

Worldwide Investigation and Prosecution of Nazi War Criminals

(January 1, 2020– December 31, 2020)

An Annual Status Report

Dr. Efraim Zuroff



Simon Wiesenthal Center – Israel Office

Snider Social Action Institute

August 2021

TABLE OF CONTENTS

Introduction	5
Executive Summary	7
The Period Under Review: January 1, 2020 – December 31, 2020	9
Convictions of Nazi War Criminals Obtained During the Period Under Review	14
Convictions of Nazi War Criminals: Comparative Statistics 2001-2020	15
New Cases of Nazi War Criminals Filed During the Period Under Review	16
New Cases of Nazi War Criminals: Comparative Statistics 2001-2020	17
New Investigations of Nazi War Criminals Initiated During the Period Under Review	18
New Investigations of Nazi War Criminals: Comparative Statistics 2001-2020	19
Ongoing Investigations of Nazi War Criminals As of December 31, 2020	21
Ongoing Investigations of Nazi War Criminals: Comparative Statistics 2001-2020	22
Investigation and Prosecution Report Card	24
Investigation and Prosecution Report Card: Comparative Statistics 2001-2020	39
Appendix: The verdict of Judge Anne Meier-Göring in the Case of Stutthof guard Bruno Dey – July 2020	43
About the Simon Wiesenthal Center	61
Index of Countries	65
Index of Nazi War Criminals	67

INTRODUCTION

The Simon Wiesenthal Center views the facilitation of the investigation and prosecution of Nazi war criminals as an important part of its international agenda. Over the past more than three decades, the Center has carried out extensive research in numerous countries to identify Nazi war criminals, document their crimes, trace their postwar escape and ascertain their current whereabouts in order to assist in bringing them to justice. It has also energetically lobbied various governments which have been reluctant to prosecute Holocaust perpetrators, and has sought to convince them of the importance of bringing such criminals to trial. The Center has also exposed the rehabilitations granted to Nazi war criminals in several East European countries and has played a role in the cancellation of dozens of these pardons.

The Center's experience has clearly shown that the existence of political will to bring Nazi war criminals to justice is an absolute prerequisite for the successful prosecution of Holocaust perpetrators. In that respect, the results achieved in this field are often just as much a function of the existent political climate, as of the strength of the evidence available against the suspects in question.

Starting in 2002, the Simon Wiesenthal Center has published an annual report which documents the investigation and prosecution of Nazi war criminals worldwide as a public service designed to focus attention on the issue, chronicle its development, and encourage all the governments involved to maximize their efforts to bring as many unprosecuted Holocaust perpetrators as possible to justice. The Center has always believed that the prosecution of the perpetrators of the Holocaust is one of the most fitting means of commemorating those annihilated by the Nazis. Famed Nazi-hunter Simon Wiesenthal often emphasized his sense of personal obligation toward the victims of the Holocaust to do his utmost to maximize the number of Nazi war criminals forced to pay for their crimes. Needless to say, such trials also play an important role in educating the public about the Holocaust, preserving its memory and helping to combat Holocaust denial and distortion, contemporary anti-Semitism, racism, and xenophobia.

* * *

The figures and statistics which appear in this report were provided by the governments which responded to our questionnaire, some of whom have special agencies dealing with this issue. The only exception was Germany, where the answers were provided by the individual Länder (provinces). In two cases (Canada and the United States), the governments refused to provide data on the number of new and ongoing investigations. Not all of these countries were willing to provide all the pertinent data. We have tried to the best of our ability to point to various problems and lacunae in the information supplied.

This year, for the first time ever, I have decided to publish a verdict of a trial of a Holocaust perpetrator. Bruno Dey was convicted by a juvenile court in Hamburg of accessory to murder in over 5,000 cases, for his service as an S.S. guard at the Stutthof concentration camp. The verdict by Judge Anne Meier-Görling is a brilliant defense of the recent "belated" trials in Germany of individuals who served in relatively "minor roles" but committed Holocaust crimes. Judge Meier-Görling's verdict is therefore of unique importance and relevance in any discussion regarding prosecution of Nazi perpetrators. I would like to thank Judge Meier-Görling for granting permission to publish the verdict in our annual report.

The Center welcomes any information, comments and/or suggestions relating to the contents of the report, which can be mailed or faxed (972-2-563-1276) to our Jerusalem office or sent by email to swcjerus@netvision.net.il. This report in its entirety will be posted on our website www.swcjerusalem.org

Dr. Efraim Zuroff

Chief Nazi-Hunter, Simon Wiesenthal Center

Director, SWC-Israel Office and Eastern European Affairs

EXECUTIVE SUMMARY

1. As more and more time passes since the end of World War II, it would only be natural to expect that the prosecution of Nazi war criminals would come to an end. That logical conclusion, however, has still not been the case everywhere, as two surprising developments have rejuvenated efforts to hold Holocaust perpetrators accountable for their crimes.

The first change relates to the extension of life expectancy in the Western world. The advances of modern medicine have enabled men and women not only to live longer, but also to remain reasonably healthy, and therefore capable of facing prosecution for many more years, than was the case previously. This is especially true in countries like Germany and Austria, which have the largest numbers of individuals who committed crimes in the service of the Third Reich during World War II, and are among the countries which provide a relatively high-level of health services for their citizens.

The second development has been a very dramatic change in German prosecution policy vis-à-vis Nazi war criminals, which was instituted in 2009, initially in the case of Sobibor S.S. guard Ukrainian Ivan Demjanjuk. For several previous decades, in order to convict a Holocaust perpetrator, prosecutors had to prove that a suspect had committed a specific crime against a specific victim and had been motivated by racial hatred. The new prosecution policy adopted in Germany significantly lowered the bar in terms of the required evidence. Thus today any person who served in a death camp (by definition a concentration camp with apparatus for industrialized mass murder – gas chambers or gas vans) or in the Einsatzgruppen (mobile killing units) can be convicted of accessory to murder based on service alone, the punishment for which is 5-15 years in prison.

2. This change of policy was directly responsible for the primary positive results achieved in Germany during the period under review, the conviction of Stutthof guard Bruno Dey in July 2020 and the indictment of a guard who served in Sachsenhausen concentration camp in Brandenburg.

In the United States, the most important result achieved was the deportation of Neuengamme concentration camp guard Friedrich Karl Berger, which was

successfully completed on February 28, 2020, when the court ordered Berger's removal from the United States.

3. As far as new and ongoing investigations are concerned, the figures are somewhat misleading. The number of new investigations increased, but the largest number of investigations by far were initiated and are being conducted in Poland, where almost none of the investigations have ever led to indictments or convictions. In Germany, the number of both new and ongoing investigations dropped, but those inquiries are the most promising in terms of leading to cases brought to trial. The increase in cases in Russia is encouraging, but it remains to be seen whether they will ever result in extraditions and criminal prosecutions.

4. While significant results were primarily achieved in Germany, other countries for the most part have failed to attain any results whatsoever during the period under review. Those countries, which have received a failing grade (F), have been divided into two different categories: F-1 for those countries which in principle are unable to prosecute Nazi war criminals - Norway and Sweden (statutes of limitations) and F-2 for those countries which are able, at least in theory, to take legal action against Holocaust perpetrators and had practical opportunities to do so, but have failed to achieve any positive results. The reasons for the failing grade awarded to each country are explained in the report.

5. Since the identity of the suspects in all the cases currently being prepared in Germany for possible prosecution has not been made public, we are unable to provide an accurate list of the Nazi war criminals slated for trial in 2021.

THE PERIOD UNDER REVIEW: JANUARY 1, 2020 – DECEMBER 31, 2020

In attempting to record and analyze the worldwide efforts to investigate and prosecute Nazi war criminals during a specific time period, four major criteria have to be taken into account:

1. the number of “convictions,” including denaturalizations, deportations and extraditions obtained;
2. the number of indictments filed;
3. the number of investigations initiated;
4. the number of ongoing investigations.

The most important positive developments during the period under review were the direct result of the abovementioned new prosecution policy implemented by the German judicial authorities in the wake of the conviction in Munich of Sobibor S.S. guard Ivan Demjanjuk as an accessory to murder in May 2011. Following that decision, the German Zentrale Stelle (Central Office of the State Justice Administrations for the Investigation of National Socialist Crimes) initially decided to investigate all the hitherto unprosecuted persons who had served in any of the six Nazi concentration camps officially categorized as death camps (Auschwitz-Birkenau, Treblinka, Belzec, Chelmno, Sobibor and Majdanek) or in the Einstazgruppe (mobile killing units) A, B, C, and D, which operated in the territories of the Soviet Union.

The impact of the change in German prosecution policy became even more significant with the expansion by the Zentrale Stelle of the search for Holocaust perpetrators to several additional concentration camps which were not officially classified as death camps, such as Stutthof, Mauthausen, Ravensbrueck and Buchenwald. These investigations yielded indictments which were among those submitted during the period under review.

On a practical level, the positive results achieved during the past year were the conviction in Germany of a guard who served in the Stutthof concentration camp, and the deportation from the United States of a guard who served in a subcamp of the Neuengamme concentration camp, as well as one indictment filed in Germany against a guard who served in the Sachsenhausen concentration camp for three years.

As far as investigations are concerned, the number of new investigations again rose because of the efforts of the Polish Institute of National Memory, but very rarely have such investigations led to indictments or trials. The number of ongoing investigations has dropped by almost half, but the most important ones, those in Germany with the greatest potential for convictions, are still being pursued.

As far as the rest of the world, the past year was very similar to its predecessor. As usual, the critical importance of political will in bringing Nazi war criminals to justice was increasingly evident. Once again, the results clearly indicate that the chances of successful prosecutions in countries reluctant to bring Holocaust perpetrators to justice are minimal or nonexistent. This is particularly evident in post-Communist Eastern Europe. Despite the increased worldwide interest and awareness regarding the Holocaust, the dismemberment of the Soviet Union and the transition to democracy of the former Communist regimes in Eastern Europe, all of which have helped create numerous new opportunities for the prosecution of Holocaust perpetrators in the countries in which the crimes of the Shoa were committed, little progress has been made. (These developments have also facilitated prosecution in the overseas countries which granted a haven to East European Nazi collaborators.)

Unfortunately, relatively few countries have made an effort to exploit the far greater access to Eastern European archives and witnesses and the renewed interest in the crimes of the Shoa, to launch a serious effort to maximize the prosecution of Holocaust perpetrators. In fact, even those post-Communist countries which have initiated programs to bring Nazi war criminals to justice, have rarely been able to achieve significant successes. And while the lack of results achieved to some extent reflects the objective difficulties involved in the criminal prosecution of crimes committed several decades previously, there is no doubt that the absence of political will to pursue such cases remains a major obstacle to greater success, particularly in the Baltics and in countries such as Ukraine, Croatia, Belarus, and Romania.

In fact, during the past 21 years, only five Eastern European post-Communist countries took any legal measures whatsoever against local Nazi war criminals, and most of them were ultimately unsuccessful, in many cases due to a lack of political will.

Elsewhere in Europe, with the exception of Germany, Italy remains the only country in which the crimes of the Holocaust were committed, which is still actively pursuing Nazi war criminals with the requisite political will, which explains why it has achieved the most

convictions on criminal charges against German and Austrian perpetrators during the past decade.

By contrast, Austria, which in early 2011 established a working group (Forschungstelle Nachkriegsjustiz), to identify alleged Nazi war criminals and to carry out a comprehensive investigation of 526 public court files which relate to Nazi war crimes, again failed to achieve any positive results. Thus the interim report, which was scheduled to be completed by mid-2011 has still not appeared, let alone the final report scheduled for 2012. Such a comprehensive investigation effort was particularly welcome given Austria's consistent failure during the past three decades to bring Holocaust perpetrators to justice. Despite a large number of potential suspects, Austria has not punished a single Nazi war criminal for crimes committed against Jews during the Holocaust in more than 45 years.

Although statutes of limitations on cases of murder exist in many countries, until recently there were only two countries in the Western world which proscribed the prosecution of the crimes of genocide, war crimes and crimes against humanity. The countries in question were Norway and Sweden, which therefore refused in principle to investigate, let alone prosecute, Nazi war criminals. On March 7, 2008, Norway finally cancelled the statute of limitations on genocide, war crimes, and crimes against humanity and in February 2010, Sweden did so as well. Unfortunately those changes were not made retroactive and thus neither country can prosecute Holocaust perpetrators.

As far as the countries of refuge are concerned, the only countries still actively seeking to hold Nazi war criminals accountable are the United States and Canada. Canada (in 1987), Australia (in 1989) and Great Britain (in 1991) all passed special laws to enable criminal prosecution of Nazi war criminals in local courts, (the only country that allowed the entry of Nazi criminals but refused to take legal action against them was New Zealand), but the results achieved in recent years have been minimal. Canada, which in 1994 switched to the "American model" of prosecution for immigration and naturalization violations, initially took successful legal action (denaturalization) against 10 persons (2 of whom voluntarily left the country), but to date not a single person of the eight others have been successfully deported from the country. Last year, Helmut Oberlander, the last of the eight still alive who served in Einsatzgruppe D was stripped of his citizenship for the fourth time, but he died in Canada in 2021 before he could be deported.

As far as Australia and Great Britain are concerned, both countries have closed down their specialized prosecution agencies, and it is therefore extremely unlikely that they will be able to obtain any convictions while they continue to insist on prosecuting these suspects on criminal charges. This is particularly true in Australia, where witnesses in such cases must appear in person, a factor which would make a successful prosecution next to impossible, given the country's geographic distance from the scene of the crimes committed. Another problem encountered in Australia was the 2012 decision of the High Court to refuse to allow the extradition to Hungary of Karoly (Charles) Zentai to face questioning regarding an allegation of murder during the Holocaust. Unless any other cases will be successfully prosecuted in Australia, the refusal to extradite Zentai will have marked the end of the Australian effort to bring Holocaust perpetrators to justice, which can be categorized as a total failure in practical terms, since the Australian judiciary failed to take successful legal action against a single Nazi war criminal living in the country.

In July 2002, the Wiesenthal Center and the Targum Shlishi Foundation of Miami, established by Aryeh Rubin, launched "Operation: Last Chance," a project designed to assist in facilitating the prosecution of Nazi war criminals by offering financial rewards for information which would help bring about their conviction and punishment. The project was originally initiated in Lithuania, Latvia and Estonia, and a year later was expanded to Poland, Romania and Austria. In 2004, it was launched in Croatia and Hungary and in 2005 in Germany. In 2007 it was started in Argentina, Chile, Brazil and Uruguay, and in 2014 it was initiated in Norway.

In the wake of the Demjanjuk conviction by a German court in May 2011 and its potential implications for the increased prosecution of Nazi war criminal in Germany, the Wiesenthal Center and Targum Shlishi launched "Operation: Last Chance II" in Berlin on December 14, 2011. This new project sought to focus on those who served in death camps and in the Einsatzgruppen and who, in the wake of the Demjanjuk precedent, could now be successfully prosecuted in Germany, even if there is no evidence that they committed a specific crime against a specific victim. As a result of this new legal situation, the hitherto biggest obstacle to the prosecution of Nazi war criminals in Germany has been eliminated, making it much easier to successfully bring these Holocaust perpetrators to justice in Germany, than it had been in recent decades.

The reward being offered for information on such cases was increased from \$25,000 (US) to 25,000 euros and the conditions for its receipt were made more favorable to the informants.

Until late 2011, the rewards in “Operation: Last Chance” were granted only if the suspects brought to our attention were convicted and punished. (Partial rewards of \$5,000 were awarded in the cases of Milivoj Ašner (2004) and Lazslo Csatory (2012) due to exceptional circumstances.) In O:LC II cases, however, an initial reward of 5,000 euros will be awarded if a suspect is indicted, another 5,000 euros will be given if a conviction is obtained, and the informant will receive an additional 100 euros for every day the criminal is incarcerated for the first 150 days of his or her imprisonment.

During the period under review, several dozen additional names were received by the Center, but none materialized into official government investigations.

In summation, despite numerous obstacles and difficulties, some progress was made during the period under review in the efforts to bring the perpetrators of the Holocaust to the bar of justice. As time goes by, however, the political dimension of these efforts becomes increasingly problematic, as can clearly be seen by the analysis of the records of the individual countries.

CONVICTIONS OF NAZI WAR CRIMINALS OBTAINED
DURING THE PERIOD UNDER REVIEW

January 1, 2020 – December 31, 2020

Germany – 1

On July 23, 2020 a Hamburg court convicted former SS private Bruno Dey, who served as a watchtower guard at the Nazi concentration camp Stutthof, of accessory to the murder of 5,232 persons, believed to be murdered during his service there in 1944 and 1945. Due to the fact that Dey committed his crimes at the age of 17 and 18, he was tried in a juvenile court and his two year jail sentence was suspended.

Although the fact that Dey's sentence was suspended aroused disappointment and frustration among advocates for such belated trials, Judge Anne Meier-Görling's verdict offered an excellent explanation for the legal and moral justifications for such proceedings. Her verdict appears as an Appendix at the end of this report.

United States – 1

On February 28, 2020 a Memphis, Tennessee immigration judge ruled that Friedrich Karl Berger could be deported from the United States, since his willing service as an armed guard of prisoners at the Meppen subcamp of the Neuengamme Nazi concentration camp constituted assistance to Nazi-sponsored persecution. Berger's appeal to the Board of Immigration Appeals was dismissed in November 2020, and he was deported to Germany in February 2021.

CONVICTIONS OF NAZI WAR CRIMINALS:
COMPARATIVE STATISTICS 2001-2020

	1.I.2001 – 31.III.2002	1.IV.2002 – 31.III.2003	1.IV. 2003 – 31.III.2004	1.IV. 2003 – 31.III.2004	1.IV.2005 – 31.III.2006	1.IV.2006 – 31.III.2007	1.IV.2007 – 31.III.2008	1.IV.2008 – 31.III.2009	1.IV.2009 – 31.III.2010	1.IV.2010– 31.III.2011
United States	6	5	7	5	5	6	3	0	0	2
Italy	0	0	0	0	10	15	1	6	3	0
Canada	3	0	0	0	0	0	3	0	0	0
Germany	2	1	0	0	0	0	0	0	2	0
Lithuania	1	0	0	0	1	0	0	0	0	0
Poland	1	0	0	0	0	0	0	0	0	0
France	1	0	0	0	0	0	0	0	0	0
Total	14	6	7	5	16	21	7	6	5	2

	1.IV.2011 – 31.III.2012	1.IV.2012 – 31.III.2013	1.IV.2013 – 31.III.2014	1.IV.2014 – 31.III.2015	1.IV.2015 – 31.III.2016	1.IV.2016 – 31.III.2017	1.IV.2017 – 31.III.2018	1.IV.2018 – 31.XII.2019	1.I.2020 – 31.XII.2020	Total
United States	0	0	0	0	0	0	0	0	1	40
Italy	9	1	1	0	0	0	0	0	0	46
Canada	0	1	0	0	0	0	1	1	0	9
Germany	1	0	0	0	1	1	0	0	1	9
Lithuania	0	0	0	0	0	0	0	0	0	2
Poland	0	0	0	0	0	0	0	0	0	1
France	0	0	0	0	0	0	0	0	0	1
Total	10	2	1	0	1	1	1	1	2	108

NEW CASES FILED DURING THE PERIOD UNDER REVIEW

January 1, 2020 - December 31, 2020

Germany – 1

During the period under review one person was charged in Brandenburg, Germany for his service as an SS guard at the Sachsenhausen concentration camp.

Poland – 1

On June 19, 2020, the Poznan District Court issued a European Arrest Warrant against Hildegard Luice Newnean for mistreating Polish female inmates of the Mittweide labor camp, a subcamp of the Flossenburg concentration camp in Germany.

NEW CASES FILED: COMPARATIVE STATISTICS 2001 – 2020

	1.I.2001 – 31.III.2002	1.IV.2002 – 31.III.2003	1.IV.2003 – 31.III.2004	1.IV.2004 – 31.III.2005	1.IV.2005 – 31.III.2006	1.IV.2006 – 31.III.2007	1.IV.2007 – 31.III.2008	1.IV.2008 – 31.III.2009	1.IV.2009 – 31.III.2010
United States	4	10	5	3	2	6	2	1	2
Italy	0	0	0	0	2	0	5	2	16
Germany	1	1	2	0	0	0	1	2	3
Canada	1	0	3	0	0	0	0	0	0
Hungary	0	0	0	1	0	0	0	0	0
Denmark	0	0	0	1	0	0	0	0	0
Lithuania	0	0	0	1	0	0	0	0	0
Poland	0	0	0	0	1	0	0	0	0
Spain	0	0	0	0	0	0	0	0	4
Total	6	11	10	6	5	6	8	5	25

	1.IV.2010 – 31.III.2011	1.IV.2011 – 31.III.2012	1.IV.2012 – 31.III.2013	1.IV.2013 – 31.III.2014	1.IV.2014 – 31.III.2015	1.IV.2015 – 31.III.2016	1.IV.2016 – 31.III.2017	1.IV.2017 – 31.III.2018	1.IV.2018 – 31.XII.2019	1.I.2020 – 31.XII.2020	Total
United States	0	0	0	0	0	0	0	0	0	0	35
Italy	2	5	1	0	0	0	0	0	0	0	33
Germany	1	0	1	2	3	2	0	3	6	1	29
Canada	0	0	0	0	0	0	0	0	0	0	4
Hungary	1	0	0	0	0	0	0	0	0	0	2
Denmark	0	0	0	0	0	0	0	0	0	0	1
Lithuania	0	0	0	0	0	0	0	0	0	0	1
Poland	0	0	0	0	0	0	1	0	0	1	2
Spain	0	1	0	0	0	0	0	0	0	0	5
Total	4	6	2	2	3	2	1	3	0	1	112

NEW INVESTIGATIONS OF NAZI WAR CRIMINALS
INITIATED DURING THE PERIOD UNDER REVIEW

January 1, 2020-December 31, 2020

Poland	358
Germany	16
Russia	12
United States	2
Austria	1
Total	389

NEW INVESTIGATIONS OF NAZI WAR CRIMINALS:

COMPARATIVE STATISTICS 2001 – 2019

	1.I.2001 – 31.III.2002	1.IV.2002 – 31.III.2003	1.IV.2003 – 31.III.2004	1.IV.2004 – 31.III.2005	1.IV.2005 – 31.III.2006	1.IV.2006 – 31.III.2007	1.IV.2007 – 31.III.2008	1.IV.2008 – 31.III.2009	1.IV.2009 – 31.III.2010	1.IV.2010 – 31.III.2011
Poland	48	8	172	306	141	2	142	230	290	409
Germany	9	?	9	27	38	22	31	43	130	161
Austria	10	3	60	272	1	0	2	16	24	6
United States	46	16	40	34	27	30	22	5	5	5
Italy	0	56	18	6	2	2	3	21	4	2
Argentina	0	0	0	0	0	0	1	0	0	0
Australia	0	9	0	1	3	1	0	0	0	0
Belgium									1	0
Brazil	0	0	0	0	0	0	1	0	0	0
Canada	?	?	?	?	103	?	?	?	?	?
Chile	0	0	0	0	0	0	1	0	0	0
Croatia	0	0	0	1	1	0	0	0	0	0
Denmark	0	0	1	9	0	1	0	0	0	0
Estonia	2	17	1	0	0	0	0	0	0	0
France	0	0	0	0	0	0	0	0	0	0
Great Britain	6	1	0	0	0	0	0	0	1	0
Hungary	0	0	0	1	1	1	0	0	0	0
Latvia	0	4	16	0	0	0	0	0	0	0
Lithuania	100	24	18	2	3	1	1	0	1	0
Romania	0	0	0	4	0	0	0	0	0	0
Serbia	0	0	0	0	0	3	0	0	0	0
Slovakia	0	0	0	0	0	0	0	0	0	0
Slovenia	0	0	0	0	1	0	0	0	0	0
Spain	0	0	0	0	1	0	0	0	0	0
Switzerland	0	0	0	0	0	0	1	0	0	0
Total	221	138	335	663	322	63	205	315	456	583

	1.IV.2011 – 31.III.2012	1.IV.2012 – 31.III.2013	1.IV.2013 – 31.III.2014	1.IV.2014 – 31.III.2015	1.IV.2015 – 31.III.2016	1.IV.2016 – 31.III.2017	1.IV.2017 – 31.III.2018	1.IV.2018 – 31.XII.2019	1.I.2020 – 31.XII.2020	Total
Poland	0	0	X	X	0	1	173	482	358	2,762
Germany	45	30	115	68	42	53	67	32	16	938
Austria	9	13	7	1	0	2	0	1	1	428
United States	6	10	2	0	?	?	?	1	2	251+
Italy	1	6	6	0	26	0	0	1	0	154
Argentina	1	0	0	0	0	0	0	0	0	2
Australia	0	0	0	0	0	0	0	0	0	14
Belgium	0	0	0	0	0	0	0	0	0	1
Brazil	0	0	0	0	0	0	0	0	0	1
Canada	?	?	0	0	?	?	?	2	0	105+
Chile	0	0	0	0	0	0	0	0	0	1
Croatia	0	0	1	0	0	0	0	0	0	3
Denmark	0	0	0	0	2	0	0	0	0	13
Estonia	0	0	0	0	0	0	0	0	0	20
France	0	0	0	0	0	0	1	0	0	1
Great Britain	0	0	0	0	0	0	0	0	0	8
Hungary	1	1	0	0	0	0	0	0	0	5
Latvia	0	0	0	0	0	0	0	0	0	20
Lithuania	0	0	0	0	0	0	0	0	0	150
Romania	0	0	0	0	0	0	0	0	0	4
Serbia	0	0	0	0	0	0	0	0	0	3
Russia	0	0	0	0	0	0	0	2	12	14
Slovakia	1	1	0	0	0	0	0	0	0	2
Slovenia	0	0	0	0	0	0	0	0	0	1
Spain	0	0	0	0	0	0	0	0	0	1
Switzerland	0	0	0	0	0	0	0	0	0	1
Total	64	61	131	69	70	56	241	521	389	4,903

ONGOING INVESTIGATIONS OF NAZI WAR CRIMINALS AS OF DECEMBER 31, 2020

Poland	153
Germany	20
Russia	14
Slovenia	1
USA*	multiple
Total	188

*The American Justice Department's Human Rights and Special Prosecutions Section, which is responsible for the prosecution of Holocaust perpetrators (among other violators of human rights), sent the following response to our query regarding the number of ongoing investigations underway in the United States:

"WWII-related investigative efforts continue, but at this extremely late date (75 years since the end of the Second World War, with the vast majority of the perpetrators now deceased and only a small minority of those who participated in the crimes having immigrated to the United States in any event), they necessarily constitute a small percentage of the U.S. Government's investigative work in the area of human rights violator accountability. (The Justice Department's Human Rights and Special Prosecutions Section (HRSP) does not release additional investigative information.) In addition, during the review period HRSP provided investigative assistance to law enforcement authorities in Europe regarding persons suspected of involvement in Nazi crimes."

ONGOING INVESTIGATIONS OF NAZI WAR CRIMINALS:
COMPARATIVE STATISTICS 2001 – 2020

	April 1, 2002	April 1, 2003	April 1, 2004	April 1, 2005	April 1, 2006	April 1, 2007	April 1, 2008	April 1, 2009	April 1, 2010	April 1, 2011
United States ¹	175	275	285	246	236	221	216	150	87	76
Lithuania	110	108	25	21	26	24	17	13	9	?
Canada	78	67	194	190	255	255	?	180	180	157
Poland	48	13	350	450	365	333	305	270	316	471
Germany	27	13	35	46	28	20	30	27	177	582
Great Britain	6	2	1	1	1	0	0	0	2	0
Croatia	3	2	1	2	2	2	1	1	1	0
Austria	3	4	27	199	131	83	4	5	28	5
Latvia ²	2	5	5	58	53	55	3	1	0	?
Netherlands	1	0	0	6	6	0	0	1	0	0
Estonia	1	2	3	3	1	1	1	1	2	0
Costa Rica	1	0	0	0	0	0	0	0	0	0
Denmark	0	1	2	11	1	2	1	0	1	0
Italy	0	0	12	13	5	17	22	52	43	23
Romania	0	0	0	4	4	0	0	0	0	0
Australia	0	0	0	1	2	0	0	0	0	0
Hungary	0	0	0	1	2	2	1	2	2	2
Slovenia	0	0	0	0	1	0	0	0	0	0
Spain	0	0	0	0	1	0	1	0	0	0
Serbia	0	0	0	0	0	3	3	3	3	2
France	0	0	0	0	0	1	0	0	0	0
Argentina	0	0	0	0	0	0	1	0	0	0
Brazil	0	0	0	0	0	0	1	0	0	0
Chile	0	0	0	0	0	0	1	0	0	0
Belgium	0	0	0	0	0	0	0	0	1	0
Slovakia	0	0	0	0	0	0	0	0	0	0
Total	455	492	940	1252	1120	1019	608	706	852	1318

	April 1, 2012	April 1, 2013	April 1, 2014	April 1, 2015	April 1, 2016	April 1, 2017	April 1, 2018	December 31, 2019	December 31, 2020
United States ¹	74	?	?	?	?	?	?	multiple	multiple
Lithuania	6	6	6	6	6	0	0		0
Canada	19	?	?	?	?	?	?		0
Poland	458	500	0	X	324	153	145	115	153
Germany	528	471	680	725	1,163	1,538	59	21	20
Great Britain	0	0	1	X	X	X	0	0	0
Croatia	0	0	1	1	0	0	0	0	0
Austria	22	5	10	5	2	2	X	0	0
Latvia ²	0	0	0	X	X	X	X	0	0
Netherlands	0	0	0	X	X	0	X	0	0
Estonia	0	0	0	X	0	0	0	1	0
Costa Rica	0	0	0	X	X	X	0	0	0
Denmark	0	0	0	0	2	0	0	0	0
Italy	0	19	18	18	8	6	0	1	0
Romania	27	0	3	0	0	0	0	0	0
Australia	0	0	0	0	X	0	0	0	0
Hungary	2	2	0	0	0	X	0	0	0
Slovenia	0	0	0	0	0	0	0	0	1
Spain	0	0	3	0	0	0	X	0	0
Serbia	0	0	0	0	0	X	0	0	0
Russia	0	0	0	0	0	0	0	2	14
France	1	0	0	0	0	0	1	1	0
Argentina	1	1	0	0	X	X	X	0	0
Brazil	0	0	0	X	0	X	X	0	0
Chile	0	0	0	X	0	X	X	0	0
Belgium	0	0	0	X	X	0	X	0	0
Slovakia	0	1	0	X	0	0	0	0	0
Total	1,138	1,005	722	755	1,505	1,699	205	141	188

1. The figure for April 1, 2002 includes only formal investigations, while the figures for subsequent years include formal investigations and preliminary inquiries.
2. Both cases for January 1, 2001 – March 31, 2002 are of persons already deceased. Two of the five cases for April 1, 2002 – March 31, 2003 are of persons deceased.

INVESTIGATION AND PROSECUTION REPORT CARD

As part of this year's annual status report, we have given grades ranging from A (highest) to F which reflect the Wiesenthal Center's evaluation of the efforts and results achieved by various countries during the period under review.

The grades granted are categorized as follows:

Category A: Highly Successful Investigation and Prosecution Program

Those countries which have adopted a proactive stance on the issue, have taken measures to identify the potential suspected Nazi war criminals in order to maximize investigation and prosecution and/or have achieved notable results during the period under review.

Category B: Ongoing Investigation and Prosecution Program Which Has Achieved Practical Success

Those countries which have taken measures to enable the proper investigation and prosecution of Nazi war criminals and/or have registered at least one conviction and/or filed one indictment during the period under review and/or actively assisted investigations in other countries.

Category C: Minimal Success That Could Have Been Greater, Additional Steps Urgently Required

Those countries which have failed to obtain any convictions or indictments during the period under review but have either advanced ongoing cases currently in litigation or have opened new investigations, which have serious potential for prosecution.

Category D: Insufficient and/or Unsuccessful Efforts

Those countries which have ostensibly made at least a minimal effort to investigate Nazi war criminals but which failed to achieve any practical results during the period under review. In many cases these countries have stopped or reduced their efforts to deal with this issue long before they could have, and could achieve important results if they were to change their policy.

Category E: No known suspects

Those countries in which there are no known suspects and no practical steps have been taken to uncover new cases.

Category F-1: Failure in principle

Those countries which refuse in principle to investigate, let alone prosecute, suspected Nazi war criminals because of legal (statute of limitation) or ideological restrictions.

Category F-2: Failure in practice

Those countries in which there are no legal obstacles to the investigation and prosecution of suspected Nazi war criminals, but whose efforts (or lack thereof) have resulted in complete failure during the period under review, primarily due to the absence of political will to proceed and/or a lack of the requisite resources and/or expertise.

Category X: Failure to submit pertinent data

Those countries which did not respond to the questionnaire, but clearly did not take any action whatsoever to investigate suspected Nazi war criminals during the period under review.

A: Germany, United States

B: Poland, Russia

C: Italy

D: Canada

E: Belarus, Czech Republic, Estonia, Finland, Hungary, Romania, Serbia, Slovakia, Spain

F-1: Norway, Sweden

F-2: Austria, Lithuania, Slovenia, Ukraine

X: Argentina, Australia, Belgium, Bolivia, Bosnia-Herzegovina, Brazil, Canada, Chile, Colombia, Costa Rica, Croatia, Denmark, France, Great Britain, Greece, Latvia, Luxemburg, Netherlands, New Zealand, Paraguay, Uruguay

Category A: Highly Successful Proactive Prosecution Program

1. Germany – The decentralization of the German legal system makes it very difficult to give a grade which accurately reflects the legal situation throughout the Federal Republic. Thus there are states which have been quite active in investigating cases of Nazi war criminals, whereas others have investigated as few as a single case or none at all. And while the significant differences between the states are obviously affected by the number of suspects living in, and the cases assigned to each area, the figures are also related to the performance of local prosecutors and their determination, or lack thereof, to bring Nazi war criminals to justice.

During the period under review, several German prosecutors continued their efforts to bring Nazi war criminals to justice. The primary catalysts for the increased activity were the rapidly expiring time in which such cases can be prosecuted, due to the advanced age of the defendants and health concerns, as well as the landmark 2011 conviction of armed SS Sobibor death camp guard Ivan Demjanjuk for accessory to murder. That decision was the first case in many years in which a Holocaust perpetrator was convicted, even though no evidence of a specific crime against a specific victim was presented to the court.

This decision had extremely significant implications, since it meant that any person who served in a Nazi death camp or in any of four of the Einsatzgruppen which operated in the areas of the Soviet Union (mobile killing squads A, B, C, and D) could be convicted in Germany, even if prosecutors had no evidence that the suspect had committed a specific crime. Until now, such cases generally never reached the courts, even though the suspects were active participants in mass murder over extended periods of time. During the period under review, the Zentrale Stelle (Central Office for the Clarification of Nazi War Crimes), headed by its director Jens Rommel. and from October 2020 by Thomas Will, continued to pursue the cases of death camp guards with significant practical results.

During the period under review, one perpetrator was convicted in Germany, and one indictment was filed against another Nazi criminal. Bruno Dey was convicted in Hamburg of accessory to murder, for his service as an S.S. guard in the Stutthof concentration camp from August 9, 1944 until April 26, 1945, and his complicity in the murder and death of 5,232 inmates, which is the estimated number of victims who were murdered or died

during his service in the camp. He was sentenced to two years in jail, but his sentence was suspended due to the fact that he was tried in a juvenile court because he began his service in Stutthof at age 17.

The indictment filed in 2020 in Brandenburg was against Josef S., who had served as an S.S. armed guard in the Sachsenhausen concentration camp from January 20, 1942 until August 31, 1944 and from December 6, 1944 until February 18, 1945, during which periods 3,518 prisoners were murdered or died of the horrible conditions. His trial began on October 7, 2021.

Starting in 2014, the Wiesenthal Center tried to assist the efforts of German prosecutors by searching for individuals still alive who had served in Einsatzgruppen A, B, C and D, which had conducted mass murder operations in the areas of the Soviet Union following the Nazi invasion on June 22, 1941. Those efforts were initiated with the submission in September 2014 by our Israel Office of a list of 80 persons (76 men and 4 women) born in 1920 or later, who had served in the Einsatzgruppen in the areas of the Soviet Union. Three individuals on this list were ultimately located alive by the German authorities who investigated their cases, but without any concrete results.

The Wiesenthal Center subsequently sent two additional lists to the German authorities. One named 26 male suspects and a second list was of 143 members of Einsatzgruppe units A, B, C, and D (137 men and 6 women), all of whom were born in 1920 or later. With the help of **Bild** chief investigative reporter Hans-Wilhelm Saure, we were able to inform the Zentrale Stelle that Heinz Udert of Einstazgruppe B was alive and living in Doettesfeld, Rhineland-Palatinate. Unfortunately, he died on January 1, 2020 before he could be charged for his service in a unit which murdered tens of thousands of innocent victims.

More than a decade after the dramatic change in German prosecution policy vis-à-vis Holocaust perpetrators, it is clear that the system in place suffers from several structural flaws. The first is that the investigations and trials are not given special priority and not especially expedited, to ensure that justice can be achieved in as many cases as possible.

The second problem relates to the identity of the prosecutors in these trials. While most of the cases are initially examined by the highly-experienced and knowledgeable experts of

the Zentrale Stelle, once a case has been approved for trial, it is entrusted to a local prosecutor near the residence of the accused.

There is absolutely no guarantee, however, that that prosecutor has any expertise or particular interest in trying such a defendant. A good example of the lack of experience in such cases occurred during the trial of Bruno Dey. An American named Peter Loch, who claimed to have been a Jew born in Stutthof, was allowed to testify at the trial, but he turned out to be a charlatan, who was neither born in Stutthof nor incarcerated there, nor was he a Jew. One of the statements that helped reveal his true identity as an impostor was his claim to have been tattooed in Stutthof, but that was not the case in that camp. A more knowledgeable prosecutor would almost certainly have known that Loch was lying.

2. United States – The legal situation in the United States vis-à-vis the prosecution of Nazi war criminals and collaborators is different than that of most other Western countries, which prosecute such suspects on criminal charges. In the United States, however, World War II Nazi criminals cannot be criminally prosecuted for their wartime crimes, because of the combination of two factors: (1) those crimes were committed outside the United States, and (2) there was no criminal law on the books in the US *at the time the crimes were committed* that conferred "extraterritorial jurisdiction" over those crimes on US courts (In fact, the worst of the crimes – genocide – wasn't even made a crime under US law until 1988, which was 43 years after WWII, on the heels of the achievement of belated success in the decades-long battle to get the Senate to ratify the Genocide Convention. And the US Constitution's Ex Post Facto Clause has precluded Congress from enacting a criminal law "retroactively" covering Nazi crimes committed abroad.

The deportation cases (nowadays called "removal" cases) that are brought against WWII Nazi perpetrators are brought under the 1978 Holtzman Amendment, which requires proof of participation in persecution. Persecution is a "Crime Against Humanity" under both the Nuremberg Charter and the Statute of International Criminal Court (ICC). In many cases, the authorities also prove immigration fraud, but unless involvement in *persecution* is proven, the odds of deporting such individuals are slim (because there are various avenues for relief available in fraud cases, whereas there are no such exceptions that apply in Holtzman Amendment Nazi cases).

While this decision made the successful prosecution of these persons more likely to some degree, the legal challenges faced by American prosecutors are still formidable, since the burden of proof in these cases is substantially identical to those faced in criminal prosecutions. Thus the results achieved by the Office of Special Investigations (established in 1979) and several years ago renamed the Human Rights and Special Prosecution Section (HRSP) are particularly noteworthy, having to date won cases against 111 Holocaust perpetrators.

On February 28, 2020 a Memphis, Tennessee court ordered the removal from the United States to Germany of former Neuengamme concentration camp guard Friedrich Karl Berger on the grounds of his proven participation in Nazi sponsored persecution.

Berger was deported to Germany in February 2021 after the conclusion of the period under review in this report.

In addition, two investigations of possible Nazi perpetrators were initiated and multiple preliminary inquiries were conducted.

The American authorities also provided investigative assistance to law enforcement authorities in Europe regarding persons suspected of involvement in Nazi crimes.

Category B: Ongoing Prosecution Programs Which Have Achieved Practical Success

1) Poland - The record of the Institute of National Memory, the Polish agency entrusted with the prosecution of the crimes committed under the Nazi occupation and Communist rule, is somewhat enigmatic. On the one hand, over the past decade it opened far more new investigations than any other equivalent agency, and as of January 1, 2020 it had 115 ongoing investigations being conducted, by far the largest number in the world. On the other hand, the practical results achieved during the past 20 years were relatively disappointing – only one conviction (of Chelmno death camp operative Henryk Mania) and two indictments (of Nazi agent Piotr Wieczorek and Ukrainian Nazi collaborator Michael Karkoc) had been filed.

This state of affairs continued to a large extent during 2020. During the period under review, the Polish Institute of National Memory opened a total of 358 new investigations regarding Nazi crimes in Auschwitz, Stutthof, Majdanek, Treblinka, Ravensbruck, Gross-Rosen, Buchenwald, Dachau and Mauthausen. These investigations, it should be noted, are of crimes and not yet against specific persons. Since many of the investigations have not been completed, they might yet yield charges against specific individuals. That was what happened in one specific case during the period under review. On June 19, 2020, the Poznan District Court issued a European Arrest Warrant against Hildegard Luce Neumann, who was a supervisor in the Mittweida labor camp, a sub-camp of the Flossenburg concentration camp, and was accused of mistreating at least 177 female Polish prisoners. Neumann died, however, on March 8, 2021 after the period under review in this report.

At the end of the period under review, the Polish authorities were still dealing with 153 criminal proceedings regarding Nazi crimes.

2) Russia – The Russian Federation, which until 2019 had refrained from initiating investigations of Nazi crimes on its own territory, continued its new policy in the period under review. During 2020, 14 investigations were started of which 10 were continued as criminal cases. In addition, two investigations of criminal cases which had been suspended were renewed by the Office of the Prosecutor-General.

These cases related to the mass annihilation of the civilian population in the Volgograd, Leningrad, Novgorod, Oryol, Pskov and Rostov regions, Krasnodar, Stavropol Krai and Crimea.

In the case regarding the Pskov region, it was established that civilians from the vicinity of Moglino were murdered by the Estonian Security Police and SD (Sicherheitsdienst) stationed in Pskov and Moglino.

All these cases were consolidated into a single case together with a criminal investigation initiated on August 11, 2020 into "the genocide of the peoples of the Soviet Union by the German-Fascist invaders and their accomplices during the Great Patriotic War..."

The investigation regarding the crimes committed by Sonderkommando 10a of Einsatzgruppe D in the Rostov Region, Stavropol and Krasnodar Krai continued throughout 2020 in connection with the deportation case pursued by the Canadian authorities against Waterloo, Ontario resident Helmut Oberlander. Oberlander died in his home in fall 2021, before he could be deported from Canada.

Category C: Minimal Success Which Could Have been Greater; Additional Steps Urgently Required

Italy – One of the most positive developments in recent years has been the renewed efforts by Italian military prosecutors to bring to trial German and Austrian perpetrators of crimes against civilians in Italy during World War II. Thus during the years 2005-2014, a total of 46 Nazi war criminals were convicted by military prosecutors, by far the highest number achieved anywhere, since the publication of this report was initiated in 2002 to cover the period from January 1, 2001 until March 31, 2002.

It should be noted, however, that unfortunately all of the cases of Nazi war criminals prosecuted in Italy during recent years have been conducted in absentia, with not a single suspect present during the proceedings. Efforts by the Italian judicial authorities to obtain the extradition of the suspects, all of whom with two exceptions were German citizens residing in Germany, have hitherto been rejected by the Federal Republic and Austria, which refuse in principle to extradite their citizens. In the wake of this refusal, Italy has requested in several cases that those convicted and sentenced to life imprisonment serve their sentences in Germany. On August 11, 2009, Josef Sheungraber, one of the officers successfully prosecuted in Italy, was convicted in Germany and sentenced to life imprisonment, but this has been the only case resolved in this manner so far.

During the period under review, the military Court of Appeal in Rome continued its efforts to enforce the sentence rendered against Wilhelm Karl Stark, who was sentenced to life imprisonment by the military court of Verona on July 6, 2011 on charges of murders committed on March 18 and 20, 1944 in Monchio, Susano, Costrignano (Modena), Civago, Cervarolo (Reggio Emilia) and on April 10, 1944 in the area of Monte Morello (Firenze).

Category D: Insufficient and/or Unsuccessful Efforts

Canada – During the period under review in our previous report, we were very happy to report that the Canadian Crimes Against Humanity and War Crimes Section had registered an important victory. For more than two decades, the Canadian authorities have tried to denaturalize and deport Helmut Oberlander, who served with Sonderkommando 10a of Einsatzgruppe D. On June 20, 2017, the Governor in Council revoked Oberlander's citizenship for the fourth time, and in 2019, the Federal Court of Appeal unanimously dismissed his motion to re-open the case. On December 5, 2019, the Supreme Court of Canada refused to hear Oberlander's appeal, clearing the way for his deportation, but unfortunately that was the case. Oberlander's lawyers continuously sought to delay the proceedings and Oberlander died in his home on September 20, 2021.

Canada, it should be noted, is one of only two countries, the other being the United States, which prosecutes Holocaust perpetrators on civil, rather than criminal charges. Although Canada passed a law in 1987 enabling the criminal prosecution of Nazi war criminals, the government switched to civil proceedings in 1994 after a Canadian court in Toronto acquitted Imre Finta, a captain of the Hungarian gendarmerie in Szeged, who played an active role in the deportation of 8,617 Jews to Auschwitz, on the basis of his claim that he had no choice but to carry out the orders of his superiors (the "superior orders defense").

After adopting the legal remedies of denaturalization and deportation, the Canadians cancelled the citizenship of ten Eastern European immigrants who served with forces of the Third Reich. Two left Canada voluntarily, but the eight others decided to contest their deportation. Oberlander was the last of the eight to die in Canada, marking the complete failure of the Canadian authorities to implement the full punishments available against these Nazi collaborators who immigrated to Canada under false pretenses. (In addition, six defendants died during the course of the proceedings against them, and three were acquitted.) These disappointing results contrast sharply with the successes consistently registered year after year by the American authorities who also apply civil remedies against Nazi war criminals.

Category E: No Known Suspects

During the period under review, there were no suspects known to the Wiesenthal Center or to the local authorities, who were either residing in the following countries or had committed Nazi war crimes there during World War II, nor were any practical steps taken in these countries to uncover such potential suspects:

1. Belarus
2. Czech Republic
3. Estonia
4. Finland
5. Hungary
6. Romania
7. Serbia
8. Slovakia
9. Spain

Category X: Did Not Reply

1. Argentina
2. Australia
3. Belgium
4. Bolivia
5. Bosnia-Herzegovina
6. Brazil
7. Chile
8. Colombia
9. Costa Rica
10. Croatia
11. Denmark
12. France
13. Great Britain
14. Greece
15. Latvia
16. Luxemburg
17. Netherlands
18. New Zealand
19. Paraguay
20. Uruguay

Category F-1: Failure in Principle

1. Norway – For years, Norway refused in principle to investigate, let alone prosecute, Nazi war criminals due to an existing statute of limitations, which contrary to the situation elsewhere in the Western world with the exception of Sweden, applied not only to murder, but also to genocide, war crimes and crimes against humanity. On March 7, 2008, however, the Norwegian parliament cancelled the existing statute of limitations on the crimes of genocide, war crimes, crimes against humanity and terrorism. Unfortunately, this development did not change the situation regarding Holocaust crimes, since the amendment to the penal code does not allow for the prosecution of those cases which had already been under statute of limitations when the law was changed. Thus, in principle, Norway still cannot bring Nazi war criminals to justice.

New revelations in recent years regarding war crimes committed by Norwegians, both in Norway as well as in Ukraine, have again pointed to the importance of finding a legal remedy to enable the prosecution of such individuals.

2. Sweden – For years, the Swedish government refused in principle to investigate, let alone prosecute, Nazi war criminals due to a statute of limitations on murder, which was instituted in 1926, and which contrary to the situation elsewhere in the Western world with the exception of Norway, applied also to genocide, war crimes, and crimes against humanity. In February 2010, the Swedish parliament cancelled the statute of limitations in cases of genocide, war crimes and crimes against humanity, but that step was not made retroactive and therefore does not allow for the prosecution of Holocaust perpetrators. Thus Sweden, like Norway, remains one of the only countries in the civilized world which in principle cannot prosecute Nazi war criminals.

Category F-2: Failure in Practice

1. Austria – Austria's failure to bring Nazi war criminals to justice is particularly upsetting, given the large number of Austrians who participated in Holocaust crimes. Not a single Nazi war criminal has been convicted and punished in Austria in more than four decades, and whatever steps were taken to improve the handling of such cases have not yet yielded any positive results.

Thus, for example, in 2011, the Austrian Ministry of Justice established a working group to identify Nazi war criminals who were still alive, and to review 526 public court files related to Nazi war crimes. Its report was scheduled for publication in 2012, but was only completed and submitted four years ago to the Justice Ministry, which has still not published it.

The ministry has, however, already adopted one of the report's recommendations, which was the cancellation of the immunity hitherto granted to individuals who committed war crimes and genocide before they reached the age of twenty-one. No positive results have yet been achieved.

2. Lithuania – The Lithuanian government continues to do everything possible to avoid prosecution and punishment of local Holocaust perpetrators. Thus, in 2012, the authorities received a list of 2,055 individuals who had actively participated in the murder of Jews, which was prepared by its own Genocide and Research Center, at the government's request. To this date, none of the names on the list have been investigated by prosecutors, insuring that no legal action will be taken against local Nazi war criminals.
3. Slovenia – In 2019, the Slovenian Supreme Court annulled the 1946 conviction (death sentence) of Leon Rupnik, the leader of the collaborationist provisional government of the Nazi-occupied province of Ljubljana and ordered a re-trial. Rupnik had been convicted in 1946 of crimes against the nation and the state by a Yugoslav military court. The Supreme State Prosecutor strongly opposed the request and proposed that the Supreme Court reject the request as totally unfounded. The Supreme Court, however, annulled the verdict on the basis that the original ruling of the military court had not been sufficiently argued, even under the standards applicable at that time.

In September 2020, the Rupnik case was dismissed on the grounds that the defendant was deceased. In October 2020, however, the State Prosecutor appealed against the dismissal on the grounds of substantial violations of criminal procedures. In addition, several complaints were filed at the Slovenian Constitutional Court, which suspended the proceedings until its final decision.

4. Ukraine – Since it obtained independence from the Soviet Union, Ukraine has, to the best of our knowledge, never conducted a single investigation of a local Nazi war criminal, let alone prosecuted a Holocaust perpetrator. It has also hitherto refused to admit Ukrainian Nazi war criminals who were ordered deported from the United States for concealing their wartime activities during the immigration and/or naturalization process.

INVESTIGATION AND PROSECUTION REPORT CARD:

COMPARATIVE STATISTICS 2001-2020

	2000/1 - 2001	2001/2 2002	2002/3 2003	2003/4 2004	2004/5 2005	2005/6 2006	2006/7 2007	2007/8 2008	2008/9 2009	2009/10 2010	2010/11 2011	2011/12 2012
Argentina	C	X	D	D	X	X	X	D	X	E	X	D
Australia	D	D	D	D	C	C	F-2	F-2	F-2	F-2	C	F-2
Austria	D	D	D	C	D	F	F-2	C	F-2	D	F-2	F-2
Belarus		X	X	X	X	X	X	X	X	X	X	X
Belgium		X	X	X	X	X	X	X	X	D	X	X
Bolivia		X	X	X	X	X	X	X	X	X	X	X
Bosnia- Herzegovina		X	X	X	D	D	E	X	X	X	E	X
Brazil		X	X	X	X	X	X	D	X	X	X	E
Canada	B	B	C	B	C	C	F-2	B	D	F-2	F-2	F-2
Chile		X	X	X	X	D	X	D	X	X	X	X
Colombia		F	F	F	D	D	X	X	X	X	X	X
Costa Rica	C	D	C	X	X	D	X	X	X	X	E	X
Croatia	C	D	D	D	D	B	F-2	F-2	E	E	E	E
Czech Republic		D	X	X	X	X	X	X	X	X	X	X
Denmark		D	D	D	B	D	C	D	D	D	D	E
Estonia	D	D	D	D	D	F	F-2	F-2	F-2	F-2	F-2	F-2
Finland		D	D	D	D	D	E	E	E	E	E	E
France	B	C	D	D	X	D	D	X	X	X	X	D
Germany	B	B	B	B	C	C	F-2	B	B	A	B	A
Great Britain	C	D	D	D	D	D	F-2	X	X	D	X	X
Greece		X	X	X	X	X	X	E	E	E	E	X
Hungary		X	D	D	B	C	C	F-2	F-2	F-2	B	F-2
Italy	B	C	C	C	C	B	B	B	B	B	B	A

	2000/1 - 2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
	2000/1 - 2001	2001/2	2002/3	2003/4	2004/5	2005/6	2006/7	2007/8	2008/9	2009/10	2010/11	2011/12
Latvia	C	D	C	C	C	C	F-2	F-2	E	X	F-2	F-2
Lithuania	C	C	C	C	C	B/F	F-2	F-2	F-2	F-2	F-2	F-2
Luxemburg		X		X	X	X	X	X	X	X	X	X
Netherlands		D	X	D	C	D	X	X	D	D	C	D
New Zealand	D	D		D	D	D	X	E	E	X	E	X
Norway		D	F	F	F	F	F-1	F-1	F-1	F-1	F-1	F-1
Paraguay		X		X	X	X	X	X	X	X	X	X
Poland		B	C	C	C	B	F-2	C	C	C	C	C
Romania		X	D	F	D	F	D	X	X	X	E	E
Russia		X	X	X	X	X	E	X	E	E	X	X
Scotland	D	D	-	-	-	-	-	-	-	-	-	-
Serbia		X	X	X	X	X	C	C	B	B	B	B
Slovakia		X	D	D	D	D	E	X	X	X	C	E
Slovenia				D	D	D	X	X	X	E	E	X
Spain			D	D	X	D	X	X	B	X	B	B
Sweden	F	F	F	F	F	F	F-1	F-1	F-1	F-1	F-1	F-1
Switzerland								D				-
Ukraine		X	X	X	X	F	F-2	F-2	F-2	F-2	F-2	F-2
United States	A	A	A	A	A	A	A	A	A	A	A	A
Uruguay		X	X	X	X	X	E	X	X	X	X	X

	2012/13	2013	2013/14	2014	2014/15	2015	2015/16	2016	2016/17	2017	2017/18	2018	Apr- Dec.2018	2019	Jan-Dec. 2019	Jan-Dec. 2020
Argentina	E	E	E	E	X	X	X	X	X	X	X	X	X	X	X	X
Australia	F-2	E	E	E	E	E	E	E	E	E	E	E	E	E	E	X
Austria	F-2	F-2	F-2	D	D	D	D	D	D	D	F-2	F-2	F-2	F-2	F-2	F-2
Belarus	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	E
Belgium	X	E	X	X	X	X	X	E	X	X	X	X	X	X	X	X
Bolivia	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Bosnia- Herzegovina	E	E	E	E	E	E	E	E	E	E	E	E	E	E	X	X
Brazil	X	E	X	X	E	X	X	X	X	X	X	X	X	X	X	X
Canada	B	D	D	D	D	D	C	C	C	C	B	B	B	B	B	D
Chile	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Colombia	X	X	X	E	E	E	E	E	E	E	E	E	X	E	E	X
Costa Rica	X	E	X	X	X	X	X	X	X	X	E	E	X	X	X	X
Croatia	E	C	D	D	D	D	E	E	E	E	E	E	E	E	E	X
Czech Republic	E	E	E	E	E	E	E	E	E	E	E	E	E	E	X	E
Denmark	E	E	E	E	E	E	C	C	D	D	E	E	E	E	E	X
Estonia	F-2	F-2	F-2	E	E	E	E	E	E	E	E	E	E	E	E	E
Finland	E	E	E	E	E	E	E	E	E	E	X	X	B	B	B	E
France	X	X	X	E	E	E	E	E	E	E	C	C	D	D	D	X
Germany	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Great Britain	X	D	X	X	X	X	E	E	E	E	E	E	E	E	X	X
Greece	E	E	E	E	E	E	X	X	X	X	E	E	X	X	X	X
Hungary	C	D	D	C	D	D	D	X	X	X	E	E	E	E	E	E
Italy	B	A	A	B	B	B	B	B	B	B	B	B	B	B	B	C
Latvia	F-2	F-2	F-2	X	X	X	X	X	X	X	X	X	X	X	X	X
Lithuania	F-2	F-2	F-2	F-2	F-2	F-2	F-2	F-2	F-2	F-2	F-2	F-2	F-2	F-2	F-2	F-2
Luxemburg	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Netherlands	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
New Zealand	E	E	E	X	X	X	X	E	E	E	E	E	X	X	X	X

	2013	2014	2015	2016	2017	2018	2019	2019	2020
	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	Apr-Dec.2018	Jan-Dec. 2019	Jan-Dec. 2020
Norway	F-1	F-1	F-1	F-1	F-1	F-1	F-1	F-1	F-1
Paraguay	X	X	X	X	X	X	X	X	X
Poland	C	X	X	D	B	B	B	B	B
Romania	E	D	E	E	E	E	E	E	E
Russia	X	X	X	C	E	E	E	C	B
Scotland	-	-	-	-	-	-	-	-	-
Serbia	X	E	X	E	X	E	E	E	E
Slovakia	C	C	X	E	E	E	E	X	E
Slovenia	X	E	E	E	E	E	E	F-2	F-2
Spain	B	F-2	E	E	E	X	E	X	E
Sweden	F-1	F-1	F-1	F-1	F-1	F-1	F-1	F-1	F-1
Switzerland	-	-	-		-				
Ukraine	F-2	F-2	F-2	F-2	F-2	F-2	F-2	F-2	F-2
United States	A	B	A	A	A	A	A	A	A
Uruguay	X	X	X	X	X	X	X	X	X

The Verdict of Judge Anne Meier-Göring in the Case of Stutthof Guard Bruno Dey – Hamburg, July 2020

The present procedure was difficult. From a legal and a human point of view. It demanded a lot from all of us and followed us also outside the courtroom and did not let go.

The very most was demanded from the co-plaintiffs who told us about their memories of the hell of Stutthof, even though it was so painful for them. But – you referred to it, Ms Siegrot – the co-plaintiffs felt obliged to do so. They still feel obliged and have been obliged for the past 75 years to bear witness to what was done to them as human beings – from human beings in Germany. They feel obliged, even though that means that they need to retrieve their pains and memories again and again and that they cannot suppress them. They feel obliged to refrain from giving in to the relief of suppression, not to forget, but to report. Again and again. An obligation to the dignity of humankind, humanity, and future generations.

And you as well, Mr. Dey, felt obliged to face the present criminal proceedings. Some of the representatives of the co-plaintiffs have already paid respect to you for that. And we also acknowledge that. You answered all our questions and the questions of the co-plaintiffs, and thus granted us an insight into these unimaginably dark times of the last months of the Stutthof concentration camp and National Socialism in Germany through your eyes and your perception. And you always listened carefully, in particular when the co-plaintiffs testified. Both – your answers and your listening – were of significance for us and the co-plaintiffs. We were not able to find an answer to the question of the origin of your sense of duty to face the present proceedings. Maybe you simply knew that you would not be able to defend yourself against it within a state governed by the rule of law. Or did you subconsciously want to face your guilt without having to express it yourself?

Guilt, that until the end of the proceedings, right up until your final word, you refused to acknowledge for yourself, even though, as you put it, you engaged with the time in Stutthof again within the scope of the present proceedings and now recognized Stutthof as “a hell of madness”. But you continue to see yourself as just an observer of that hell, Mr. Dey. Not as one of the persons who themselves helped maintain that hell. But you were yet one of the auxiliaries of that man-made hell. That is part of the objective truth that the present procedure has revealed.

Despite that, Mr. Dey, we acknowledge that you managed to apologize to the co-plaintiffs and their relatives at the end of the present proceedings, even though the question has remained unanswered as to what you personally apologized for. However, by dealing with the contents of the present proceedings, you began to approach your guilt. And you did this at your old age. In fact, this is commendable, Mr. Dey. It was an important step for the co-plaintiffs, and it was an important step for you at the end of your life, and for the end of the present procedure as well.

In the present main trial, we dealt with an era that we cannot understand however hard we may try. It is beyond all atrocities you could ever imagine. However, done by human beings to human beings. Very normal people, such as the person accused Dey to very normal people, such as Rosa Bloch, Halina Strnad, Marek Dunin-Wasowicz, David Ackermann, Adam Koryski, Henri Zaidenwergier, whom we all heard here as witnesses in the main trial. How can that ever be possible? How is

it possible that you, Mr. Dey, a human being, who has subsequently lived an orderly life without committing any penal acts, as a young man of 17/18 years saw in those times the suffering of those human beings without suffering as a result? How is it possible that you, who were not even a passionate Nazi, were able in those times to deprive the co-plaintiffs so easily of their humanity and were able to accept that they were turned into numbers and dehumanized? How can it ever be possible that putting on an SS uniform and the order, to be on guard duty in a concentration camp were sufficient for you to perform dutifully your service as a guard – thereby forgetting your humaneness and your conscience? How were you ever able to get used to the horror, and in a very short period of time just find it monotonous?

We are sure, Mr. Dey, that when you experienced the co-plaintiffs here as witnesses in the courtroom, you yourself were no longer able to imagine that the same people were just a number for you in those times 75 years ago. That you would have shot at them if they had tried to escape. That you prevented these people, exactly these people, 75 years ago from escaping from the hell of Stutthof, even though for 8 ½ months you saw every day that they were dying of hunger, disease, maltreatment, yes of dehumanization or were gassed or killed in another cruel and insidious way.

But that is the way it was Mr. Dey – it is as terrible as I am putting it here and now. And it does not help to beat around the bush. But that is what it is about and what matters and that is the result of the present proceedings, and what we have to take with us from the present proceedings, and you simply have to understand, that you as a human being took part in doing this terrible injustice to the co-plaintiffs as human beings, and that is the reason why you are to assume responsibility as a human being and are to be punished in a state governed by the rule of law, as Germany fortunately is in the meantime. And now also, at the end of your life. Because there is no statute of limitations on murder.

We all must understand that human beings were capable – and still are – of doing something like this to other people. And in fact, not sadists such as Chemnitz and Foth, not criminals such as Selonke. But very normal people, such as the person accused Dey, thousands, hundreds of thousands, yes millions of very normal people in Germany did that to very normal people, thousands and hundreds of thousands, millions of Jews, Poles, Lithuanians, Hungarians, Russians and dissidents. Just like that. Out of indifference. Out of sense of duty. Because of an order. Out of a collective and individual lack of conscience.

And that is why we do not really like the phrasing that is used again and again by jurisdiction, and also by the media, for the parties involved in the crime of the National Socialists: namely the phrasing of a so-called “small cog in the killing machinery”. The SS guards and others had been “small cogs”, had kept the killing machinery going. No. The person accused Dey was no small cog, but a human being and one of hundreds of thousands of people who were conducive to and supported the crimes of Hitler and Himmler, Glücks and Hoppe. And it was also no killing machinery, but mass murder of human beings, invented by human beings, organized by human beings, and implemented with the help of a multitude of human beings.

The metaphor of a killing machinery has obscured, as we believe, our vision in that respect, and depersonalizes the victims and the perpetrators one more time. And that metaphor also enables us to push the monstrosity of the crimes during National Socialism away from us and away from our present times. According to the motto: The killing machinery has been switched off in the meantime. That is just a matter of the past and has nothing to do with us and our present-day society.

And therefore, the phrasing of “the small cog in the killing machinery” may illustrate on legal grounds the cooperation of a variety of perpetrators and auxiliaries in mass murder, however, it is simply not objectively the truth about what happened in Germany in those times but creates a distance from it. And this wish to distance oneself may therefore rather reveal more about German society and the German jurisdiction and their yet incomplete processing of NS-crimes, but less about the crimes that were actually committed in Germany by human beings during those times.

That is also the reason why from our point of view the phrasing of “the small cog in the killing machinery” does not at all get at the heart of what we have been dealing with and what we were concerned with in the present main trial, and which objective truth the main trial revealed in respect of the crimes committed in Stutthof and which conclusions to draw from it.

The crucial questions of the present procedure were rather: What kind of crimes to humanity are human beings capable of and what makes human beings commit such atrocities like those committed in the Stutthof concentration camp, or at any rate cooperate in same. As human beings, we can only learn for the future by finding answers to these questions.

Therefore, the warning does not say: Do not let us ever tolerate a Nazi killing machinery again, but rather – and that is what the present proceedings, and also this person accused with his personality revealed: Nip things in the bud, when people are depreciated, marginalized, humiliated, deprived of their rights. Nip things in the bud, when racism and injustice become socially acceptable. Don't look away, but look at it, when people are deprived of their dignity. Be compassionate and be alert as to your own indifference, your selfishness, your comfort of obeying and your adaptability to injustice! Think for yourself and question what is being demanded from you and do not obey where inhumaneness, injustice, murder is being ordered.

Respect the dignity of humankind – at all costs. And yes, also at the price of your own safety.

For that is the message of the present proceedings.

Because only then you will not be harmed, and other human beings will not be harmed. Only then can you say: I have not become guilty.

And yes, definitely that is a lot to demand– especially from a 17/18-year-old like you in those times, Mr. Dey.

And certainly, all of us do not know how we would have behaved if we had been in your shoes. But particularly for that reason the message must be: Whoever behaves like the person accused Dey will become guilty, must answer for that, and in fact do so until the end of his life. That is the answer of a state governed by the rule of law to the illegitimate state governed by the rule of law of National Socialism, and the crimes against humanity committed by human beings under that regime – and that is the reason why the question cannot be, why still now? But solely, why only now. Why has Germany which has been praised so often for coping with its past only managed to find this answer of a state governed by the rule of law in the last 10 years? An answer that is so obviously required, in order to preserve us and future generations of humankind from behaving in the future like the person accused Dey and all the other millions of Germans, who participated.

And you know, Mr. Dey. The circumstance, that you have not been prosecuted for 75 years for injustice committed by you is not the reason that the evening of your life is being destroyed as you said here. Rather, that circumstance allowed you to push that aside in the last 75 years and to forget and to be able to lead a peaceful life without being sentenced on grounds of accessory to murder, and ultimately not having to go to prison for this reason. If you had been accused and convicted in the year 1982, when you were first interrogated in respect of your time in Stutthof, on grounds of the same parameters that we took as a basis for our present conviction, that would have probably not been the case. 38 years ago, your sentence would have been higher, at any rate if we had been the competent division of the Juvenile Court.

Nonetheless: We do not point the finger at you, Mr. Dey. Mr. Horstmann said it here as well. We are paying respect to you for what you accomplished in your life after the Second World War. And most of us here in the courtroom are happy about the clemency of having been born late, preserving us from the situation you were in as a young man of 17/18 years. But there is one thing we know after the present main trial:

It was wrong, it was terribly unjust and punishable what you did in those times Mr. Dey. You should not have taken part in Stutthof, but you should have at least tried to evade the cruel murdering around you. And you would have been able to evade it. Like those few, who could not stand the injustice and were not able to adapt to the inhumane ideology of the Nazis, also did. You should not have obeyed a criminal order and at no account have relied on same.

And that is the reason why we sentenced you here today on grounds of accessory to murder in at least 5232 cases, and on grounds of accessory to attempted murder.

The present conviction, which, indeed, legally and factually exceeds the concrete indictment by the state prosecutor's office and what has so far been established in judicial decisions by the Supreme Court in respect of NS-crimes in the context of concentration camps, can fundamentally be traced back to the testimony of the co-plaintiffs in the present proceedings. To every man and woman we heard here as a witness, be it by video or here in the courtroom. And also to the shocking declarations by the co-plaintiffs we read out here, to all their individual very personal memories of the hell of Stutthof. Because only these memories, only the voices of the co-plaintiffs were able to communicate the reality of the atrocities in the Stutthof concentration camp. Only through their descriptions were we able to understand, that already being imprisoned in the Stutthof concentration camp during the times when you, Mr. Dey, performed your service there, from the first second on was the beginning of a cruel process of dying for all those who the Nazis deemed to be so-called "sub-humans", that is to say at any rate for all male and female Jews and all the prisoners originating from East-European countries.

A cruel way of dying that the camp leadership organizing and maintaining the camp recognized and approved. And that must have forced itself on all SS guards after a short time on guard duty as well. On you also, Mr. Dey. It was not possible for you to look away to such an extent in those times. The conditions of life for these prisoners in Stutthof were simply so hostile to life, so inhumane, so ignominious, that everybody, and really everybody seeing that daily, knew that the life of these so-called "sub-humans" did not count but that they were slowly dying a cruel death. Every day and every night. And that those who were maintaining the camp and the conditions there without liberating the detainees, were completely indifferent towards this and that they accepted this mass murder. And in order to recognize this, Mr. Waterkamp, the 18- year-old Dey did not need to know about any order from Glücks

to Hoppe for this mass murder. Because he could recognize on site with his own eyes what Hoppe and Meyer did.

This insight, that being cooped up in the Stutthof concentration camp was the beginning of a cruel way of dying right from the first minute, pursuant to Section 211 German penal code (*Strafgesetzbuch – StGB*), at any rate for all Jewish detainees and those originating from East European countries, and therefore mass murder that the camp leadership recognized and approved, goes beyond the preceding judicial decisions by the Supreme Court. Prof. Nestler rightly submitted that in detail here.

But this insight was the basis of our legal reference dated 19th June 2020. And we were communicated this insight by the co-plaintiffs.

It was not Dr. Hoerdler and certainly also not the pleading to the charge by the person accused. But the descriptions by the co-plaintiffs of the daily agony, the daily humiliation, the daily despotism and the daily atrocities in Stutthof. We listened to them and we understood.

Understood the monstrosity of the reality of the Stutthof concentration camp in the period between August 1944 and April 1945 and thereby approached the objective truth, as we believe, a bit closer than the indictment, which – as is absolutely understandable in the light of the preceding judicial decisions by the Supreme Court – had restricted itself to the direct killings in the Stutthof concentration camp by gassing, neck shooting facility (*Genickschussanlage*), as well as conditions hostile to life in the barracks 29 and 30, and aiding and abetting by the person accused oriented towards same.

The co-plaintiffs answered here to the question of how they were able to survive the hell of Stutthof and why they wanted to make a declaration here:

“We survived because we wanted to testify as to what was done to us.”

You have succeeded. Your testimony really made us grasp the truth about the cruel dying and mass murder in the Stutthof concentration camp.

On the established facts and the appreciation of evidence:

You, Mr. Dey, became an SS guard in Stutthof on 9th August 1944 at the latest. And you stayed there until 26th April 1945, thus 8 ½ months. You became, without having decided voluntarily to do so, a member of the 1st company of the SS-*Totenkopfsturmbann* and were therefore so-to-say allocated to the “model company (*Vorzeigekompanie*)”, headed by the company commander Reddig, who was the deputy of the camp commandant (*Lagerkommandant*) Hoppe at the same time and a staunch national socialist. Together with you, a lot of other young *Wehrmacht* soldiers joined this company. However, as described to us by Dr. Hoerdler in a very illustrative way, there were also many older unscrupulous SS men, having long-term experience in violence, in the 1st company. We can therefore imagine the atmosphere within this 1st company, the main task of which was to guard the Stutthof main camp.

Indeed, you told us here Mr. Dey, that there were no Nazis – but that is certainly one of your own truths that you created for yourself. In that company around you were the worst Nazis one could ever imagine. And we are also sure that those Nazis determined the atmosphere and the opinion. That they made it clear again and again to everybody in the company, and in particular to the younger ones like you, that one was serving a superior task, that one was preserving the *Reich* from “Pests

harmful to the Common Good of the People (*Volksschädlinge*)”, that the detainees were at best worth performing forced labor and then, if they were no longer capable of working, had to be exterminated. We are sure that these staunch Nazis around you, Mr. Dey, did not show any sympathy, or any empathy for the prisoners at all, but that they – as terrible as it is – made fun of them being emaciated, being infested by lice and inflicted by stench and deemed this proof that these maltreated people were “sub-humans”.

And that is why we are sure that you, Mr. Dey, who became part of the company, very quickly adapted to this rhetoric and cold-heartedness. You may not have assumed the inhuman ideology of the Nazis altogether, but you were able to adapt in order to avoid conflicts. Yes, you had learned and were raised in such a way that you were to avoid conflicts and obey commands. And probably that is what you have done all your life, without thinking about it a great deal.

However - even in a state governed by the rule of law, one should question orders and instructions by the state.

And that is all the more true in a state governed by the rule of injustice! And in a concentration camp where the worst that people are able to do comes to light and runs rampant. In a place where injustice, however, did not become justice but remained the most horrible injustice. But where none of the perpetrators and auxiliaries minded anymore. What is so terrible about human beings is that they do not only adapt to what is good but they also particularly adapt to what is bad. And there is obviously no place that reveals this phenomenon more than a concentration camp of the National Socialists. That is where a lack of conscience, together with inhumaneness and injustice became the roadmap for all those cooperating in the maintenance of the concentration camp. And thereby also for you, Mr. Dey.

And to oppose this is certainly even harder the younger, less formed, and ready to adapt the relevant person is. And we acknowledge that in your favor, Mr. Dey. In those times, you were not an adult yet, but still so young and influenceable and you were raised to fit in and to accept orders and to be obedient and grew up in times where a lack of conscience had seized a whole people like never before and never again. So that opposing this for you in those times, as a 17/18- year-old was extremely difficult and, in fact, required the utmost effort by your conscience.

This point of view played the most important mitigating role upon deciding our penalty. However, even so, this circumstance could not excuse you, as your defense counsel suggested. However, it reduced your penalty considerably.

You did not manage any internal or external opposition, Mr. Dey, and you thus adapted in the Stutthof concentration camp to the injustice and lack of conscience there within a very short period of time. It probably took only some weeks to turn you into one of all the others in the company, and therefore you did not recognize them – even until the present day – as Nazis. There was no need for re-education training and brochures – the daily life together, the daily adaptation, as we human beings are used to behave in such a way to avoid attracting attention, was sufficient for that purpose. And in particular also to what is bad.

And definitely that adaptation also helped you to perform your service. As this adaptation had already taken part of your humanity, your empathy and your decency away from you. And that is why, already after a short period of time, and we are convinced of this, particularly subsequent to the present taking of evidence and, in particular, based on your own declaration, you no longer suffered from the daily human agony to which the detainees were exposed, and that you saw every day.

And you also did not suffer from being together with staunch Nazis. But only, as you told us here, from the monotony of your occupation and the distance from your family. That is why you cried from time to time, Mr. Dey, and not because of the mass murder happening in front of your eyes.

It was a sentence of yours, Mr. Dey, that I will never forget, because, without you wanting it to, it described your emotional state of those times in such a rational way and made it clear to us, why you did not make an effort to get away from the hell of Stutthof for those 8 ½ months long.

Because it simply was no hell for you. For you, it was just a monotonous daily work routine that you preferred in any case over your own suffering as a soldier at the front. That is why all our questions put to you about moral conflict, an inner suffering, a search for a possible way out from the SS guard duty came to nothing. Because you had nothing to endure in your inner self, while performing your guard duty in Stutthof. It is hard to believe in present times, but that is how it was – we are convinced of this after the taking of evidence and your descriptions. And also despite your final word, in which you stated again that you would not have stayed in Stutthof if you had seen a way out. But unfortunately, this is not true, Mr. Dey. You did not search for a way out in those times.

The expert Dr. Hotamanidis got to the heart of it: You did not suffer in Stutthof. And in addition to same, you convinced yourself that you yourself did not participate in anything wrong. If you perceive the situation to be like that, you are not in a state of moral conflict. Because only such a person is in a state of moral conflict who feels forced to commit something wrong himself, or a crime himself. But whoever talks himself into believing that he is not committing anything wrong himself, because he is just standing on a watchtower following orders, avoids such moral conflict. And that is what you did, Mr. Dey. All your answers in the present main trial, and already also to the police and the state prosecutor's office are proof of same. I asked you in the main trial: "What would you have done if you had had the choice between your guard duty and serving as a soldier at the front?" And you were evasive in your answer: "The question did not arise. Because I did not have that choice." Also that answer reveals very clearly that you did not make any effort to get away from Stutthof in those times, or that you did not even think about it at all. Because otherwise you would have answered my question: "If I had had a choice, I would have certainly become a soldier!"

However, from a legal point of view this also means that you cannot avail yourself of so-called exculpating superior orders (*Befehlsnotstand*). And that the questions did not even matter anymore if it had been possible for you to be relocated from Stutthof to the front, or not, or what might have happened to you if you had filed a request for relocation or had simply stated that you felt unable to cope with the service as a guard.

And when you, Mr. Dey, told us here that you felt sorry for the people in the camp as they had not done anything, we were not able to establish any real emotion on your part upon your descriptions. We could not recognize that seeing day by day the piled up, emaciated naked corpses that you described to us here, the awareness of gassing and other murdering had traumatized you. No, you are describing those images to us – and you also did so to the police and the state prosecutor's office – in a matter-of-fact way and without any real personal dismay.

And that showed us, that already in those times you were not really affected by this. And not, because you are or were an insensitive person, Mr. Dey. But because you had passed through an adaptation process and did not counter the beginnings of

your human numbness and indifference in time, as difficult as it was for you in those times as an 18-year-old, but had succumbed to the maelstrom of dehumanization like the majority of Germans in those times, without exerting your human conscience and standing up to it.

That is the moral responsibility, but above all, as we are not to judge your ethics but your responsibility under penal law, the accusation under penal law. As the consequence thereof was that you committed for almost 9 months accessory to the murder of far more than 5000 people, without searching for a way out.

And that lack of effort of your conscience Mr. Dey, also had the consequence that you took refuge in the order to perform the service as an SS guard, and you have still been taking refuge in same until the present day. You even said this in your final word: "I had to stand guard. I could not do anything about it." And between the lines it sounded again like: "And I was permitted to fulfill that task without becoming guilty. Because finally there was the order to do so."

You have taken refuge in that again and again during the present main trial. And you still insisted on it after I had remonstrated about Section 47 of the Military Code of those times, according to which you especially did not have to follow any criminal order, but if you followed such an order you would make yourself liable to punishment in such a case. No, no, you could not imagine anything like that. Whoever followed such an order, as you had been given in the capacity of an SS guard, could not be guilty. Only the person, having given the criminal command was the culprit. Therefore, Hoppe, Glücks, Heydrich, Himmler, Hitler.

And you thus did what all the other Nazis had already done before you: A Mr. Knott, who performed the gassings in Stutthof referred to the command from Hoppe. And Hoppe referred to the command from Glücks. And Glücks to the command from Himmler. All of them only recipients of orders and no culprits. All of them human beings who had lost their humanity and their conscience, and who allegedly did not want the killing and crimes against humanity committed by themselves, but to some extent only acted reluctantly, because they were ordered to do so.

And unfortunately that was also the case for you, Mr. Dey, even though you certainly contributed on a much smaller scale to the mass murder committed in Stutthof than Hoppe, Meyer, Foth, Haupt, Heidl, Chemnitz, Luedtke and Knott, to name just a few. But you also here referred to the order you had been given – and that this would release you from the guilt.

But it did not and does not release you from the guilt, nor does it release any of all the others.

And also, when we even assume in your favor that you, as a man of only 18 years in those times, who was blinded by the atmosphere prevailing in the 1st company and the daily indoctrination since your youth in the era of National Socialism, might have believed in that during those times, and to this extent might have been subjected to a so-called mistake as to the wrongful nature of the act pursuant to Section 17 German penal code (*Strafgesetzbuch – StGB*).

But said mistake as to the wrongful nature of the act, that we are assuming in your favor, above all on grounds of your young age, was avoidable for you as a human being and yes, also as an 18-year-old person under the conditions prevailing in those times, if you had just made an effort as to your human conscience. You would have then recognized, you would have had to recognize that nobody and nothing was to allow you to take part in the degradation and killing of innocent people, in that

you and the other SS guards made sure that these innocent maltreated people could not escape the hell of Stutthof. And to be aware of that, it just needed a half-way decent young man with a conscience. And that is what you were, Mr. Dey.

But because that is what you were, you were certainly also aware of that in those times – and you again and again told us here yourself – that in the period between August 1944 and April 1945 a terrible injustice happened in front of your eyes in the Stutthof concentration camp – we do not doubt it at all. However, you just did not grapple with it anymore because you were either – as terrible as it would be – no longer disturbed by it anymore because of your indoctrination in the 1st company, or because you had talked yourself into not having anything to do personally with this crime, as you were just standing on the watchtower. But you could have also avoided this mistaken belief – if you had succumbed to this mistaken belief at all – if you had even made the slightest effort to take recourse to your conscience.

Because, Mr. Dey, you had something to do with this terrible injustice: You assisted Hoppe and Meyer who, in your opinion were solely responsible for that, in their organization and continuation and sustaining of the mass murder of innocent people in the Stutthof concentration camp. Every day – and regardless if you were sleeping, on call or standing on the watchtower – you were conducive to Hoppe and Meyer, either directly physically in standing guard or at any rate mentally by your continuing readiness to guard the camp, helping to ensure that the detainees in the Stutthof concentration camp continued to be detained under conditions hostile to life, even though they were dying day by day of hunger, exhaustion, disease and arbitrary maltreatment

I do not really know how it is possible not to be aware of it (even though the German judiciary, in fact, has denied such insight for 65 years). We still do not understand it. We also do not understand how you can say, Mr. Waterkamp, that you cannot recognize the concrete contribution to mass murder by your client. As this contribution is absolutely evident: The guards on the watchtower were there to prevent the detainees from fleeing the camp, and to provide reassurance to the SS staff inside the camp. To safeguard them in their acts of murder, their abuses, their cruelties. And the 1st company in particular was responsible for guarding the Stutthof main camp. As the camp was very small and there were not that many guards, all guards of the 1st company constantly had to be available, for example in a possible case of a prison breakout. In order to phrase this in a very simple way and on criminal terms: The guards in the Stutthof concentration camp kept a lookout while the SS camp leadership and their SS staff, responsible for what happened inside the camp, the gang of murderers and criminals as referred to accurately by Mr. Mahnke, cruelly exterminated human beings in the camp.

For at the latest as of September 1944, the former Stutthof labor camp had become an extermination camp. And you, Mr. Dey, saw and were aware of the extermination of human beings and their cruel dying every day. You even described it yourself to us. The weeks and months when you saw from your watchtower at the Jewish woman's camp, how, always in the morning, those emaciated bodies were thrown on wooden carts – or as you put it “dumped”. Dozens and dozens every day. And you saw and smelled the crematorium and later the huge stake, because there were so many corpses that the crematorium had no longer sufficient capacity.

However, you told us here that you had not known what the people died of – but that is again one of those stories where you fail to make a sufficient effort and just refuse to believe reality or beat about the bush. Because you certainly knew, what the people were dying of every day: namely of the horrible conditions in the camp. Of the human hell of Stutthof. Of hunger and thirst, of cold, forced labor, and according

to what we have established, as of December 1944 particularly of the typhus epidemics, to which at least 40 detainees every day succumbed in the Jewish woman's camp, that is to say 1240 people only in the month of December. Who cruelly wasted away, having a high fever, thirst, without any medical attention, left to themselves under the most horrible hygienic circumstances with all those people perishing around them. In the first 3 weeks of January 1945, at least another 1,680 people died of typhus and the harsh conditions in that cruel way in the so-called Jewish woman's camp. And from end of January until the final evacuation of the camp end of April 45, at least a further 2,420 people died. In total, in the period between December 1944 and 23rd April 1945, at least 5,000 people died of the conditions hostile to life, just in the so-called Jewish woman's camp,

And many thousands more died a cruel death in other areas of the camp.

And you, Mr. Dey, watched that dying. You saw how the camp leadership in December 1944 put the Jewish woman's camps I, II, III under quarantine and thus decided on the cruel death of the people located therein. And you also saw how people were dying in other parts of the camp. Corpses were everywhere – that is what the co-plaintiffs said here and that is what almost all the written testimonies that we introduced here by way of self-reading procedure, said as well. Corpses were everywhere.

And this vast number of deaths was also not an accident and the vast number of deaths was also not in the first instance a consequence of an act of omission by the camp leadership, as we had also considered in the course of the present proceedings, but at the end of the present taking of evidence deemed incorrect. No, murder by omission does not do justice to the elements of the act. Rather, the camp leadership of the Stutthof concentration camp had decided as of September 1944 at the latest, in agreement with those responsible for the concentration camp system, and subsequent to the so-called meeting of doctors in Auschwitz, of which the expert Dr. Hoerdler reported here, to organize and design everything in such a way that the conditions therein, at any rate for the Jewish detainees and those detainees originating from East European countries would sooner or later make them succumb under mental and physical agony to these conditions. The camp leadership knew that it was like that, and nonetheless did not change anything about it, but accepted this way of dying. And this was also applicable to a detainee, such as the co-plaintiff Marek Dunin-Wasowicz, even though he had even been vaccinated against typhus. Because that was not meant to make him survive, but just to reduce the risk of contagion for the SS staff with whom he was in contact.

And the SS staff on site – and this includes you as well, Mr. Dey – assisted the camp leadership in this organized mass murder. Only with your help and the help of the other SS guards was it possible to make the Stutthof concentration camp and the cruel mass murder taking place on that site function.

And you, Mr. Dey, were able to recognize and understand this as well in those times. Everybody who was there must have seen it, and we are therefore convinced that you also understood the mass murder and your contribution to it at that time. At any rate at the latest after you had turned 18, that is to say at the end of August 1944. At the latest when you saw that the camp, in particular the woman's camp filled up more and more with emaciated, completely exhausted women, having been deported to Stutthof from the concentration camps located in the Baltic States because of the advance of the front. Filled with thousands and thousands. At the latest when you saw these maltreated human beings standing every day to attention and upon the so-called selections, when you saw heaps of corpses piling up, the corpses incinerated day and night in the crematorium and on the stake. At the latest

at that point in time you knew what was happening in Stutthof, with the knowledge and approval of the camp leadership, and what you were supporting every day: a mass murder of the Jews and detainees from the East-European countries.

And when you say, Mr. Dey, that you did not notice the overcrowding of the camp, that you had not seen the convoys of prisoners arriving, we do not know if you are simply lying to us to this extent, or if you really banished these images from your memory into an iron box, in order to no longer be bothered by them and bothered by your guilt in connection with same. However, it finally does not matter for the establishment of the facts. Because it is simply impossible that you did not notice the arrival of 40,000 to 50,000 emaciated people. That you did not see the overcrowding, the hunger and the misery. Because you had an overview of the new camp from your watchtower, and, in particular, of the Jewish woman's camp. Stutthof was a small, structured, and regionally most limited concentration camp. The new camp was only as big as a few soccer fields. And there were watchtowers of which you reported to us, that were directly located at the woman's camp. They were so close that you had to have seen everything, Mr. Dey, the cramped conditions, the maltreatment of the prisoners, their wasting away, and even the terrible stench prevailing therein. And that is the reason why it is not true what you said in your final word, that you had only come to know of all the cruelties of the Stutthof concentration camp in the present proceedings. We only came to know about them in the present proceedings. You already knew about them during your time at the camp.

All the co-plaintiffs and/or their relatives in the present proceedings were exposed to those conditions hostile to life in the Stutthof concentration camp. All of them became victims of dehumanization, hunger and thirst, the cold, and of arbitrary maltreatment, exploitation of their labor, thus of mentally and physically cruel circumstances which – had the camp been maintained long enough or the co-plaintiffs stayed in Stutthof – would have led sooner or later to their death . And that is why you, Mr. Dey, also participated, at least for a certain period of time, in the attempted murder of them. We are convinced of that. But many of the co-plaintiffs only stayed in Stutthof for some months or weeks and were then deported to other camps by order of Hoppe and Meyer. Definitely, Hoppe and Meyer did not want to do these detainees a favor, but the final goal of extermination of the Jews and the exploitation of the manpower of forced laborers, as decided at the Wannsee conference, certainly continued to pertain. And this is how the deportation for the most different reasons, but definitely not acknowledgeable ones, would have proceeded. In order to avoid further overcrowding of Stutthof or because forced laborers were needed elsewhere, or also – as in the case of the transports to Auschwitz – because it was easier to kill detainees in larger numbers there than in Stutthof.

But as terrible as all these goals were – their implementation no longer took place in the Stutthof concentration camp, and therefore, according to our conviction, no longer under the conducive cooperation by the person accused Dey. His responsibility under penal law stops at the perimeter of the Stutthof concentration camp, in accordance with the present bill of indictment. And we must determine the responsibility under penal law and the individual guilt of the person accused Dey only in accordance with the bill of indictment. Therefore, at the end of the present long main trial we were in the position to only establish with certainty in one case, that the person accused Dey also made himself liable to prosecution on grounds of accessory to attempted murder by conditions hostile to life, and that is the case of the co-plaintiff Mina Frismann. Because the latter stayed in the Stutthof concentration camp until 9th May 1945 and was then liberated there.

As to the fate of 6 relatives of co-plaintiffs, we were also able convince ourselves with certainty, based on still existing documents and on grounds of the witnesses' declarations and statements here in the main trial, that the former were murdered by conditions hostile to life in the Stutthof concentration camp during the period you were there as an SS guard, Mr. Dey, and that the person accused Mr. Dey was an accessory to same. They are the father of the co-plaintiff Ackermann, the sisters of the co-plaintiff Judy Cohen, the mother of the co-plaintiff Silbert, the mother of the co-plaintiff Strnad and the father of the co-plaintiff Zeilberger. Thereupon, we assume that – apart from the father of the co-plaintiff Ackermann and apart from the father of the co-plaintiff Zeilberger – the remaining relatives, who were all Jewish women, died in the Jewish woman's camp, and that they were thus part of at least 5,000 people killed there in the period between December 1944 and April 1945, which was also taken as the basis in the bill of indictment.

However, according to the documents, the father of the co-plaintiff Ackermann died in December 1944 in barrack no. 13. The father of the co-plaintiff Zeilberger, of whom we do not know in which section of the Stutthof concentration camp he had been accommodated until the liberation of same, died shortly after liberation in a military hospital of the consequences of typhus, which he was infected with in the camp. Both of them thus died a cruel death beyond the barracks no. 29 and no. 30, and beyond the Jewish woman's camp in another section of the Stutthof concentration camp, caused by conditions hostile to life. Their murder and the accessory performed by the person accused were therefore initially not included in the bill of indictment. That only changed by our admission of their civil action incidental to the criminal proceedings and our reference order dated 19th June 2020. In respect of the legal significance of same, I already made some indications at the beginning. That is also the explanation why we established the number of at least 5,232 murdered persons by accessory of the person accused, going beyond the number of 5,230 murdered people, as stated in the bill of indictment.

If there were other relatives of the co-plaintiffs murdered in the Stutthof concentration camp, as stated here by their lawyers, was not possible for us to establish with the procedural certainty required for a conviction, even though we really tried everything in order to clear up the specific cases of these relatives.

But here, the complete failure on the part of German judiciary takes its full toll, having either for decades completely refrained from prosecuting NS-crimes and NS-criminals, or in cases where they did, only investigated their full guilt and punished them in an utmost incomplete way .

As therefore Hoppe and his deputies, who were responsible for the deportation of the prisoners from Stutthof to other concentration camps and extermination camps, were ultimately not punished for their contribution to the murder of prisoners they had had deported to other concentration camps.

And where 50 or 40, yes, even 15 years ago, a multitude of survivors could have testified before this court, there were only few of them today. It was not possible for us to hear the majority of the co-plaintiffs here in this court on grounds of their advanced age, and thus they could no longer convince us based on their declarations that their closest relatives had, in fact, been killed in the Stutthof concentration camp. And as the National Socialists did their best to cover up their cruel crimes by burning all sorts of documents that could make them liable to criminal prosecution prior to liberation of the camp, there was no other evidence anymore pertaining to many cases of the co-plaintiffs, stating where, and in which concentration camp, respectively during which transport, the co-plaintiffs' relatives had been murdered by the Nazis.

This is a tragedy and is to be traced back to the failure of the German judiciary, so that Germany has once again made itself culpable vis-à-vis the victims of the Holocaust and the other crimes of the National Socialists. However, this failure shall not burden the person accused Dey whose individual guilt we have to establish on the basis of the bill of indictment of the state prosecutor's office.

However, it is all the more important that we shall preserve the remaining testimonies of the survivors to avoid the truth about NS-crimes falling into oblivion. And I am therefore also glad that we recorded the present main trial for historic reasons so that their voices do not fade away.

But I need to come back to the establishments we made in respect of the other counts of the indictment, namely as to the accusation of accessory to murder by gassing and by neck shooting facility (*Genickschussanlage*).

At the latest as of autumn 1944, the Stutthof camp leadership decided – and thereby following permission and the instructions of those responsible for the concentration camp system – to systematically kill those prisoners in the camp, who, according to their point of view, were no longer of any use, whose labor could therefore no longer be exploited because they were already too exhausted. Already previously, as of summer 1944, the Stutthof camp leadership had started to “experiment” with gassing by means of Zyklon B. Within that scope, a group of Polish resistance fighters, and a second group of Russian prisoners of war were gassed. In particular, the last gassing, Mr. Dey, must have been to some extent a topic that everybody was talking about upon your arrival in the camp, as that gassing of 59 Russian prisoners of war had just happened on 9th August 1944, that is to say the day on which you had received your SS uniform. We are therefore also convinced Mr. Dey, that you heard about it right away and as of then knew that people were being gassed in the Stutthof concentration camp.

However, before the gas chamber in Stutthof was used for daily killings, the camp leadership decided, to insidiously murder those Jewish prisoners first who were unfit for work and whom the Camp Commandant (*Lagerkommandant*) Hoppe and the first director manager of the camp (*Schutzlagerführer*) Meyer deemed an “unnecessary burden” in the light of the overcrowded camp, and who were to be exterminated in accordance with the so-called “Final Solution to the Jewish Question (*Endlösung der Judenfrage*)” by order of Glücks and Heydrich, by means of the so-called neck shooting facility (*Genickschussanlage*), located in the crematorium. According to the statements made by the expert Dr. Hoerdler, there were then thousands of Jewish women killed in Stutthof by means of said neck shooting facility (*Genickschussanlage*) between September and November 1944.

And you, Mr. Dey, we are sure that you were directly present at a minimum of one of these insidious shootings, upon which selected prisoners were made to believe that they were to undergo a medical examination, the reason why the prisoners let themselves be led one by one and unsuspectedly into the crematorium, where they were then insidiously shot from behind during a supposed measuring of size. Namely, you were standing guard on a watchtower located in the direct vicinity of the crematorium, keeping watch. That is how you described it here, and also at the occasion of your interrogation by the state prosecutor's office: You had once observed from your watchtower how a group of approximately 30 persons were first taken into the gas chamber, and from there one by one led into the crematorium by SS staff dressed in white like medics. You further reported that you had not seen how and that those persons had ever come out again. But you had heard that these persons were told that they were to undergo a medical examination.

In the light of comprehensive statements made by SS staff who had performed the shootings in the neck shooting facility (*Genickschussanlage*) and who had described the procedure in detail in a very similar way as you did, Mr. Dey, there can be no doubt about you having observed and having kept guard at exactly such an insidious shooting operation.

And we are, Mr. Dey, also convinced that you knew in those times, or at least deemed it possible that those 30 emaciated people who had been selected and led into the crematorium under a pretext and never came out again, were murdered in the crematorium.

Indeed, you told us that you had only come to know about a so-called neck shooting facility (*Genickschussanlage*) for the first time in the present proceedings. And that you particularly had not known what had happened to the people you had described to us. Maybe they had been examined, but maybe they had walked out of the crematorium on the rear side.

However, we, as well as the state prosecutor's office, were not convinced by you, Mr. Dey, that you had not known about it. As I already stated in detail just before, you knew that you were at a place where a human life did not matter, and even less so the life of Jewish detainees who were emaciated and unfit to work. You had heard about the extermination of Jews and that Jewish women were gassed in Stutthof, and that the Jewish prisoners did not receive any medical care at all. You yourself have admitted it here. And you heard a lot more "rumors" in the camp, Mr. Dey. That was also revealed here repeatedly in your statement. You may have refrained from communicating a lot yourself, but you listened and observed all the better. And you were also curious, Mr. Dey. This is already proven by the circumstance that you once peeked into the crematorium after having been on duty in order to see what it looked like inside. That is proof of the fact that you definitely wanted to know what happened in the Stutthof concentration camp – but that you should not have heard about the fact that there were not only corpses incinerated in the crematorium but that people were systematically shot there in a separate room, seems out of touch with reality to us. Maybe you really did not know how exactly the people were shot. And maybe you were not 100 percent sure that the people were killed. However, facing the rumors in the camp and in the light of the extermination of Jews in the camp that you were aware of, you reckoned that the 30 emaciated people who were led into the crematorium became the victims of insidious murder.

Why else, Mr. Dey, should you remember that selected group of people who were led one by one into the crematorium, if your memory was not associated with your knowledge that these people were murdered in there and that you were present at close proximity. Only in this combination of your observation of the group on the one hand and your recognition on the other hand that you were guarding from your watchtower the systematic murder of human beings, is it understandable why you would still remember that incident in such a concrete and detailed way.

This was part of the terrible incidents of which you yourself said here and with a rush of emotion: "One was standing on the tower at the crematorium and always hoped that nothing terrible would happen". That was one of these terrible incidents – and that is why you still remember it.

And yes, Mr. Dey, here we again have an example of the mechanism of your memory, where you recalled the external occurrence of the accomplished crime in which you assisted, but did not want to remember the facts which establish your guilt. But in this case also, we are convinced that you are escaping into those memory gaps for your own protection, in order to avoid having to face your guilt.

However, this also means that you were aiding and abetting this insidious murdering of at least 30 people, which must have happened some time in autumn 1944, and which had been carried out by SS staff by order of the camp leadership.

This does not mean we assume that you approved of this killing. However, being an accessory does not require an approval by oneself. Rather it is sufficient that the auxiliary is aware of the main act committed by the offender according to its main elements and, above all, its dimension of injustice, and that he knows, respectively reckons with it and accepts the fact that he is supportive of that main act. And we do not doubt it: You had accepted in those times that you supported the crimes to humanity and the daily killings within the scope of the Stutthof camp leadership through your guard duty. And that did not cause you any mental pain or sleepless nights anymore. But rather it was important for you that you were in safety, that you had enough to eat, and you had at any rate adapted to such an extent to the inhumane perspective of the National Socialists as to the people killed in Stutthof being “inferior life” who could be treated as one wished, that you did not suffer from this and it did not cause you any moral conflict as well.

And finally, after the present taking of evidence, we are convinced that you were present as an SS guard on the watchtower next to the gas chamber at the occasion of a gassing of at least 25 Jewish women unfit to work. Furthermore, in the months of October and November 1944, you reckoned with and accepted that upon instructions by the camp leadership, Jewish women unfit to work were cruelly gassed, initially in the gas chamber and subsequently in a wagon of the narrow-gauge railway equipped for gassing. One time you yourself observed approximately 25 emaciated people being led into the gas chamber and you heard their shouting and banging. You had already stated this during your interrogation in the year 1982, and you described it here as well. However, you tried to again to take refuge in saying that you had not known in detail what had happened to the people, as you had not seen their corpses at a later point in time. But again, this falls into the category of you trying to beat around the bush, Mr. Dey. You certainly knew why those people were shouting and banging in the gas chamber, namely because they were dying a cruel death therein.

And that you were virtually standing right next to it on your watchtower was terrible for you. We believe you that it was. Because guarding these direct killings was something different than watching the daily dying you had become used to and that had become monotonous for you. In the case of the systematic murdering and guarding this from above, you had to make a greater effort than previously in order to suppress your own guilt and participation. However, you also managed to do so. And also here you convinced yourself that you did not have anything to do with this crime for lack of your own action and fulfilling the order to stand guard.

If only you had made a greater effort as to your conscience!

The systematic murdering in Stutthof ceased when the camp leadership became aware that as of December 1944 so many people had meanwhile died of these conditions hostile to life, and especially of the typhus epidemics, that they did not have to additionally kill the Jewish women unfit to work anymore, in order to achieve the stipulated goal of extermination of so-called “worthless life”. That is why Stutthof did not become as notorious for its systematic killings as Auschwitz, but it became an extermination camp on grounds of the cruel conditions prevailing there, of which thousands and thousands of people died. And some of the co-plaintiffs – such as Halina Strnad -, who have survived Auschwitz and Stutthof, said that was the reason why Stutthof was almost even worse and more inhumane than Auschwitz.

And because this is the case, because the mass murder in Stutthof on grounds of the conditions hostile to life prevailing there, which did not only affect the Jewish prisoners but additionally at least all prisoners from the East-European countries as well, represents the special dimension of injustice of Stutthof, especially this mass murder by conditions hostile to life is part of the truth of the present main trial and of this conviction.

And regarding your guilt, Mr. Dey, that you have to face and that you have to take responsibility for under penal law here, at the end of your life.

Determination of the penalty

The Federal Constitutional Court stated the following in its so-called “Mauerschützenurteil (*German border guard judgment*)”: “The requirement that punishment should be proportionate in the individual case results from the requirement of respect for human dignity and from the principle of the rule of law. Without ascertaining the individual personal fault, a response under criminal law would be incompatible with the principle of a state governed by the rule of law. When determining the penalty, the fair proportion between the seriousness of the offense on the one hand and the culpability of the perpetrator on the other hand must be observed in consideration of the special circumstances of the individual case. If it is a perpetrator shaped by a different legal and social system that no longer exists, and if he was involved on different levels in a system of command and obedience when performing the act he is accused of, the level of guilt under criminal law must be established with special care.”

In the present case, we applied that special care according to the best of our knowledge and conscience and truly struggled with ourselves for hours and hours, yes days and weeks, all the more so as in our procedure it was the first time that we were faced with a person accused who was only 18 years of age upon commission of the act, and therefore criminal law relating to young offenders had to be applied. From a legal point of view, this imposed another parameter of assessing the guilt on us than within the scope of adult criminal law, as I will soon explain. Insofar, we could not orientate ourselves towards the most recent NS- judgments already handed down, that is to say the judgments against Demjanjuk, Gröning and Hanning who were all already grown up when committing the act.

In our consultation, we a. o. dealt with the following issues:

How can one find an appropriate punishment for somebody who participates in an unprecedented crime against humanity, who commits accessory to the murder of more than 5,000 people? Who participated in injustice for which there can be no just compensation of guilt?

How can one, 75 years after commission of the act, determine the individual guilt of someone now 93 years old, who was only 18 years of age when committing the act and easily influenceable accordingly, especially as he was raised to accept commands and obedience, to fit in and avoid conflict? And who committed the act within the scope of a state governed by injustice, and in an atmosphere lacking any conscience and full of human brutalization?

How can one assess the guilt for injustice, in which thousands, yes hundreds of thousands in Germany participated, and in doing so, without any conscience, mutually reinforced one another that their actions were covered by orders and/or they would get away with it?

How can one find a penalty for a person accused who, on the one hand, participated in terrible injustice for which there can be no just compensation as an 18 year-old, but, on the other hand, had to fear for his own life at the front if he had evaded this injustice?

How does the course of time of 75 years and the circumstance that the German judicial system only started somewhat more than ten years ago to prosecute and punish the auxiliaries in respect of the crimes committed in the concentration camps, affect the individual guilt of the person accused who is now 93 years old?

And can one still communicate an understanding of injustice to a 93 year-old person by means of a term of imprisonment?

In the capacity of a judge one is compelled to decide. That is part of the responsibility one has to bear. And this responsibility is particularly serious in the present procedure.

As in addition to these issues that are already difficult enough, we had to consider how the individual guilt of a person who was 18 years of age at the time of commission of the act, was to be determined as per the applicable parameters in accordance with the criminal law relating to young offenders. In this respect, the Bundesgerichtshof (*Federal Supreme Court*) stipulates: "Irrespective of the fact how old a perpetrator is at the time of his/her conviction, the determination of his/her guilt must be made "specifically adapted to youth". The circumstance that someone who is a young person or an adolescent at the time of commission of the act has become an adult in the meantime and is an adult upon conviction, shall not have an impact on the parameter of assessment, on what type of wrongdoing the former young person or adolescent has implemented by his/her commission of that act, and what kind of guilt he/her inflicted upon himself/herself in those times."

And this is the right way. Because otherwise, one loses sight of the fact that we had to decide on the guilt of the person accused Dey at the age of 18 in those times, and not of the person accused Dey who is now 93 years old, as he is sitting here in front of us today.

Upon the "youth-specific" determination of the severity of the guilt of the person accused Dey we had to make – and I already mentioned this in several parts of my reasons for the judgement –, and in particular the state of personal development of the person accused Dey of those times, and points of view under developmental psychological aspects therefore also played a role. Thus, for example, the question what degree of maturity the 18 year-old Dey had in those times, how able he was in dealing with conflicts, how good he was at distancing himself from others and to what extent he orientated himself towards older role models, how easily influenceable he was or how stable he was – just to name a few of these aspects.

In order to be able to answer this, we therefore called in an expert in youth psychiatry Dr Hotamanidis, right at the very beginning of the present proceedings, who was able to communicate a very good impression of the then 18 year-old person accused Dey. Namely the impression of a young man, who was definitely delayed in his development, for whom it was difficult to assert himself against others, and who followed what his parents and other authority figures told him, who was raised to accept command and obedience. Who, for example, became a baker because his parents wanted him to do that, even though that was not his own wish. And who was a young man whom his parents had taught to avoid conflict at all costs, which was the reason why that strategy of avoiding conflict became a very essential behavioral pattern of the person accused Dey.

But being able to stand ground under moral and penal aspects in the Stutthof concentration camp, having such a personality and such behavioral patterns, and to behave the right way under moral and penal aspects, as we demand from him today, and we are right to demand this from whoever is in a situation as the person accused Dey was, as only this way what is right can prevail over what is wrong, made the young person accused Dey face a task that was very difficult to master on a human basis. In particular, because it must also be considered that he would have had to fear for his own life at the front, if he, as we demand him to do under criminal law, had evaded that injustice.

And in consideration of same – and this was, in particular, our task in capacity of a Juvenile Court Division (*Jugendstrafkammer*) -, it becomes evident why, after a long period of struggling to determine the correct legal consequence, we handed down today at the end of the present procedure a juvenile sentence of two years on probation as the sentence appropriate for the guilt of the 18-year-old in those times and the 93 year-old person accused Dey in present times.

Because this juvenile sentence, according to our discretion, despite the participation of the person accused Dey in the unprecedented crime against humanity in Stutthof, despite his accessory to murder of more than 5,000 people, despite his participation in an act for which there can be no just compensation and no remedy, 75 years after the act does justice for the individual guilt of the person accused Dey. Establishing this was our task in the present criminal proceedings.

In addition, at the very end, a short remark on our decision on the costs:

We refrained, Mr. Dey, from imposing all the costs of the procedure on you. That would have meant – as your defendant submitted correctly – your definite financial ruin and would have been equal to an additional fine that is not foreseen in the German Juvenile Court Act (*Jugendgerichtsgesetz*). However, it is at any rate acceptable that you assume the costs of your own defense because you caused them yourself by the penal act you committed. But otherwise, the costs of the procedure will remain with the state treasury that will also have to bear the necessary expenses of the co-plaintiffs. Because you, Mr. Dey, are not the only initiator having caused the costs of the procedure. You were an auxiliary to an injustice that was essentially committed by the German state. Therefore, it is compliant with the assessments stipulated in the German Juvenile Court Act (*Jugendgerichtsgesetz*), the requirement of fairness, and the principle of initiation on which the law of costs is based, that the German state must bear a significant proportion of the costs of the procedure, as well as the necessary expenses of the co-plaintiffs.

Certification: This is to certify that this document is a true, unabridged, and faithful translation of the document submitted to me in the German language. As witness my hand and seal at Bordesholm this 30th July 2020: Dietlind Broders, certified translator for the English and the French language at the State Higher Regional Court of Schleswig, Schleswig-Holstein.

Simon Wiesenthal Center

Snider Social Action Institute

The Simon Wiesenthal Center is an international Jewish human rights organization dedicated to preserving the memory of the Holocaust by fostering tolerance and understanding through community involvement, educational outreach and social action. The Center confronts important contemporary issues including racism, anti-Semitism, terrorism and genocide and is accredited as an NGO both at the United Nations and UNESCO. With a membership of over 400,000 families, the Center is headquartered in Los Angeles and maintains offices in New York, Toronto, Chicago, Miami, Jerusalem, Paris, and Buenos Aires.

Established in 1977, the Center closely interacts on an ongoing basis with a variety of public and private agencies, meeting with elected officials of the U.S and foreign governments, diplomats and heads of state. Other issues that the Center deals with include: the prosecution of Nazi war criminals; Holocaust and tolerance education; combating Holocaust denial and distortion; Middle East Affairs; and extremist groups, neo-Nazism, and hate on the Internet.

The Center is headed by Rabbi Marvin Hier, its Dean and Founder. Rabbi Abraham Cooper is its Associate Dean and Rabbi Meyer May its Executive Director.

International headquarters:

1399 South Roxbury Drive

Los Angeles, California 90035

UNITED STATES

Tel: 310.553.9036 or (toll-free from within the U.S.) 800.900.9036

Fax: 310.553.4521

Email: information@wiesenthal.com

Website: www.wiesenthal.com

Simon Wiesenthal Center – Israel Office

Since its establishment in Jerusalem in 1986, the Simon Wiesenthal Center's Israel Office has made the efforts to help bring Nazi war criminals to justice the primary focus of its activities. Founded by Holocaust historian Dr. Efraim Zuroff, who also coordinates the Center's Nazi war crimes research worldwide, the office has played an important role in tracking down and exposing escaped Nazi war criminals and in helping to facilitate their prosecution. During the past 35 years, the office has carried out extensive research which has helped identify more than three thousand suspected Nazi war criminals, most of whom escaped to Western democracies after World War II. It also played an important role in helping to convince Canada (in 1987), Australia (in 1989), and Great Britain (in 1991), all of which had admitted numerous Nazi collaborators after World War II, to pass special legislation to enable the prosecution of Nazi war criminals residing in those countries.

Following the dismemberment of the Soviet Union and the fall of Communism, the Israel Office has been particularly active in Eastern Europe, and especially in the Baltics and the Balkans, in helping to identify Holocaust perpetrators and convince often-reluctant governments to bring local Nazi war criminals to justice. It has also exposed the illegal rehabilitations granted in Lithuania and Latvia to dozens of individuals convicted by Soviet courts, who had actively participated in the mass murder of Jews during the Holocaust.

In 2002 the Israel Office launched "Operation: Last Chance," together with the Targum Shlishi Foundation of Miami, Florida, established and headed by Aryeh Rubin, a project which offers financial rewards for information which will facilitate the conviction and punishment of Nazi war criminals. Utilizing special ads created for the project, "Operation: Last Chance" has not only helped identify numerous Holocaust perpetrators, but has also focused public attention on the important role played by local collaborators in the mass murder of Jews in virtually every country in Eastern Europe.

In December 2011, in the wake of the conviction in Munich of Sobibor death camp guard Ivan Demjanjuk, the Israel Office and Targum Shlishi launched "Operation: Last Chance II" at the Bundestag in Berlin. The project focuses on death camp operatives and members of the Einsatzgruppen (mobile killing squads), whose prosecution in Germany has become much easier in the aftermath of the Demjanjuk decision.

Several years ago, the Israel Office assumed responsibility for the Wiesenthal Center's activities in Eastern Europe and has focused on combatting the growing phenomenon of

Holocaust distortion in the post-Communist countries in the region. Thus, for example, the Israel Office has monitored and protested against neo-Nazi and extreme right marches in Lithuania, Latvia and Estonia and drawn attention in numerous op-eds published widely to the efforts by governments to minimize the role played in the Holocaust by local Nazi collaborators and promote the canard of equivalency between Nazi and Communist crimes.

In addition, the author of this report has, together with popular Lithuanian author Ruta Vanagaite, written a book entitled *Musiskiai (Our People)* which deals with Lithuanian complicity in Holocaust crimes and which exposed the distorted narrative of the Holocaust adopted and disseminated by the Lithuanian government. The book has been published in Lithuanian (2016), Polish (2017), Hebrew (2018), Russian (2018), Swedish (2019), and English (under the title **Our People: Discovering Lithuania's Hidden Holocaust** [Rowman & Littlefield, 2020]), and is scheduled to appear in 2022 in Japanese, Ukrainian and Dutch.

Contact Information

Israel Office

Director: Dr. Efraim Zuroff

Office Manager: Fran Schnall

1 Mendele St., Jerusalem 9214702 ISRAEL

Tel: 972-2-563-1274/5 · Fax: 972-2-563-1276

Email: swcjerus@netvision.net.il · Website: www.swcjerusalem.org

Twitter: @EZuroff

International offices:

Buenos Aires

Dr. Ariel Gelblung

54.11.4803-1744

info@cswlatinoamerica.org

Chicago

Alison Pure-Slovin

312.981.0105

swcmidwest@wiesenthal.com

New York

Michael Cohen

212.697.1180

swcny@wiesenthal.com

Paris

Dr. Shimon Samuels

33.0.1.47.23.7637

csweurope@gmail.com

website: <https://www.wiesenthal-europe.com/en/>

Toronto

Michael Levitt, President and CEO

416.864.9735

swcmain@fswc.ca

Index of Countries

Argentina	12, 19-20, 22-23, 25, 35, 39, 41
Australia	11-12, 19-20, 22-23, 25, 35, 39, 41, 62
Austria	7, 11-12, 18-20, 22-23, 25, 32, 37, 39, 41
Belarus	10, 25, 34, 39, 41
Belgium	19-20, 23, 25, 35, 39, 41
Bolivia	25, 35, 39, 41
Bosnia-Herzegovina	25, 35, 39, 41
Brazil	12, 19-20, 22-23, 25, 35, 39, 41
Canada	6, 11, 15, 17, 19, 20, 22-23, 25, 31, 33, 39, 41, 62
Chile	12, 19-20, 22-23, 25, 35, 39, 41
Colombia	25, 35, 39, 41
Costa Rica	22-23, 25, 35, 39, 41
Croatia	10, 12, 19-20, 22-23, 25, 35, 39, 41
Czech Republic	25, 34, 39, 41
Denmark	17, 19-20, 22-23, 25, 35, 39, 41
Estonia	12, 19-20, 22-23, 25, 31, 34, 39, 41, 63
Finland	25, 34, 39, 41
France	15, 19-20, 22-23, 25, 35, 39, 41
Germany	6-10, 12, 14-23, 25-26, 29, 32, 39, 41, 43-60, 62
Great Britain	11-12, 19-20, 22-23, 25, 35, 39, 41, 62
Greece	25, 35, 39, 41
Hungary	12, 17, 19-20, 22-23, 25, 34, 39, 41
Italy	10, 15, 17, 19-20, 22-23, 25, 32, 39, 41
Latvia	12, 19-20, 22-23, 25, 35, 40-41, 62-63
Lithuania	12, 15, 17, 19-20, 22-23, 25, 37, 40-41, 44, 62, 63
Luxemburg	25, 35, 40-41
Netherlands	22-23, 25, 35, 40-41
New Zealand	11, 25, 35, 40-41
Norway	8, 11-12, 25, 36, 40, 42
Paraguay	25, 35, 40, 42
Poland	8, 12, 15, 16, 17, 18, 19-20, 21-23, 25, 30, 40, 42
Romania	10, 12, 19-20, 22-23, 25, 34, 40, 42

Russia	8, 18, 20, 21, 23, 25, 30, 40, 42, 44, 55, 63
Scotland	40, 42
Serbia	19-20, 22-23, 25, 34, 40, 42
Slovakia	19-20, 22-23, 25, 34, 40, 42
Slovenia	19-20, 21, 22-23, 25, 37-38, 40, 42
Spain	17, 19, 20, 22-23, 25, 34, 40, 42
Sweden	8, 11, 25, 36, 40, 42
Switzerland	19-20, 40, 42
Ukraine	10, 25, 36, 38, 40, 42
United States	6-9, 11, 14, 18, 21, 25, 28-29, 33, 38, 40, 42, 61
Uruguay	12, 25, 35, 40, 42

Index of Nazi War Criminals

Ašner, Milivoj	13
Berger, Friedrich Karl	7-8, 14, 29
Csatary, Laszlo	13
Dey, Bruno	6, 7, 14, 26, 28, 43-60
Demjanjuk, Ivan	7, 9, 12, 26, 58, 62
Finta, Imre	33
Karkoc, Michael	30
Mania, Henryk	30
Oberlander, Helmut	11, 31, 33
Rupnik, Leon	37-38
Stark, Wilhelm Karl	32
Udert, Heinz	27
Wieczorek, Piotr	30
Zentai, Karoly (Charles)	12