee of the General Assembly as adopted by the Assembly on 12 February 1946.
- (iii) In the case of persons falling within the category mentioned in Section A, paragraphs 1 (a) and 1 (c) compelling family reasons arising out of previous persecution or compelling reasons of infirmity or illness."

11. It is valid objections which enable a distinction to be drawn between refugees proper and simple migrants. The judgment of the validity of expressed objections is at once the crucial and the most difficult point in determining whether an individual is within the mandate or not. Not only is proof or disproof extraordinarily hard but also motives of the objector are usually mixed and the expressed statement likely inadequately to represent the true objection or to contain relevant points by implication only. Every attempt should be made to discover what are an applicant's real objections, not only the ones he happens (perhaps by misjudging the Organisation's requirements) to express. The fact that a person has been a refugee for years and is willing to remain one raises a presumption that, at least in his own eyes, his objections are adequate. It is probably

too much to expect that there will ever be complete uniformity in the judgment of different Eligibility Officers. It is possible to refer cases of doubt to the Review Board, but this procedure is not desirable as a general rule, because it tends to put undue work on the Review Board. It may be adopted, however, in the more difficult cases, but care should be taken to see that among the papers presented to the Review Board is a full statement of the position as seen by the Eligibility Officer concerned.

12. The Constitution expressly mentions two categories of refugees for whom the necessity of expressing "valid objections" has been dispensed with. They are:—

- (a) Spanish Republicans, so long as the Falangist regime continues (Part I, Section A, paragraph 1 (b)).
- (b) Victims of Nazi persecution defined in Section A, paragraph 3 who are in Germany and Austria.

13. It should in the first place be made clear that, whether a person wishes to be repatriated or not, valid objections are irrelevant when he is unable to be repatriated (4). Such circumstances sometimes arise from conflict of citizenship laws (5), or because of the absence of representation of the home government of the refugee concerned in the area where the refugee is living. In such cases the certificate of the Repatriation Division that repatriation is in fact impossible should be accepted.

14. Next it should be noted that if a person has more than one country of former habitual residence, he must express valid objections to return to all of them if he is thus to become the concern of the Organisation (6).

15. There is a colossal variety of objections that are expressed but are not valid for the Organisation's purposes. Clear and exclusively economic considerations are, of course, no use (7) whether they advert to bad conditions at home (8) or bright hopes in the western world (9); lack of housing has been expressed (10) as well as the uncertainty of work in somewhat specialised occupations (11). Nevertheless, in so far as Communism is both a political and economic doctrine, valid political objections may be expressed in an economic form; the validity of such politico-economic objections is particularly hard to judge; they are expressed often by small-business-men whose livelihood has been removed by the recent changes in eastern Europe; mere loss of livelihood cannot be accepted as anything other than economic, and thus is invalid; if, however, loss of political rights is alleged and substantial then a valid objection is possible (12). This should be considered along with the consideration of purely political objections (below). An economic objection is equally invalid whether it adverts to there being either no work or too much work at home (13).

16. The second major category of invalid objections are those which express purely personal factors. Clear cases are those of family feuds (14) and quarrels (15), the desire to join a relation abroad (16) or not to rejoin one's family at home (17). Some men refuse to be repatriated because they prefer to live where they are with their wife (18) or some other woman instead (19); and lest it be thought that desertion is the exclusive prerogative of men it should be pointed out that a woman's distaste for living with her husband is not valid objection either (20). Some reasons are most pathetic, but "hard cases make bad law" and they cannot be admitted (21). In some of these circumstances, for example when an applicant states that he has no home or family to return to, the objections might well be valid if expressed by a pre-war refugee or a victim of persecution, being "compelling family reasons" (see below).

17. A third series of cases are those in which the applicants express as their objections to repatriation a fear of punishment. In the majority of cases such objections are not valid, in some cases because there would probably be no punishment at all (22), in others because the event in respect of which punishment is feared has no bearing on the political, racial or religious matters that are basic to a true refugee's position. This is the case in respect of common deserters (23) and persons who refuse military service (24), of traitors,

(4) *Geneva 4398*: Petitioner was a Slovene who was taken to the border by the OZNA and forced to enter Austria in May 1945 after having been awoken in the middle of the night and given ten minutes to dress and pack. She had several times applied to return to Yugoslavia where all her family is still residing and they had also applied in Yugoslavia, but in vain. She still applies for repatriation but is unable to obtain the protection of her Government. It seemed probable that her expulsion had been based on the presumption that she was a Volksdeutsche. The criteria which were used in Yugoslavia to determine German ethnic origin were not known, but it was clear that she was not of German ethnic origin according to the criteria used by I.R.O. Similarly, there was no indication that she should be otherwise excluded. She was ruled to be a refugee who could not be repatriated and within the mandate.

(5) *Geneva 2201*: Petitioner was a farm labourer born in the Banat. He had been employed in Hungary until 1944 when he was sent, as he claimed, compulsorily to Austria accompanied by his wife and daughter. Petitioner was willing to return to Roumania but was not acceptable there, having acquired Hungarian nationality as a result of the 1940 territorial changes; he was not acceptable for return to Hungary, being there considered a Roumanian. Within the mandate.

(6) Extract from policy letter of 6th October, 1948, from I.R.O., Geneva (Reference IRO/HCM/WEL/13: 95/1/NAN):

"It is possible for a person who has been displaced twice to have two countries of former habitual residence. A Nansen refugee resident before the war in France and displaced into Germany during the war would be in this position Assuming the French Government would admit him, that person would have to show valid objections if he were to be our concern on his refusal to return to France. There might be exceptions to this general rule, however. Take the example of the Nansen refugee from France who is in Germany. If all he requires to resettle to the U.S.A. is a travel document, and he is capable of paying for his passage, we might then assist him to this extent".

(7) *Geneva 4250*: Petitioner was a Hungarian who had never engaged in politics. He left Hungary in October 1944 as part of the westward movement ordered by the Hungarian Government and continued in Austria his work as a leather expert. He stated that he had intended to migrate ten years ago but was prevented from doing so by family matters. His motives were regarded as economic and he was ruled not within the mandate.

(8) *Geneva 4314*: Petitioner was a 30-year old Hungarian farm labourer, who had been conscripted into the Hungarian Army and had come to Austria with his unit in 1945. He stated that he refused repatriation because he had no relatives at home, the economic conditions were bad and it was hard to earn a living. Not within the mandate.

(9) *Geneva 4323*: Petitioner was a 31-year old Hungarian tailor who claimed to have been taken by the Germans to dig trenches in 1945. He alleged that two of his relatives had been deported by the Russians, but could not substantiate the allegation. It was clear to the Board that he had compared the economic advantages of the West with those of the East of Europe and that he considered that emigration westwards was preferable. Not within the mandate.

(10) *Geneva 4166*: Petitioner was a Netherlands citizen of 53 years of age born in Holland where he had lived until 1942 when he went to work in Germany. Although there was insufficient real evidence of duress to justify the assumption that his going to Germany was involuntary, nevertheless his only objection to repatriation was that he wished to wait so that he could find a suitable dwelling. Not within the mandate.

(11) *Geneva 4239*: Petitioner was a 30-year old Hungarian professional jockey who left Hungary in September 1944 with his employer and a number of race horses. He refused to return to Hungary and wished to work abroad because there was no future for jockeys in Hungary. Not within the mandate.

(12) *Geneva 4597*: Petitioner was a glass-blower from Croatia who had been owner of a small workshop. He fled from Yugoslavia in 1944. He stated that he was unwilling

to return to Yugoslavia because the owners of all small enterprises were denied political rights and he was opposed to the system that imposed such restrictions. Within the mandate.

(13) *Geneva 4346*: Petitioner was a Roumanian from Bessarabia. Questioned in detail he stated that his objections to repatriation were that there was too much work in the U.S.S.R., that the Sabbath was not observed and that labourers were compelled to work week after week without rest. Not within the mandate.

(14) *Geneva 4335*: Petitioner was a 23-year old Croat of Northern Dalmatia who left his country in 1942. His father had lent some money to one of his nephews who, unable to pay his debt, joined the partisans for the purpose of murdering his creditor and his whole family. He began by murdering petitioner's sister, then shot his own grandfather in bed, so that the rest of the family fled, terrorized, to Austria where petitioner's father died in 1945. Petitioner has thus inherited some land and two houses in Yugoslavia but as he is absent his cousin (the alleged murderer) has been appointed custodian of the property and petitioner is convinced that he will murder him also if he returns to claim the property. It was ruled that that objection was not valid. (Petitioner did, however, express another and valid objection and was found within the mandate as a result.)

(15) *Geneva 4237*: Petitioner was a Slovak who had lived in Yugoslavia in poverty. In 1937 he had left home to work in Germany and 1941 moved to Spittal in Austria. At the end of the war he applied for repatriation and was sent to Spittal camp awaiting transport. There he quarrelled with two Communists and as a result feared to return to Yugoslavia because the two Communists might seek revenge. Ruled that that objection was not valid: not within the mandate.

(16) *Geneva 4491*: Petitioner was a Yugoslav who left his country on 7 January 1948. On interview he finally admitted that his brother left Yugoslavia the previous year and obtained work in England by applying to IRO and that he (petitioner) wanted to do the same. Not within the mandate.

(17) *Geneva 4268*: Petitioner was a Slovene woman of 46 who fled to Austria in May 1945 when the partisans captured her village. She had previously kept house for her brother, who had remained at home; her flight had been due to panic. On interview she stated that her brother was now married, that his wife was keeping house for him and that she would therefore not go back to live there any more. Objection not valid: not within the mandate.

(18) *Geneva 4095*: Petitioner was a Belgian who had lived in Luxembourg until 1941, when he was, he alleges, forced to work in Germany. He did not wish to be repatriated because, having married a German, he was living in his mother-in-law's house with his wife and prepared the stay there. Objection not valid: not within the mandate.

(19) *Geneva 4128*: Petitioner was a Yugoslav 34-years of age who alleged that he had been taken to Germany at the end of 1941 for forced labour. Although married in Yugoslavia, he had been separated from his wife for some years and was living in Germany with a German woman by whom he had had one child. He refused repatriation because he wished to stay with her. Objection not valid: not within the mandate.

(20) *Geneva 377*: Petitioner was a Croat woman who had gone to Germany in 1945 on account of domestic difficulties. Her only reason against return to Yugoslavia was that she did not wish to return to her husband. Objection not valid: not within the mandate.

(21) *Geneva 4546*: Petitioner was a Hungarian aged 82 who had left home in November 1944, because of the evacuation order and because his wife required medical attention. His wife had died in 1946 and he lived, old and infirm, in camp in Austria with the nearby grave of his wife as his sole attachment to the better world which they once shared. Petitioner's objections to repatriation—that he has no home in Hungary, that he is unable to work, that he would receive no pension and that he wants to remain near his wife's grave—were ruled not valid and petitioner was declared not within the mandate.

to return to Yugoslavia during the course of the war (if such circumstances were deemed possible) rights and he was opposed to the German law proposed for the territory. Within the committee.

(17) Census 1941: Petitioner was a Yugoslavian born Yugoslavian. Questioned in detail he stated that his objection to registration was that there was no right to be in the U.S.S.R. and the petition was not prepared and that he was not prepared to sign it without the right to return to Yugoslavia. He stated that he was not prepared to sign it without the right to return to Yugoslavia.

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(22) *Geneva 4409*: Petitioner was a Croat, 50 years of age, who had left Yugoslavia in May 1948 because he feared the partisans. During the war he had continued his work as a master plumber. On interview he gave as the reason for his flight and his objection to return that his son had been executed as a member of the Ustachis and that he feared for himself as the father. Objection not valid: not within the mandate.

(23) *Geneva 979*: Petitioner was a Serb who left his country in 1945. On interview he stated that his only reason for not returning to Yugoslavia was that he had deserted from the Army. Objection not valid: not within the mandate.

(24) *Geneva 4307*: Petitioner was a 25 years old Croat who had fled to Austria in May 1945. On interview he explained that his refusal to return home was founded on the bad conditions which prevail in Croatia—his brother-in-law had recently refused to report for work and had been sentenced to 6 months imprisonment—and that if he returned he would be conscripted in the Army or else sent to a camp. Objections not valid: not within the mandate.

(25) of persons who had been compulsorily enlisted in the German Army (26) and so forth. Similarly a number of applicants state that they would on their return be punished for their prolonged absence: such objections are not valid (27). It is no part of the function of the Organisation to protect persons from punishment for crimes committed in their countries of origin.

18. Nevertheless, giving the existing conditions, there is no large gulf fixed between fear of punishment and the fear of persecution that can be a valid objection to repatriation under 10 (i) above. For example, a fear of punishment for not joining the partisans is not, by itself, a valid objection (28), whereas if it is allied with clear political opinions it may well be (29), as the refusal to join the partisans would be evidence of a valid political objection. Similarly, desertion may be evidence of a valid political objection. Punishment for signing the German Volksliste (*i.e.* for collaboration) would not be a valid objection, but taken with other factors could be (30). In all these cases the complete facts must be known to allow the Eligibility Officer to form a coherent view and judgement; the political objection must, normally, be expressed.

19. As regards objections derived from "persecution or fear, based on reasonable grounds, of persecution..." it is neither incumbent upon nor possible for the Organisation to give its own independent and objective view about the conditions at present prevailing in some of the countries of origin of the Displaced Persons. Fear of persecution is to be regarded as a valid objection whenever an applicant can make plausible that owing to his religious or political convictions or to his race, he is afraid of discrimination, or persecution, on returning home. Reasonable grounds are to be understood as meaning that the applicant can give a plausible and coherent account of why he fears persecution. Since fear is a subjective feeling the Eligibility Officer cannot refuse to consider the objection as valid when it is plausible. As regards fear of persecution because of political opinions, the subsequent reference to the principles of the Preamble of the Charter of the United Nations is to be understood as ruling out any person whose fear of persecution is on account of his Nazi or Fascist convictions or of his belief in similar regimes associated with Nazism during the war.

20. A statement cannot be regarded as plausible when it is at variance with known (and specially with admitted) facts (31); fears may, however, be the basis of a valid objection even if they are unfounded provided they are not unreasonable (32); they would not be if they are obviously impossible (33).

21. It seems that the two major categories of grounds for fearing persecution are in the first place, that events which the applicant knows or believes have happened to others will happen to him and, secondly, that the applicant's past or present actions or affiliations (political, racial or religious) will result in discrimination or persecution.

In the first category come fears that persecution previously endured by the applicant will be repeated (34) or that the applicant might suffer the fate of his family (35) or of people in similar circumstances (36). In some cases the knowledge of the material events is a result of personal experience: in others it is obtained from letters (37)—which must, however, be relevant (38).

22. As regards the second category, the action must have been positive—refusal is insufficient (39)—and based on some position (political etc.) against which the feared persecution would be directed (40). Mere propaganda, however, is not adequately compromising (41). A similar distinction should be drawn in the not infrequent cases in which it is alleged that one who has since the war worked with the western allies (especially the Americans) will be regarded as a spy (42). The work itself, without ideological opposition to the home Government, would not validate an objection (43).

23. Membership of a political party is a positive act more than propaganda and if the party is one known to be subject to persecution by the existing regime then membership of it would give rise to a reasonable fear of persecution (44); clearly, membership of Organisations other than political parties which are in similar positions will have similar results (45).

(25) *Geneva 4259*: Petitioner was a 26 years old Slovene farm labourer who had fled to Austria in May 1945 because he had been accused by a woman of having denounced her husband as a Communist; the husband had in consequence been taken by the Germans to Dachau and had died there in 1945. Petitioner stated he would be charged before the courts with complicity in that deportation and that he therefore refused to return. As petitioner admitted that his reasons for refusing repatriation were that he would be indicted for treason or assistance to the enemy, he was ruled not within the mandate.

(26) *Geneva 2190*: Petitioner was a Slovene bricklayer who in 1942, when Slovenia was incorporated into the Reich, had been forcibly mobilised and had served in the German Army till the end of the war. Such service would not be considered by IRO to be voluntary assistance to the enemy forces. He stated that he feared imprisonment for his war service and that his brother who had been in the same position had been shot on his return to Yugoslavia. He claimed that he had no political interest and he presented no objections of a political nature. Objection not valid: not within the mandate.

(27) *Geneva 4432*: Petitioner was a 45 years old Croat who until 1942 had been employed as a chauffeur and afterwards had opened his own motor repair shop. His plausible account of his activities did not indicate voluntary assistance to the enemy forces. Nevertheless petitioner's reason for refusal of repatriation was that he feared punishment for his three years absence from Yugoslavia. Not within the mandate.

(28) *Geneva 4311*: Petitioner was a Yugoslav from Slovenia who had been deported in 1941 for forced labour. His refusal to return home for fear that he would be punished for not joining the partisans did not constitute a valid objection. Not within the mandate.

(29) *Geneva 2146*: Petitioner was a Croat, formerly a small landowner. He declared that in 1941 he chose to serve the Croats rather than the Partisans with whom he had never been in sympathy. He had strong political views and feared that he would, if he returned, be persecuted for them as well as for not having joined the Partisans, indeed he fought against them in the ranks of the Domobranci. Within the mandate.

(30) *Geneva 4471*: Petitioner was a Polish textile foreman who had been demoted from Manager of his works to foreman at the request of the Germans because he was a Pole. He was transferred with his works to Dresden in January 1945. Petitioner stated on interview that he believed that his wife would be sentenced to two years' imprisonment for having signed the Volksliste and that he would be persecuted for his attempts to exclude Communists from employment in his old firm. Within the mandate.

(31) *Geneva 4235*: Petitioner, a Slovene, had left her country in 1941 to teach in a German School. She denied being a Volksdeutsche and supported her claim by proving that her mother and sister both continued to live unmolested in Yugoslavia. Petitioner absolutely refused repatriation because she was a Catholic and said that she would not return to a country where religion was persecuted. During her hearing by the Review Board, petitioner could not explain on what grounds she based that statement, especially when it appeared that her mother, a devout Catholic, was not molested in any way—indeed there was no reason to believe that she did not go to Church every day. It also appeared that petitioner's sister, who is in Yugoslavia, is a Nun, that she has never been disturbed or inconvenienced in any way whatever and that she still lives in her Convent, in the same way as before 1940, attending church services several times a day.

When the inconsistency of her statement was pointed out, petitioner answered that none could tell whether, in the future, her sister's convent would not be disbanded.

Ruled that her objections were not valid; not within the mandate.

(32) *Geneva 4202*: Petitioner was a 27 year old Croat fisherman who had left Yugoslavia in May 1945. He was in possession of military papers proving that he had been conscripted into the Domobranci in 1942. He had originally intended to return to Yugoslavia and had arranged with some Domobran repatriants in 1946 and 1947 that they should write to him after arrival to inform him that they had been allowed to return home unmolested. He had, in fact, not received one word from any of them, and drew the conclusion that they had been interned in a camp for forced labour. Ruled that

petitioner had fears of persecution that may have been unfounded but were not unreasonable. Within the mandate.

(33) *Geneva 1988*: Petitioner was an Armenian born in 1912 in Persia where he had lived until 1941 when, he alleged, the Russians sent him to Russia. On the Russian withdrawal he fell into German hands and was sent to Germany where he remained. He stated that he was afraid of persecution if he returned to Persia. The Review Board ruled that, in so far as the existing Persian Government was composed of the same group as held office before the war and taking account of the actual policies of that Government, persecution was impossible and his objection invalid. Not within the mandate.

(34) *Geneva 485*: See case (9) in Chapter III.

(35) *Geneva 416*: Petitioner was Soviet Ukrainian aged 21. She had been evacuated in 1941 from her village near the front lines. Her mother and young brother had disappeared and her father was condemned to death in 1936 on political grounds. Within the mandate.

(36) *Geneva 4202*: See case (32) in foregoing.

(37) *Geneva 4319*: Petitioner was a 21-year old Slovene farm labourer who had fled from Eastern Slovenia in April 1945 after having been arrested by the partisans as a political opponent and having escaped. His parents were still living in their home, the property thereof having been confiscated so that they were now paying rent as tenants of the house which had been their own. Petitioner's mother had written that he should not go home, and from the letter it appeared that he had real reasons to fear persecution on account of his political opinions. Within the mandate.

(38) *Geneva 4257*: Petitioner was a Croat who had left home in July 1943, because as a locomotive engineer in partisan territory he had feared capture. He had gone to Austria where he had remained, employed first as a railroad worker and later as a locksmith. Petitioner's mother and sister had written from Yugoslavia advising petitioner against repatriation, but their advice was mainly concerned with economic grounds—that he would be compelled to work in a factory and would be unable to earn enough to support his family. Not within the mandate.

(39) *Geneva 4456*: Petitioner, a Hungarian, had worked as a bricklayer until 1942 and during 1944, being in the army meantime. In November 1944 he left his home, on the approach of the Russians, with his family on a cart. Ruled that petitioner's statement that he could not return to Hungary because he had refused to join the Communist party in 1944 and feared reprisals could not be considered a valid objection. Not within the mandate.

(40) *Geneva 4327*: Petitioner was a young Slovene who had gone to Austria in May 1945 from fear of the new regime. She had between 1940 and 1945, in teachers' colleges in Maribor and Ljubljana, taken an active part in anti-Communist student groups. Her signature was among those of persons who had made specific complaints against their Communist fellow students. Objections ruled valid: within the mandate.

Contrast this case with —

Geneva 4325: Petitioner was a young Slovene who had left Yugoslavia for Austria in May 1945. He stated that he feared revenge by the partisans because he had reported to the school authorities that two of his fellow students were members of SKOJ, a Communist youth organisation. Objection invalid: not within the mandate.

(41) *Geneva 2186*: Petitioner was a Hungarian bank employee who had fled to Austria in 1945 as the front approached. On interview she stated that she was unwilling to return to Hungary on political grounds as she had always made propaganda against the Communists and was a member of an anti-Communist society. Objections ruled not valid. Not within the mandate.

(42) *Geneva 4473*: Petitioner, a Roumanian, had left her home in June 1944 for school in Vienna and afterwards worked as a Secretary for Radio Vienna. There was no evidence of voluntary assistance to the enemy forces. Her parents remained in Roumania. Petitioner feared to return as she had been working with the American Special

Service and was afraid that she would be accused of being a spy and of holding anti-Communist views. Objections valid : within the mandate.

(43) *Geneva 4484* : Petitioner was a Czech citizen of Croat ethnic origin, whose conscription in the German army was ruled not to exclude him from IRO concern. His mother was still living at home, and he had nothing to fear on account of his wartime activities, but having been in the service of the American army from November, 1945, he was afraid that he would be suspected of being a spy for the Western powers if he returned home. The Review Board found that petitioner was not ideologically opposed to the existing (August 1948) Czech regime and ruled the objection invalid. Not within the mandate.

(44) *Geneva 4196* : Petitioner was a Croat teacher who had fled into Austria in May, 1945 and now refused to return to Yugoslavia for fear of persecution for having been a member of Macek's party. He submitted to the Review Board proof that he was an active member of the party. He also claimed that after the war two of his brothers (one still a schoolboy) had been murdered and executed, and his claim was supported by reliable persons. Objections held valid : within the mandate.

(45) *Geneva 4447* : Petitioner was a Croat of 26 who left his home as a forced labourer in 1943. On appeal, he stated that he was afraid to return to Yugoslavia because during his days at the University of Zagreb he was a member of the student organisation SOKOL and was well known both as a supporter of the Royal Yugoslav Government and as a Yugoslav nationalist. Ruled that he had reasonable grounds to fear persecution. Within the mandate.

24. Persecution or fear of it as a result of membership of a particular class—for example—Kulaks (46) or the nobility (47) or as a result of one's family's position (48) may also be assimilated to persecution on political grounds.

25. In cases where allegations of religious persecutions are made, an applicant, to be successful, must make his fears plausible, which cannot easily be done if they are contradicted by known or admitted facts (see case 31 above). It should be observed, however, that the existence of freedom of worship in any particular country does not by itself necessarily indicate an absence of religious persecution, because the essence of many religions is contained in the way of life advocated by them which also in itself normally implies the necessity of freedom not only to teach and preach spiritual matters, but also to apply them in every day life. It is further possible that what would be quite reasonable ground of fear for a clergyman may not be for a layman (49).

26. All the objections that have been considered above depend on persecution or the fear of it. There is, however, a specific reference in the Constitution to valid objections of a political nature which have no reference to persecution or the fear of it. That reference has already been quoted (at (a) (ii) above) and is the following :

“(ii) Objections of a political nature judged by the Organisation to be “valid” as contemplated in paragraph 8 (a) of the report of the Third Committee of the General Assembly as adopted by the Assembly on 12 February 1946.”

The report of the Third Committee of the General Assembly on the question of refugees, including the Resolution adopted by the General Assembly on 12 February 1946 (Document A/45), contains the following reference under Pt. 8 :—

“The following interpretations relating to para. (c) (ii) of the Draft Resolution were given by the Chairman, following requests for information by the Delegates from Belgium and Australia respectively :

(a) In answering the Delegate for Belgium, the Chairman stated that it was implied that the international body would judge what were or what were not “valid objections” and that such objections clearly might be of a political nature.”
(Reproduced as a footnote in official edition of IRO Constitution.)

27. By inserting this clause in the list of “valid objections” the entrance gate to IRO was opened to so-called “Political dissidents” whether they were refugees or displaced persons, and irrespective of whether they had suffered persecution under the Nazis or not (see in particular para. 2 of Section A of Part I), and irrespective also of whether such persons refused to return owing to fear of persecution.

28. If IRO is satisfied that an applicant has a genuine political conviction contrary to that of his government, he can, under the Constitution, be resettled. That conviction must be positive; the absence of agreement with the governmental policy or ideology is not sufficient. For example the mere fact of not being a Communist is not adequate for valid political objections to return to a country with a Communist government (50); consistent views in opposition to the regime may, however, well be (51) particularly if they are held on both religious and political grounds (52) or if they are evidenced by activity (53) such as membership of a political party (54). The youth of the applicant does not prevent the holding of adequate political views, (55) nor even illiteracy (56). It should be remembered in this connection that the alteration brought about by the establishment of a communist regime to the whole way of life of the people applies with just as much force to peasants and poor people generally as to other classes in the community.

29. The convictions on which the objection is based need not be anti-Com-

(46) *Geneva 4587*: Petitioner was born in the Soviet Union where he was a tractor machinist. He had been employed on a state farm until 1941 when he was deported by the Germans to Austria where he worked as a woodcutter. He claimed to be the son of Kulaks, that his father was deported as such in 1932 and that although he holds no political views as the son of a Kulak who had remained abroad he could not return without being persecuted on grounds consistent with anti-Kulak legislation. Petitioner convinced the Board that he was in fact from a Kulak family and that his reasons for not returning were valid. Within the mandate.

(47) *Geneva 1734*: Petitioner was a Hungarian engineer of 52 who was sent on military duty to Germany in December 1944. He claimed that being a member of the Hungarian nobility he feared persecution: his objections to repatriation were adjudged valid. Within the mandate.

(48) *Geneva 139*: Petitioner was an Albanian law student aged 26, now in Italy. He was an intellectual, coming from an established and well-to-do Albanian family. He claimed that his views represented the very antithesis of Communism. He claimed that, although the family had been politically inactive, his father had been imprisoned by the Albanian government because he had voiced his opposition to it. Petitioner convinced the Review Board that he had reasonable grounds to fear persecution, not only because of his own opinions, but also because of the family position. Within the mandate.

(49) *Geneva 923*: from the decision — "It is doubtful if his objections to repatriation on religious grounds are supported by the facts in present-day Yugoslavia. While members of the clergy might have valid reasons against returning, it is known that people are permitted liberty of worship and that Christianity is thriving in Yugoslavia to such an extent that the churches are crowded "to the rafters" far more so than they were in the days when religion was free in the country. It follows that ordinary churchgoers, whom the authorities regard with indifference, can have no reasonable grounds to fear religious persecution."

(50) *Geneva 4227*: Petitioner was a Hungarian who left his country in January 1945. On appeal he stated that he was "not a Communist", but that he had no political opinions, and insisted on economic reasons. Ruled that in the absence of political opinions, the mere fact of not being a Communist is not a valid objection against repatriation. Not within the mandate.

(51) *Geneva 4270*: Petitioner was a Hungarian who left his country in October 1944. In 1945 he applied for repatriation but afterwards received information about conditions in Hungary and then refused to return there. When heard by the Review Board he expressed consistent political views which were accepted as valid objections against the existing regime. Within the mandate.

(52) *Geneva 4437*: Petitioner was a young Croat who had spent the period from November 1941 to April 1947 as a student of mine-engineering in Austria. On appeal, he voiced strong convictions against Communism on religious and political grounds, made an extremely good impression because of his obvious sincerity and convinced the Board that his objections were valid. Within the mandate.

(53) *Geneva 4269*: Petitioner was a 19 year old Slovene farm labourer who had fled to Austria in May 1945 feeling his life endangered. He had previously been ordered to carry messages for the Partisans and had refused; he had also refused to join the Partisans and had been threatened with death. In spite of his youth, petitioner was found to have serious political views which were considered as valid objections. Within the mandate.

(54) *Geneva 4332*: Petitioner was a Polish professional musician aged 42, born in Bessarabia, who had lived most of his life in Warsaw and Vilna, had been engaged in forced labour by the Germans and had since the war earned his living as a wandering pianist and accordion player. On interview it transpired that he had been an active member of the Polish National Democratic Party at the outbreak of war in 1939 and

convinced the Board of the validity of his political objections to the present regime. Within the mandate.

(55) See Geneva 4269 at (53) above.

(56) *Geneva 4260*: Petitioner was a Polish Ukrainian who had been deported by the Germans in 1944 to Austria. On interview, although he was a person of modest condition and almost illiterate, he conveyed the impression of holding definite political views and of having serious political objections, adjudged valid, against the present regime of his country. Within the mandate.

munist (57)—indeed it should be remembered that many persons within the mandate (for example, Spanish republicans) are “left-wing” refugees and that Communism as such is not a reason for excluding an applicant from the concern of the Organisation; a “Trotskyist” refugee from Russia is conceivable and could be within the mandate. Opposition to dictatorship (58) or to totalitarian regimes as such (59) are sufficient. The denial of political rights resulting from ownership of small enterprises (60) can also be adequate. Although in such cases political rights must be strictly interpreted the right to own property is, for example, not a political right, but the denial to property owners as such, of the right to take part in Government, would be clearly a denial of a political right.

30. A slightly separate category of persons are those whose political objections to return to their home country are based on the fact that it politically no longer exists (61).

31. It should be noted that the objections under this heading must be of a political nature; religious objections (apart from persecution as described previously) do not count (62). But it should be recognised that evidence of political views which would be such as to justify a valid objection may not always be expressed in a form which is, in itself directly political.

32. The third major category of objections that may be regarded as valid are “compelling family reasons arising out of previous persecution, or compelling reasons of infirmity or illness.” These objections are only applicable to victims of Nazi, Fascist and similar regimes, and to Pre-war refugees.

33. “Compelling family reasons” may refer to all events arising out of previous persecution and war leading to the disruption of the family unit, the dispersal and deportation of its members and subsequent death or disappearance (63). They may include also the deprivation of the family unit of its economic basis by measures of spoliation, confiscation, and dispossession, which were the preliminaries to recruitment for slave labour and extermination of the persecutees. Pre-war refugees may adduce as “compelling family reasons” the fact that, because of their long residence abroad they have lost completely all ties with their home country and have family reasons for remaining outside it.

34. The mere fact that a refugee has relatives, or even all his relatives abroad is not adequate evidence of a compelling family reason. It should be noted in general that these “compelling family reasons” do not normally apply to Nansen refugees who were, in general, not persecuted. Such persons of course may express valid political objections to repatriation.

35. The clause, however, does not apply to persons who refuse to be repatriated on the grounds that their Governments will not permit the entry of their wives and who refuse to go home without them (64).

36. “Compelling reasons of infirmity or illness” require no comment—they include any reason arising out of age, or health, or physical condition. They need not arise out of persecution.

37. It is convenient at this point to call to mind that the position of a pre-war refugee from Germany or Austria is largely regulated by the application of this clause concerning “compelling family reasons”, as such a person would not normally be able to express political objections to repatriation. Political objections may, however, be raised in such cases when the refugee concerned originated from a place now in one of the Russian Zones of occupation and when the refugee expresses valid political objections to return to an area under communist domination.

(57) *Geneva 4433*: Petitioner was a Croat of Mohammedan faith who studied metallurgy in Austria from 1941 to 1947. On interview, he stated that he had nothing against ideological or Marxist Communism but that he was opposed to the existing Yugoslav regime (August 1948) as a dictatorship. He convinced the Board of the strength of his political convictions and was found to have valid objections bringing him within the mandate.

(58) *Geneva 4512*: Petitioner was a 29 year old Croat who had fled from home in May 1945 after working from 1939 as a veterinary student at the University of Zagreb. His intellectual development from the parochial school to the University was increasingly one of conviction of the fallacy of Communism, and he had expressed hostility to all forms of dictatorship. He had also been active as secretary of the University Catholic Action Organisation and as a frequent debater with the partisan student groups. He convinced the Board of the validity of his political objections against repatriation, and was ruled to be within the mandate.

(59) *Geneva 4493*: Petitioner was a Pole who had been deported by the Germans in 1940 and spent the following five years in Dachau and Manthausen Concentration Camps. He impressed the Review Board that he was sincerely opposed to totalitarian regimes of all forms. Within the mandate.

(60) *Geneva 4597*: See (12) above.

(61) *Geneva 125*: Petitioner was a Ukrainian who spent the whole wartime period as a deported forced worker. Her valid objections were expressed and substantiated, in the view of the Review Board, by the fact that the part of the country where her home is situated has been incorporated into foreign territory. Within the mandate.

(62) *Geneva 4573*: Petitioner was a Croat who had been at School during the war and had left Yugoslavia for Austria in June 1945. When heard by the Review Board he stated that his objections to repatriation were based on his Christian outlook and opposition to the (alleged) atheistic aims of the existing Government in Yugoslavia. He did not convince the Board of the validity of his objections and was found not within the mandate.

(63) *Geneva 709*: Petitioner was a Pole who had her habitual residence in Poland where her husband was a garage owner. Her husband had been arrested by the Gestapo in 1939 and released, and under threat of a second arrest had fled from Warsaw, all his property being then seized. Petitioner had no further news of her husband apart from a letter from her brother-in-law indicating that her husband had been imprisoned and killed. She had, herself, managed to come to Germany to look after her sick mother and now gave as her objections to repatriation the fact that her father being dead, she was the sole support of her sick mother who had looked after her when she had fled from Nazi persecution and whom she could not now abandon. These objections were ruled by the Review Board to provide compelling family reasons and petitioner was ruled to be within the mandate.

(64) *Geneva 4171*: Petitioner was a Netherlands citizen, aged 24, married and the father of two children, who was deported to Germany for forced labour in July, 1943. He had married a wife of Swiss origin who had acquired German citizenship by a previous marriage. Petitioner wished to return to Holland, but his wife had not been authorised by the Netherlands authorities to accompany him. Petitioner therefore raised compelling family reasons against his return to Holland. It was ruled by the Review Board that as petitioner was neither a victim of Nazi persecution nor a pre-war refugee, the compelling family reasons were not applicable. Not within the mandate.