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## LOCAL COLLABORATORS ON TRIAL

### Soviet war crimes trials under Stalin (1943-1953)<sup>1</sup>

The prosecution of Nazi war crimes was the first item on the agenda of the anti-Hitler coalition. As early as October 1941, Roosevelt and Churchill publicly declared that retribution for Nazi crimes was one of the major purposes of the war. Two years later, the United Nations War Crimes Commission was established (without participation of the Soviet Union) and the foreign ministers of the United States, Britain, and the Soviet Union signed the “Declaration of German Atrocities” in Moscow. The international negotiations about the legal prosecution of Nazi criminals reached their peak with the establishment of the International Military Tribunal (IMT) in 1945.<sup>2</sup>

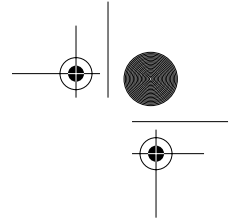
However, the first public war crimes trial had already taken place much earlier in the liberated territories of the Soviet Union, in July 1943, in Krasnodar. The defendants were not German criminals, but eleven local Soviet collaborators, who were members of the SS Special Detachment 10a” responsible for the deaths of thousands of people. Among other crimes, the SS unit had murdered 7,000 Soviet people (mostly Jews) in poison gas vans in Krasnodar. The defendants were represented by well-known Soviet attorneys, and hundreds of spectators attended the trial, including correspondents of the Soviet and international press, (among them Aleksei Tolstoi). Eight of the defendants were sentenced to death by hanging,

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1. Being a Pearl Resnick fellow at the Center for Advanced Holocaust Studies at the USHMM (US Holocaust Memorial Museum in Washington), I had the possibility to work with the museum’s unique collection of trials related to the Holocaust in the occupied Soviet territories. For his friendly support I want to thank Vadim Altskan.

2. See Norbert Frei, “Nach der Tat. Die Ahndung deutscher Kriegs- und NS-Verbrechen in Europa — eine Bilanz,” in N. Frei, ed., *Transnationale Vergangenheitspolitik: Der Umgang mit deutschen Kriegsverbrechern in Europa nach dem Zweiten Weltkrieg*, (Göttingen: Wallstein, 2006), 7-15.





three to long prison terms.<sup>3</sup> The verdict was greeted with applause by those present, and the newspaper *Pravda* commented: “This is the verdict of the Soviet people, the verdict of honest people.”<sup>4</sup> The Soviet authorities, who used the trial for a massive propaganda campaign, even made a short documentary film about the trial and the public execution, which was attended by more than 30,000 local visitors. This documentary film was (at least for a short period of time) shown to the Soviet public in Muscovite movie theatres in 1943.<sup>5</sup> There can be no doubt that the show trial and the propaganda campaign aimed at deterring further collaboration.

During the postwar years, thousands of further trials against local collaborators followed the Krasnodar trial, continuing even until the 1980s. And it seems reasonable that the Krasnodar trial — being one of the few public trials — may have served as model for subsequent trials against collaborators in the Soviet Union. Reliable figures are as yet unavailable, but according to a recent online publication of the Russian Federal Security Service (FSB), during the years 1943-1953, more than 320,000 Soviet citizens were arrested for collaborating with the Germans, which is nearly one third of all arrests by the NKVD during those years.<sup>6</sup> In the Ukrainian Soviet republic alone — according to a study by Ukrainian historian V.M. Nikol’s’kii based on material from the Kievan Central SBU archive —, between 1943 and 1953, the NKVD arrested 93,590 potential “homeland traitors and accomplices” (*izmenniki rodiny i posobniki*). But as Nikol’s’kii himself admits, these figures may not be definite as yet. The majority of the arrests (57%) took place during wartime and the direct aftermath of the war (1943-1945).<sup>7</sup>

If we compare this number with the approximately 100,000 Germans and Austrians who had been convicted as war and Nazi criminals since 1944 all over Europe, including 21,555 Germans (mostly prisoners of war [POWs]) who were convicted in the Soviet Union, it becomes obvious that far more Soviet citizens had

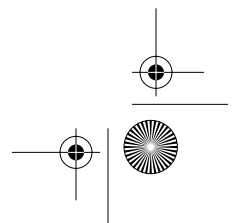
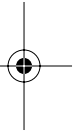
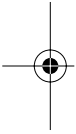
3. See the complete trial documentation (microfilm copy from the FSB archive in Moscow) at the US Holocaust Memorial Museum, N-16708, Vol. 1-13.

4. *Pravda*, 19 July 1943, p. 1.

5. The German journalist Bengt von zur Mühlen used parts of this original Soviet documentary film in his TV documentary: *Krasnodar 1943 — Der Prozess*, Germany 1985. The original film is located at the Russian National Film Archive in Krasnogorsk.

6. See Oleg B. Mozochin, “Statistika repressivnoi deiatel’nosti organov bezopasnosti SSSR na period s 1921 po 1953 gg.,” [Statistics about repressive activities of the USSR security organs during the period from 1921 to 1953] available on the FSB website [www.fsb.ru/history/autors/mozohin.html](http://www.fsb.ru/history/autors/mozohin.html). See also Volodimir M. Nikol’s’kii, *Represyvna diial’nist’ orhaniv derzhavnoi bezpeky SRSR v Ukraïni (kinec’ 1920-ch-1950-ti rr.): Istoriko-statystychni doslidzhennia* [Repressive activities of the USSR State security organs in Ukraine (end fo 1920s to 1950s: historical-statistical research)] (Donetsk: Un-tu, 2003), 206-224.

7. See Nikol’s’kii, *Represyvna diial’nist’ orhaniv derzhavnoi bezpeky...*, 206-224; 451-452. Documents of the former Kievan party archive mention, for 1946 alone, convictions of more than 29,000 homeland traitors and accomplices. See CDAGOU (Central’nij derzhavnij arhiv gromads’kih ob’ednan’ Ukraïny - Central State archive of social organisations of Ukraine), 1/23/4937, l. 313; 1/23/4954, l. 171. See also V.M. Nikol’s’kii, *Pidpillia OUN (b) u Donbasi* [The OUN (b) underground in the Donbass] (Kiev 2001), 107-109 for a study of the conviction of members of the Organisation of Ukrainian Nationalists (OUN).





been convicted of war crimes under German occupation than Germans.<sup>8</sup> This is nothing specific to the Soviet Union: in other European countries the postwar settlement with collaborators was much more intense and bloodier than the prosecution of German war criminals.<sup>9</sup> And, in the Soviet Union as in other European countries, convictions of collaborators did not always proceed on a legal basis during wartime and the immediate postwar years. For example, it was not uncommon for NKVD special units to shoot collaborators without any trial.<sup>10</sup> German Einsatzkommandos from several places in the Donbass region in Eastern Ukraine reported that after the liberation of these occupied territories, Red Army units executed numerous Soviet citizens who had cooperated with the Germans. In some villages even the whole population was murdered because of its positive attitude towards the Germans.<sup>11</sup> If we look at postwar trials in the broader context of Soviet trials from the late 1920s to the 1960s, it becomes clear that arrests and convictions after 1940 still constituted a minor portion. The cleansing of potential enemies was much more extensive during the 1930s than during the postwar period.<sup>12</sup>

During the last years, Western research has shown a growing interest in transitional justice, memory policies, and the transformation of societies after World War II.<sup>13</sup> However, these topics are hardly ever studied with regard to the former Soviet Union.<sup>14</sup> In particular, the postwar legal conviction of Soviet citizens

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8. For the conviction of German war criminals in the Soviet Union see the excellent overview by Andreas Hilger, “‘Die Gerechtigkeit nehme ihren Lauf?’ Die Bestrafung deutscher Kriegs- und Gewaltverbrecher in der Sowjetunion und der SBZ/DDR,” in Frei, ed., *Transnationale Vergangenheitspolitik...*, 180-246.

9. See Frei, *Transnationale Vergangenheitspolitik...*, 32-35.

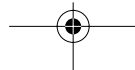
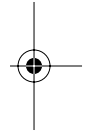
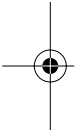
10. See Aleksandr E. Epifanov, *Otvetsvennost' gitlerovskikh voennykh prestupnikov i ikh posobnikov v SSSR: istoriko-pravovoi aspekt* [The responsibility of Hitler's war criminals and their accomplices in the USSR: historical-judicial aspect] (Volgograd, 1997), 76.

11. Meldungen aus den besetzten Ostgebieten no. 54, 14 May 1943, BA (Federal State Archive) Berlin, R58/224, p. 172; Ereignismeldung UdSSR no. 186, 27 March 1942, BA Berlin, R58/221, p. 167; Letter from the Ministry of Propaganda (Generalreferat Ostraum) to the Reichsminister, 12 February 1942, BA Berlin, R55/1289, p. 52-55.

12. More than 75% of the 970,000 arrests which took place in Ukraine during the years 1927 to 1961, took place before the war. This indicates that the cleansing of potential enemies of the Soviet government was much more extensive during the 1930s than during the postwar period. See Nikol's'kii, *Represyvnna diial'nist' orhaniv derzhavnoi bezpeky...*, 119-120.

13. See for example Donald Bloxham, *Genocide on Trial: War Crimes Trials and the Formation of Holocaust History and Memory* (Oxford: Oxford university press, 2001); Lawrence Douglas, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust* (New Haven/London: Yale University Press, 2001); Norbert Frei, Dirk van Laak, Michael Stolleis, eds., *Geschichte vor Gericht: Historiker, Richter und die Suche nach Gerechtigkeit* (München: C.H. Beck, 2000); Claudia Kuretsidis-Haider, Winfried R. Garscha, eds., *Keine "Abrechnung": NS-Verbrechen, Justiz und Gesellschaft in Europa nach 1945* (Leipzig: Akademische Verlagsanstalt, Wien: DÖW, 1998); M. Osiel, *Mass Atrocities, Collective Memory and the Law* (New Brunswick 1997); Istvan Deak, Jan Tomasz Gross, Tony Judt, eds., *The Politics of Retribution in Europe: World War II and its Aftermath* (Princeton: Princeton University Press, 2000).

14. For the prosecution of German war criminals in the Soviet Union see Andreas Hilger, N. Petrov, Günther Wagenlehner, eds., *Sowjetische Militärtribunale, Vol. 1: Die Verurteilung deutscher Kriegsgefangener 1941-1953; Vol. 2: Die Verurteilung deutscher Zivilisten 1945-1955* (Köln: Böhlau, 2001-2003).





who collaborated with the Germans has rarely been a topic of historical research so far.<sup>15</sup> This is due to the fact that there is still no open access for historians to trial records, which are housed in the former regional KGB archives in the successor states of the Soviet Union.

This article analyses postwar trials of collaborators in the Ukrainian Soviet republic under Stalin (1943-1953). It provides a first systematic study of the Soviet trials with regard to differences in methods of proceeding, public involvement, treatment of the defendants and witnesses, types of sentences, memory policies and the political and social functions of the trials for postwar society in general. It is based on documents from the former central party archive in Kiev and on the US Holocaust Memorial Museum's collection of Soviet postwar trials (1943-1980s) related to the Holocaust in Ukraine.<sup>16</sup> It seems reasonable that in many respects, postwar trials in Ukraine are exemplary of the inner logic of trials in the whole Soviet Union at that time. Ukraine accounted for at least one third of the arrested collaborators in the Soviet Union. And in occupied Ukraine the collaboration of Soviet citizens in local police units, administration and economy had constituted a decisive factor in the successful implementation of German occupational rule, including the Holocaust.<sup>17</sup> At the same time, we must also keep in mind that there

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15. A short overview on legal practice is given in Epifanov, *Otvetstvennost' gitlerovskikh voennykh prestupnikov...*, 70-80. For an analysis of the legal basis and function of the military tribunals of the NKVD troops during 1941-1945 see V.V. Obuchov, *Pravovye osnovy organizatsii i deiatel'nosti voennykh tribunalov voisk NKVD SSSR v gody Velikoi Otechestvennoi voiny 1941-1945* [The legal base for the organisation and activities of military tribunals of the NKVD troops of the USSR during the years of the Great Fatherland War 1941-1945] (dissertation) (M., 2002). For Ukraine see Nikol's'kii, *Represyvnna diial'nist' orhaniv derzhavnoi bezpeky...*

16. This collection, **which to date** consists of more than 600 trials records — mostly against policemen —, was collected in the central archive and 20 regional archives of the Ukrainian Security Service (SBU) — the former KGB archives. It presents a very unique and valuable collection, all the more so as in Ukraine itself, access to this material (for both foreign and Ukrainian researchers) is still impossible, with very few exceptions.

17. The extent to which local policemen were involved in crimes committed by the German occupation authorities in the occupied Soviet territories has only recently become a topic of historical research in the West. See Martin C. Dean, *Collaboration in the Holocaust: Crimes of the Local Police in Belorussia and Ukraine, 1941-1944* (Basingstoke: Macmillan, 2000); Frank Golczewski, "Organe der deutschen Besatzungsmacht: Die ukrainischen Schutzmannschaften," in Wolfgang Benz et al., eds., *Die Bürokratie der Okkupation: Strukturen der Herrschaft und Verwaltung im besetzten Europa* (Berlin: Metropol, 1998), 173-196; Dieter Pohl, "Ukrainische Hilfskräfte beim Mord an den Juden," in Gerhard Paul, ed., *Die Täter der Shoah: Fanatische Nationalsozialisten oder ganz normale Deutsche?* (Göttingen: Wallstein, 2002), 205-234; D. Pohl, *Nationalsozialistische Judenverfolgung in Ostgalizien 1941-1944: Organisation und Durchführung eines staatlichen Massenverbrechens* (Munich: R. Oldenbourg, 1997); R. Breitman, "Himmler's Police Auxiliaries in the Occupied Soviet Territories," *Simon Wiesenthal Center Annual*, no. 7 (1990): 23-39. On local government collaboration and economic collaboration in the Donbass region see Tanja Penter, "'Working for the Enemy': Post-war Military Tribunals of Mining Engineers in the Donbass," paper held at the 2002 AAASS Convention in Pittsburgh; and Tanja Penter, "Die lokale Gesellschaft im Donbass unter deutscher Okkupation 1941-1943," *Beiträge zur Geschichte des Nationalsozialismus*, Vol. 19, *Kooperation und Verbrechen: Formen der "Kollaboration" im östlichen Europa 1939-1945* (2003): 183-223. For perceptions of collaboration in Rostov on Don (Russia) see Jeffrey W. Jones, "'Every Family Has Its Freak': Perceptions of Collaboration in Occupied Soviet Russia, 1943-1948," *Slavic Review*, 64, 4 (Winter 2005): 747-770.



existed certain particularities in Ukraine which probably influenced both the way collaboration functioned and the way it was dealt with by military tribunals during postwar years. The most important of these particularities is the existence of a strong Ukrainian nationalist movement in the western parts of Ukraine.

### **The practice of Stalinist justice: Arbitrary sentences, Soviet morality and efforts at professionalization**

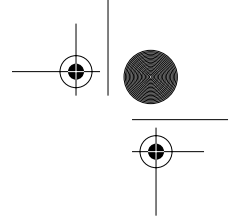
The prosecution of German war criminals in the Soviet Union started at the end of 1943. However, in 1941 the Soviet main court had already enacted a decree about the banning of collaborators' family members to remote areas of the Soviet Union.<sup>18</sup> The trials against collaborators took place at special military courts, the so-called "military tribunals". The whole system of military tribunals was subordinate to the Military Council of the Soviet Supreme Court. The tribunals operated like normal courts, according to the criminal laws of the different Soviet republics, but they could — just like extraordinary courts — hand out the bill of indictment to the defendant 24 hours before the beginning of the trial (normal courts had to maintain a minimum term of three days). Furthermore, defendants could not appeal against the judgements of military tribunals. Only death penalties had to be reviewed by the responsible military councils and could be annulled by them.<sup>19</sup> Usually, military tribunals consisted of one chairman, two assessors and one secretary.

In postwar Soviet Ukraine, there existed 31 military tribunals of the MVD troops — 24 regional tribunals and six tribunals of divisions and one borderland tribunal. They were all subordinate to the military tribunal of the Ukrainian district (*okrug*).<sup>20</sup> Later, in October 1948, Ukraine was divided into two separate — Kiev and L'viv — jurisdictions. The Kiev district included the 16 regional military tribunals of Eastern and Central Ukraine, while the L'viv district, the military tribunals of the Western Ukrainian territories, which became part of the Soviet Union only in 1939. This division was due to the particularities of the criminal cases in these regions, as stated in a letter from the Central Committee of the Communist Party of Ukraine to the Soviet Minister of Justice in 1950: "While at the tribunals in the Kiev district criminal cases against homeland traitors such as policemen, *starosta* and other traitors of the years 1941-1944 predominate, most of the criminal cases processed at the tribunals in the L'viv district [...] are cases

18. According to this, the immediate family of the collaborators was also subjected to state persecution. It said that all adult relatives of collaborators, including parents, spouses, children and siblings should be arrested and banned for five years to remote areas of the Soviet Union. This decree was meant to deter people from going over to the enemy.

19. The emergence of military tribunals in Russia goes back to the times of the 1917 Revolution and the Civil War. See Mikhail S. Strogovich, *Voennye tribunaly Sovetskogo gosudarstva* [Military tribunals of the Soviet State] (M., 1942), 3-24.

20. See CDAGOU, 1/23/4937, 1. 309.



against the OUN underground.”<sup>21</sup> According to the Ukrainian party committee, the division “led to a better quality in the work of the tribunals” and “served the necessity of a strict and quick suppression of the OUN underground”.<sup>22</sup> Most interestingly, there were many more people arrested in the Western Ukrainian territories than in the old Soviet territories (in proportion to the population).<sup>23</sup> According to a document from the former Kievan party archive, 61% of homeland traitors convicted in 1946 were from Western Ukraine. Most of them were related to the OUN and UPA.<sup>24</sup> In these newly acquired territories of Western Ukraine, the Soviet government faced more important loyalty problems and, as Amir Weiner has argued, the trials were used for sovietisation purposes. The diversity of the Ukrainian regions has constituted an important factor in the historical development of Ukraine until today. And lines of social and interethnic conflicts within the local societies sometimes diverged widely in the Ukrainian regions.

Regarding the composition of the military tribunals, the majority of their members lacked experience and education. In 1946, only 18 out of the 134 members of the leading and operational staff had a higher legal education. It was therefore not surprising that the quality of the judicial investigation was very low, and the trial protocols of the regional tribunals “in many cases were rather laconic and unprofessional and [did not] represent the trial in its necessary completeness,” as the Ukrainian district tribunal stated in its 1947 revision report.<sup>25</sup> In several cases, the judges used their drivers or guards as jurors (*narodnye zasedateli*) during trial proceedings.<sup>26</sup> The Soviet government, which persistently tried to control and professionalize the tribunals, ordered the implementation of practical courses and qualification measures, but the majority of the inexperienced staff avoided them.<sup>27</sup>

As Peter H. Solomon has shown, during the 1920s and 1930s, the Soviet system of criminal justice was mainly run by staff that lacked not only higher legal education but even general secondary education. Justice was administered in an amateur way, so to speak. However, starting in 1936, Stalin pursued a policy of professionalization encouraging legal officials to acquire legal education. This

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21. CDAGOU, 1/24/100, l. 230-231.

22. *Ibid.*, l. 231.

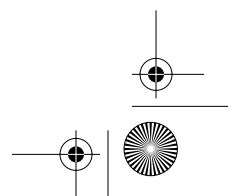
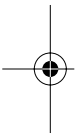
23. While the old Soviet Ukrainian territories constituted three quarters of Ukraine’s population of 41 million, Western Ukraine constituted only one quarter. Nevertheless, more than half (58%) of the people arrested in Ukraine between 1946 and 1953 lived in Western Ukraine. See Nikol’s’kii, *Represyivna diial’nist’ orhaniv derzhavnoi bezpeky...*, p. 572-573. Documents from the former Kievan party archive confirm this. See for example CDAGOU, 1/23/4953, l. 358-375.

24. See CDAGOU, 1/23/4954, l. 170-179. The document mentions 29,204 convictions of homeland traitors for 1946, 17,878 of them in Western Ukraine.

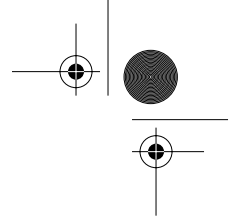
25. See CDAGOU, 1/23/4937, l. 318-320.

26. See CDAGOU, 1/23/4937, l. 320-326, 331.

27. See CDAGOU, 1/23/4937, l. 138, 331. See also Aleksandr G. Zviaginets, Iurii G. Orlov, *Prigovorenyye vremenem: Rossiiskie i sovetskie prokurory XX vek. 1937-1953* [Convicted by the time: Russian and Soviet prosecutors in the 20<sup>th</sup> century, 1937-1953] (M.: ROSSPEN, 2001).







development was first interrupted by the Great Purges of 1937-1938 and then by World War II. In 1946, Stalin continued efforts to involve legal officials in educational programs. By Stalin's death in 1953, this professionalization program had yielded significant results. "Judges, investigators, and prosecutors acquired the necessary skills and technical expertise to improve their performance but did not develop an attachment to legal ethics or the values of the legal profession," as Solomon concluded.<sup>28</sup> The Stalinist State intended to avoid the creation of a modern legal profession, which might develop a sense of autonomy and power.

Furthermore, shortly before World War II, Soviet legal agencies underwent a centralization of power and authority that placed much of decision making in the hands of republican and central authorities. In connection with this, the performance of legal officials was more and more monitored and assessed with statistical analyses. After the war, legal officials underwent an increasing number of evaluations on the part of the political leadership. In 1948-1949, a new campaign for the perfection of legal agencies started, which aimed to eliminate all symptoms of imperfection such as acquittals and reversals on appeal. All this was part of the larger process of bureaucratization of Soviet justice, which continued after Stalin's death.<sup>29</sup>

According to Soviet law, the "Soviet judge, elected by the people, should enjoy the people's confidence and should be an example of honest service for the homeland, of accurate and undeviating application of the Soviet laws and of moral purity".<sup>30</sup> But the reality of postwar military tribunals was different: their staffs were involved in several cases of abuse of office as for example falsification of evidence and witness testimonies, use of violence against defendants and witnesses, and corruption. It happened that a defendant's confession was extorted by violence or that defendants died under torture.<sup>31</sup> The Ukrainian military prosecutor and the Ukrainian district tribunal strictly investigated such cases and if the abuse was verified, the proceedings could be stopped, and the responsible employees were sentenced themselves. Depending on the gravity of their abuse, they could only be dismissed from office and expelled from the party, or they went to a labour camp for five to ten years.<sup>32</sup> In other cases, judges who had made several political mistakes in their punishment policies were forced to participate in juridical qualification measures.<sup>33</sup> In 1946, in Ukraine, 227 members of the Ministry of Internal Affairs (MVD) troops and 41 members of the Ministry of State Security (MGB) were convicted because of offences against Soviet laws; the majority (216)

28. Peter H. Solomon, Jr., *Soviet Criminal Justice under Stalin* (Cambridge:Cambridge university press, 1996), 364.

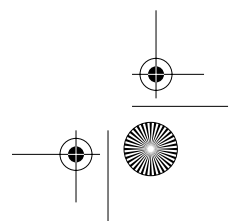
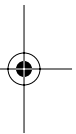
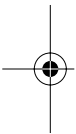
29. *Ibid.*, 366-403.

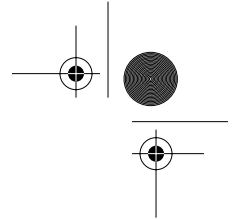
30. CDAGOU, 1/24/1178, p. 67.

31. Only in 1953 was torture forbidden in the USSR. See Hilger, "Die Gerechtigkeit nehme ihren Lauf...", in Frei, ed., *Transnationale Vergangenheitspolitik...*, 210.

32. See CDAGOU, 1/23/4953, 1. 370-371.

33. See CDAGOU, 1/24/100, 1. 97-103.





was sentenced to five to ten years in a labour camp.<sup>34</sup> Until 1949-1950, these measures were somewhat successful, but there were still 95-102 members of the MVD/MGB organs convicted of similar offences. For determent and propaganda purposes, several of the abuse trials against the organs' staff members were publicly staged.<sup>35</sup> This practice shows the strong interest which the Stalinist government had in a certain professionalization of the military tribunals. These attempts even had a quite visible success — at least according to the Soviet standards. This is most apparent in the considerable increase in trial records in the more recent years, which is due to a more accurate preliminary investigation and the application of more professional investigation methods. Whereas in the earlier years most of the trial records were handwritten, an increase of typed protocols is noticeable in later years. Besides, a decline in tribunal members' offences against the rules of the proceedings is noticeable: while in 1946 such offences took place in 394 trials, 260 offences were noticed in 1949, and 80 in 1950.<sup>36</sup> The Kievan district tribunal noted that the improvement in the work of the regional tribunals was due to regular systematic investigations and analysis of errors by the district tribunal and regular educational measures.<sup>37</sup> The qualification of tribunal members also raised slowly: during the years 1946-1950, in the Kievan district, 20 employees of military tribunals received a higher education, and 16 a secondary education in law.<sup>38</sup>

The fact that the number of verdict revisions declined during the postwar years is not necessarily a symptom of professionalization. More likely, it expresses the growing pressure on legal officials from above.<sup>39</sup>

How and when was an investigation started? Usually, the bill of indictment in the various trials starts with the wording: "The regional NKVD office received information about the fact, that..." Obviously, the defendants were very often denounced by their neighbours. There was considerable public participation in the denunciation of collaborators. Sometimes the local population even took the initiative in arresting collaborators and handed them over to the NKVD.<sup>40</sup> Besides, there were two different investigative bodies which conducted investigations of

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34. See CDAGOU, 1/23/4954, l. 176.

35. See CDAGOU, 1/24/1178, l. 37, 63.

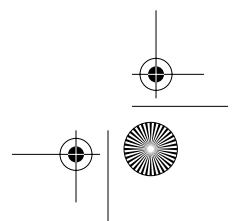
36. See CDAGOU, 1/23/4954, l. 178; 1/24/1178, l. 37.

37. CDAGOU, 1/24/1178, l. 38.

38. See CDAGOU, 1/24/1178, l. 66.

39. Whereas in 1946 in several regions of Western Ukraine more than one third of the verdicts were revised, in 1949 only 12% were revised, in 1950 — 6% and in 1951 only 2%. See trial statistics in CDAGOU, 1/24/100, l. 101. A considerable number of the defendants (between 60% and 70% in 1949) used the possibility to appeal against their verdict — but the majority obviously without success. See CDAGOU, 1/24/100, l. 109.

40. But the NKVD could not always rely on such behaviour on the local population's part. In some places, especially where power had been replaced several times in a short period the population was scared and would not report the collaborators to the Soviet authorities. Sometimes people even hid collaborators.





German crimes as well as Soviet collaboration in the liberated territories: on the one hand, military commissions, which were among the first divisions to enter liberated territory and on the other hand, the so-called Soviet State Extraordinary Commission for Ascertaining and Investigating the Crimes Committed by the German-Fascist Invaders and Their Accomplices, created in November 1942.

The 1934 Ukrainian criminal law served as the legal basis for the conviction of collaborators in Ukraine until it was replaced by the new criminal code of 1960. In the group of crimes qualified as “counterrevolutionary crimes”, Paragraph 54-1a referred to “treason to the Motherland”, which included “actions carried out by Soviet citizens to the detriment of the Soviet Union’s military strength, national sovereignty or the security of its territory, as for example espionage, passing over military or state secrets, going over to the enemy and escaping over the border”.<sup>41</sup> This paragraph was equivalent to Paragraph 58 of the Russian criminal law on “counterrevolutionary crimes”. The sanctions ranged between death by shooting and ten years confinement with confiscation of property. For members of the Red Army, the sentence was always death by shooting, as stipulated in Paragraph 54-1b.

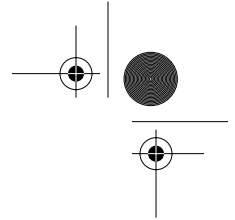
Besides, in April 1943, the Supreme Soviet of the Soviet Union also enacted the first union-wide normative regulation for war crimes, the so-called “Ukaz 43”, which dealt with “sanctions against German fascist criminals responsible for the killing and maltreatment of the Soviet civilian population and captured POWs, as well as secret agents and homeland traitors from the Soviet population and their auxiliaries”. “Ukaz 43” subsumed the crimes of German war criminals and Soviet collaborators under one decree for the first time. It determined that spies and traitors should be sentenced to death, and civil accomplices (*posobniki*) to 15 to 20 years of forced labour.<sup>42</sup>

The corresponding legal regulations left considerable room for flexibility. Therefore, the Soviet national prosecutor and Supreme Court even passed several instructions to put an end to arbitrary convictions and curb the inflationary imposition of the death penalty.<sup>43</sup> In November 1943, the plenum of the Soviet Supreme Court passed an instruction (no. 22/M/16/U/ss) about the classification of actions by Soviet citizens helping the enemy in occupied territory. The Supreme Court criticized the fact that — as practice showed — military tribunals classified every action of Soviet citizens serving the German occupiers as “treason to the Motherland”. The instruction explained how to differentiate between different

41. See Vasyly' Maliarenko, red., *Reabilitaciia represovanych. Verchovnyj sud Ukraïny. Zakonodavstvo ta sudova praktyka* (Kiev: Iurinkom, 1997), 20.

42. See Manfred Zeidler, *Stalinjustiz contra NS-Verbrechen. Die Kriegsverbrecherprozesse gegen deutsche Kriegsgefangene in der UdSSR in den Jahren 1943-1952. Kenntnisstand und Forschungsprobleme* (Dresden: Hannah-Arendt-Institut fuer Totalitarismusforschung, 1996), 16-20; “Der ‘Ukaz 43’: Entstehung und Problematik des Dekretes des Präsidiums des Obersten Sowjets vom 19. April 1943,” in Hilger, Petrov, Wagenlehner, eds., *Sowjetische Militärtribunales...*, 177-210.

43. See for example the Soviet national prosecutor’s instruction no 46ss dated May 1942 about the classification of peoples’ actions serving the German occupiers, in Maliarenko, *Reabilitaciia represovanych...*, 44-45.



forms of collaboration, between “traitors” and “accomplices”. Accordingly, Soviet citizens who served the Germans in leading positions in the local administration or police, who provided the Germans with military and state secret documents, who persecuted partisans, members of the Red Army and Soviet activists and handed them over to the Germans, who participated in murder, violence against the population and robbery of private and state property, and who served as soldiers in the German army, were traitors and should be sentenced to death. People who actively helped the Germans with the reconstruction of industries, transport and agriculture and the collection of goods for the German army were accomplices and should be sentenced to 15 to 20 years of forced labour. Two groups should remain unprosecuted: Soviet citizens who cooperated with the Germans but supported partisans and the Soviet underground or committed sabotage, and minor employees of the administration, workers and specialists who just carried out their jobs, as long as they did not commit any of the crimes named above.<sup>44</sup> The main Soviet prosecutor also instructed the regional prosecutors to review all death sentences and immediately appeal against unjustified decisions.<sup>45</sup> In May 1947, the USSR Supreme Soviet abolished the death penalty for all crimes. But in January 1950, it reinstated it for “traitors, spies, subversives and saboteurs”.

A report by the all-Ukrainian military tribunal in Kiev dated October 1943 gives evidence of the arbitrary nature of the sentences pronounced by the different regional military tribunals which, according to the Kievan tribunal, also led to wrongful death penalties as well as to wrongful acquittals. The Kievan tribunal complained that materials from the preliminary investigation were interpreted and evaluated incorrectly; that there was no differentiation regarding the degree of penalties; that there existed ambiguities concerning the judgements, and that the tribunals very seldom considered mitigation of punishment.<sup>46</sup>

The main charge held against collaborators was “treason to the Motherland”. Sentences relative to actions evincing a “hostile attitude towards Soviet power”, as it is called in trial records, were particularly severe. For example, defendants who were connected to the organisation of Ukrainian nationalists often received relatively severe sentences, sometimes the death penalty.<sup>47</sup> In the Soviet hierarchy of charges, “treason to the Motherland” figured at the top and was perceived as even worse than “crimes against humanity”. Thus, in 1947, in the Tarnopil’ region, when 13 local policemen who had participated in the murder of Jews, Poles and communists were convicted, the bill of indictment stated that the defendants had been arrested for their “affiliation with the organisation of Ukrainian nationalists and their participation in the UPA”.<sup>48</sup>

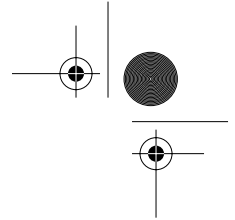
44. Maliarenko, *Reabilitaciia represovanykh...*, 47-49.

45. Epifanov, *Otvetstvennost’ gitlerovskikh voennykh prestupnikov...*, 70-80.

46. CDAGOU, 1/23/684, 1. 6-15.

47. See USHMM, RG 31.018M/reel 1 (D. 43555); RG 31.018M/reel 2 (D. 43111).

48. USHMM, RG-31.018M/reel 34/ frame 5615 (D. 1417).



Soviet citizens could even be convicted of treason and sentenced to several years of forced labour for minor offences. For example, in Voroshilovgrad, ten former *Ostarbeiter* were tried in 1942 because they “voluntarily went to Germany for work and delivered anti-Soviet speeches in Berlin”. When they came back to Ukraine in November 1942, by order of the Germans they spread rumours about the allegedly very good living conditions in Germany. The military tribunal sentenced them to seven to twenty years in a forced labour camp.<sup>49</sup> This example shows the Soviet authorities’ extremely broad understanding of collaboration. In the Soviet conception of loyalty, not only people who had actively supported the Germans, but every person who had been exposed to German propaganda and had contact with Germans — Soviet POWs, *Ostarbeiter*, and anyone who had stayed in occupied territory — fell under suspicion of disloyalty. Therefore, repatriated POWs, *Ostarbeiter* and even people who had just lived under German occupation were stigmatised and discriminated against in various ways during the postwar years.<sup>50</sup>

Such factors as “clean” social background and prewar biography, relatives in the Red Army, activities in the resistance movement and expression of loyalty towards Soviet power could sometimes have a mitigating effect. Therefore, the defendants sometimes mentioned in their defence speeches that they came from poor peasant families, had served in the Soviet Army and had been wounded or that they worked hard on a Soviet kolkhoz during postwar years.<sup>51</sup> The case of a Ukrainian policeman who was trained in a special camp close to the town of Travniki in the Lublin district and was employed as a guard in death camps, is a good illustration: in 1949, in Kiev, this man, who, according to German documents available to the tribunal, “had proven himself in several actions against Jews and at combating partisans”, was sentenced to only 15 years of forced labour because he served in the Soviet Army after collaborating with the Germans. He was wounded twice and obtained several military awards. During the trial, the defendant’s attorney argued that he thereby “had partly made up for his guilt towards his homeland”.<sup>52</sup>

One characteristic of Soviet trials was that a person was convicted not only of a particular crime but rather of his or her moral qualities and primarily his or her long-term loyalty towards the Soviet state. This also significantly simplified the search for evidence. Thus, in the above mentioned Krasnodar trial, the defendants were (according to an understanding of collective guilt) sentenced to death just for being members of the SS Special Detachment 10a while their individual guilt was, wether investigated, not proven at all. Even the family profiles of the defendants

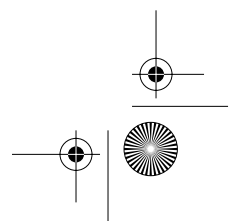
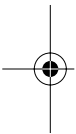
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49. CDAGOU, 1/23/684, 1. 6-15.

50. See among others B. Bonwetsch, “Sowjetische Zwangsarbeiter vor und nach 1945. Ein doppelter Leidensweg,” *Jahrbücher für Geschichte Osteuropas*, 41 (1993): 532-546; Pavel Polian, *Deportiert nach Hause: Sowjetische Kriegsgefangene im “Dritten Reich” und ihre Repatriierung* (München: R. Oldenbourg, Wien, 2001); P. Polian, Zh.A. Zaionchkovskaia, “Ostarbeiter in Deutschland und daheim. Ergebnisse einer Fragebogenanalyse,” *Jahrbücher für Geschichte Osteuropas* 41 (1993): 547-56.

51. See USHMM, RG 31.018M/reel 2/frame 3701 (D. 2784).

52. See USHMM, RG 31.018M/ reel 2/ frame 4049 (D. 39455).





were associated to the trials, which seems to be unique for Soviet war crimes trials: if the defendant's father, for example, was a former kulak, this could have a negative impact. Having a brother fighting in the Red Army could be positive.<sup>53</sup> Most interestingly, the same loyalty standards were applied to defendants from the new Western Ukrainian territories as to those from the old Soviet Ukrainian territories. A letter of complaint from a former policeman from the Tarnopil' region who was sentenced to 25 years of forced labour shows the confusion regarding the loyalty question in Western Ukraine:

I come from Western Ukraine and I grew up with the awareness that my homeland is (*panskaia*) Poland, and the hatred of the Poles for the Ukrainian people has strengthened in me a budding holy patriotic feeling. And when I lost my work under German occupation in 1941, I was forced to serve in the police, but I did it not out of ideological persuasion but to make a living. Accordingly I was totally unaware of the fact that I betrayed my homeland, as I have lived in this new homeland for only one year. And this consciousness could not arise at all, because in such a short period of time it just could not enter my head, my crippled mind, corrupted as it was by anti-Soviet bourgeois propaganda. The judge who sentenced me did not take this into consideration.<sup>54</sup>

Another specific feature of Soviet trials was the enormous importance of the defendant's confession, which not only compensated for the lack of evidence but also had a ritual and symbolic meaning.

The arbitrary nature of sentences becomes clear when we look at the trials against other groups of collaborators, as for example people who helped the Germans exploit local industries. Some of them — leading mining engineers in the Donbass coal mines, for example — were sentenced to 20 to 25 years of forced labour for “treason to the Motherland” even though they were not involved in killings.<sup>55</sup> The following case of a convicted industry manager shows the wide range of interpretation at work in the trials. In April 1943, in Voroshilovgrad, the director of an enamel fabric was sentenced to death for helping the Germans rebuild and exploit the fabric, which had been destroyed by the Red Army. However, after revision by higher Soviet authorities, the director was discharged because further witnesses attested that his main aim was not to support the Germans but to save the fabric from destruction.<sup>56</sup> This shows again that the moral attitudes motivating actions were quite hard to ascertain in the postwar period and could be variously interpreted. In the Donbass coal mining region, for example, the cooperation of

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53. According to a wartime decree of the National Defence Committee dated July 1942, the immediate family of the collaborators was also subjected to state persecution. It said that all adult relatives of collaborators, including parents, spouses, children and siblings should be arrested and banned for five years to remote areas of the Soviet Union. This decree was meant to deter people from going over to the enemy.

54. USHMM, RG 31.018M/reel 24 (D. 33533).

55. See Penter, “Working for the Enemy...” and Penter, *Die lokale Gesellschaft im Donbass...*, 183-223.

56. See CDAGOU, 1/23/684, 1. 8.





numerous Soviet specialists was crucial for the German policy of economic exploitation. The NKVD noted this fact in a secret report after the liberation of the Donbass in November 1943:

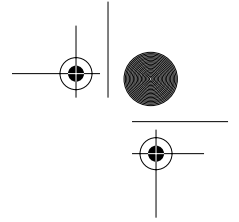
Several specialists who had a treacherous and hostile attitude towards the Soviet motherland and did not want to be evacuated, voluntarily offered their service to the fascist intruders for the active reconstruction of the coal mines and other branches of industry in the basin. As a result, the Germans succeeded in reconstructing the mines and factories, carried away about 2.5 million tons of coal which were in the depots, and collected maps and other documental materials describing the resources of the Donbass.<sup>57</sup>

The engineers and technicians examined the destroyed mines and gave recommendations as to which mines should be reconstructed first. They provided the Germans with “Markscheider” data, topographic and underground maps of the mines which were of decisive importance for the success of reconstruction work. Without that, reconstruction in many cases would have been impossible. Specialists with a higher education degree organized the recruitment of the workforce. They composed lists of workers and technicians for the different mines and gave them to the local police, who gathered the workers, by force if necessary. Sometimes they also composed lists of “bad” workers or unemployed people who should be deported to Germany, and they took part in the “selection of Jews and communists”. In some cases, the specialists devised cruel working conditions with physical punishment and starvation for those who refused to work — sometimes even without instructions from the German director. Several of these specialists were convicted of collaboration during postwar years and sentenced to 15 to 25 years of forced labour. In practice however, specialists who worked for the Germans were not all sentenced because the state needed them for reconstruction work. Therefore it is not surprising that the majority of mining specialists, even several of those who worked for the Germans in administrative positions, remained at their posts after liberation. State policies here were rather pragmatic.<sup>58</sup>

It says a lot about Soviet prosecution policies that military tribunals also convicted a small number of Jewish survivors, mostly members of the Jewish councils, of collaboration. These people often lived under Romanian occupation, which increased their chances to survive. The trials against Jewish defendants represent one of the grey zones, in which defendants were both criminals and victims. For example the Jewish tailor Motel’ Iskovich Tsimmerman, who worked inside the concentration camp of Pechery as a starosta, was sentenced to death by a Soviet military tribunal in 1945. According to seven witness accounts, Tsimmerman had personally beaten prisoners (who in some cases died from the blows) and taken bribes. On the other hand, the defendant himself had lost his parents and his brother,

57. CDAGOU, 1/23/3839, I. 27.

58. See Penter, *Die lokale Gesellschaft im Donbass*, 183-223.



who were murdered under occupation. After protest of the Ukrainian Central military tribunal in Kiev the sentence was revised to 15 years in a forced labour camp. The defendant's two further appeals to get amnesty were unsuccessful, but he was released from prison earlier, in 1957, because of his good work performance.<sup>59</sup> An even worse fate awaited the Jewish lawyer Adolf Samsonovich Gershman, who worked in Zhmerinka in the Vynnyts'ia region as head of the ghetto. During his trial in November 1944, he was accused of instituting a cruel regime inside the ghetto, beating and humiliating the prisoners, taking bribes and handing Jews over to the German police. During the investigation, 32 witnesses were heard, but their reports were quite contradictory. Several Jewish witnesses testified that Gershman had beaten them for the slightest offence. Others reported that the defendant behaved differently towards rich and poor Jews. While he bothered the poor, he took measures of all kinds to alleviate the plight of the rich. But several witnesses also testified that Gershman saved a number of Jews from being murdered by the Germans. The trial documents do not contain any trial protocols or verdicts. But it is known that Gershman was shot by the NKVD.<sup>60</sup>

Another interesting trial, against a Jewish woman, took place in 1946 in the city of Uman' in the Cherkassy region. The defendant, Ida Teplits'ka-Shkodnik, was deported by the Germans to the ghetto in Uman' and served inside the ghetto as a wardress for the Jewish council. Her main task was to collect the ghetto inhabitants' contributions to the Germans. She was charged with voluntarily working for the Germans, forcing the ghetto inhabitants to work for the Germans, beating prisoners, betraying Jews to the Germans and spreading anti-Soviet propaganda. But she also lost her seven-year-old son, shot by the Germans. From the defendant's interrogation protocols we learn that when a house inhabited by Germans and located near the ghetto burned down, the blame was placed on the Jews and six Jewish doctors, all members of the Jewish council, were hanged the next morning.<sup>61</sup> Nevertheless, the Soviet military tribunal sentenced her to 20 years of forced labour and confiscated her property. Ten years later, upon the protest of the prosecutor of the Kievan military district, the sentence was reduced to ten years and Ida Teplits'ka-Shkodnik was released from prison. The prosecutor argued that "Ida Teplits'ka-Shkodnik was illiterate, that one of her sons was shot by the German occupying forces and that she showed a positive attitude towards work during her prison term".

The role of the Jewish councils under Nazi rule and the moral evaluation of their members' behaviour has been a highly disputed topic until today.<sup>62</sup> The above mentioned cases tell us that it obviously made no difference to the Soviet authorities whether a defendant acted at the risk of losing his or her life. Therefore,

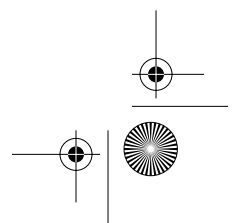
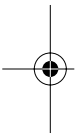
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59. USHMM, RG-31.018M/reel 36/frame 0494 (D. 1994).

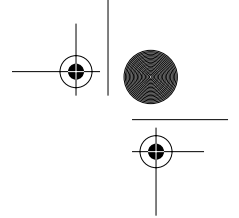
60. USHMM, RG-31.018M/reel 8 (D. 10875).

61. USHMM, RG 31.018M/reel 37/frame 4063-4152 (D. 1747).

62. See for a brief summary of the discussion Dan Diner, *Beyond the conceivable: Studies on Germany, Nazism, and the Holocaust* (Berkeley: University of California Press, 2000), 117-129.







Jewish defendants did not receive any mitigation at the military tribunals, and compared to defendants who actively participated in mass killings, they served sentences that appear quite severe. It also can be noticed that there existed huge differences in dealing with former members of the *Judenräte* in postwar times inside and outside the Jewish community: for example, Karol B. Pohoryles, the head of the Jewish council in Tarnopil' in 1944 was sentenced by a Soviet military tribunal to 20 years in prison, but for some reason the Central Ukrainian NKVD annulled the sentence five months later. When Pohoryles was tried again in 1949 by the honour court of the Central Council of the Jews in Poland, several witnesses testified in favour of the defendant and Pohoryles was found not guilty.<sup>63</sup>

During the war and its direct aftermath, the Soviet Supreme Court complained that sentences pronounced against collaborators by military tribunals tended to be too severe. However, in the following years, 1946-1949, the Ministry of Justice several times criticised the fact that sentences were much too mild and that several courts "*liberal'nichaiut'*" with perpetrators and looked for pleas to mitigate their sentences.<sup>64</sup> The military tribunal of the Kievan district mentioned in its 1950 report that "homeland traitors often falsely sing the praises of Soviet power, influence witnesses, falsify documents, etc., to get a milder sentence".<sup>65</sup> According to the tribunal, mitigating factors had to be considered, but this did not mean that every traitor who was also a member of a partisan unit, served in the Red Army, was wounded and later decorated, should get only a minor sentence. The tribunals had to find out in every individual case about the traitor's real achievements in the partisan movement and the Soviet Army. Soviet officials suspected that several collaborators first joined the partisans when the Germans were already retreating, or were wounded not during army fights at the front, but otherwise — by bombings in the rear, for instance.<sup>66</sup>

Frequent breaches of the rules of court procedure by the regional military tribunals constituted another cause for persistent complaint by the Soviet Ministry of Justice. In many cases wrongful convictions were due to superficial and insufficient pre-investigations. Furthermore, quite often the tribunals invited and considered only witnesses of the prosecution, while they ignored witnesses of the defence. The same was sometimes true for available documents.<sup>67</sup> The Ministry also criticised the form of the official verdict, which, according to a decree of the

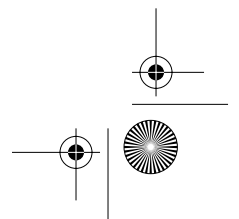
63. USHMM, Centralny Komitet Żydów w Polsce — sady społeczne, [Central Committee of Jews in Poland] ACC.1996.A.0223, file 313/99.

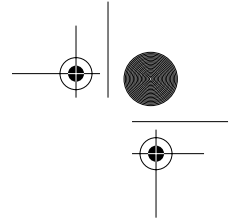
64. See decrees of the Soviet Ministry of Justice no. 018 dated September 1948 about "the work of the courts" and May 1950, in: CDAGOU, 1/24/1178, l. 39. As early as 1946, the Ukrainian district tribunal stated that convictions of collaborators especially in several Western Ukrainian regions were too liberal — which meant sentences of "only" ten years of prison. See CDAGOU, 1/23/4937, l. 313-315.

65. CDAGOU, 1/24/1178, l. 41.

66. See CDAGOU, 1/24/1178, l. 44.

67. See CDAGOU, 1/24/1178, l. 55-57.





Soviet Supreme Court dated July 1950, “represent[ed] an act of socialist jurisdiction,” “had an enormous educational and social-political importance” and should be passed “in accordance with the high principles of communist moral”.<sup>68</sup> Due to the inexperience of the judges, the official verdict sometimes contained so many detailed explanations that it seemed rather ridiculous: a good example is the case in which there is a detailed discussion on why and how a bag with potatoes had fallen on the floor.<sup>69</sup>

If we look at the number of sentences pronounced against collaborators, we see that during wartime (1943-1945), a relatively high proportion of the defendants (around 5%) were sentenced to death, whereas during the postwar years (1946-1953), significantly less people (around 1%) received the maximum punishment, which was partly due to the abolition of the death penalty between 1947 and 1950.<sup>70</sup> According to a document from the Kievan former party archive, in 1946, out of 29,204 convicted collaborators, 21,265 were sentenced to a “minor” ten-year prison term while 667 (2.3%) received the death penalty.<sup>71</sup> But obviously, after the Soviet Ministry of Justice had criticised the excessively liberal treatment of collaborators at the end of 1949, the tribunals turned to a more severe punishment policy, so that in 1950 and 1951 in the Kievan district, more than 94% of convicted collaborators were sentenced to 25 years in a forced labour camp.<sup>72</sup> Therefore, the Kievan district tribunal concluded in its 1950 report that the subordinated regional tribunals had “fundamentally correctly applied punishment against collaborators” since the last quarter of 1949.<sup>73</sup> Ukrainian trials differed from war crimes trials in the West in that the defendant was convicted in most cases. There were very few acquittals (around 2-3% of the defendants) as it was part of the Soviet campaign for professionalization to reduce them.<sup>74</sup>

However, in most cases we can assume that defendants who were sentenced to long prison terms of 20 or 25 years did not serve their whole term, and were amnestied in the mid-1950s, after Stalin’s death. In September 1955, the Presidium of the Supreme Soviet of the USSR passed a law about amnestying Soviet citizens who had collaborated with the Germans. But this amnesty did not include people who had been convicted of murder and torture.<sup>75</sup> In practice, amnesty and

68. CDAGOU, 1/24/1178, 1. 57-58.

69. See CDAGOU, 1/24/1178, 1. 59.

70. These figures refer to all trials at military tribunals, not only trials against collaborators. See Nikol’s’kii, *Represyvna diial’nist’ orhaniv derzhavnoi bezpeky...*, 443-451.

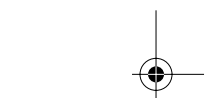
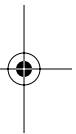
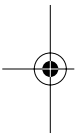
71. See CDAGOU, 1/23/4954, pp. 171-173.

72. By that time, the absolute numbers of convicted collaborators already had significantly decreased. See CDAGOU, 1/24/100, 101.

73. CDAGOU, 1/24/100, 1. 106.

74. See Nikol’s’kii, *Represyvna diial’nist’ orhaniv derzhavnoi bezpeky...*, 443-451; In 1946, 905 out of 29,204 convicted collaborators were acquitted. See CDAGOU, 1/23/4954, 1. 171-173.

75. See *Reabilitaciia: Kak eto bylo. Dokumenty prezidiuma TsK KPSS i drugie materialy. Mart 1953-fevral’ 1956* [Rehabilitation: How it was. Documents from the Chair of the Central



rehabilitation seem to have been as arbitrary as sentences. Besides, thousands of convicted German war criminals had already been amnestied and repatriated to Germany since October 1953 — among them were criminals responsible for severe crimes against humanity.<sup>76</sup>

Another specific feature of the Soviet war crimes trials were multiple convictions. The Soviet Union continued to convict war criminals into the 1980s. The same defendants could be retried under the same charges and without any new evidence. For example, in 1948, the former Ternopil' policeman Aleksandr I. Mynzar was sentenced to 25 years in a forced labour camp. He had already been arrested in 1944 and worked several months in an army penal unit until he was set free after the end of the war. The defendant Mynzar complained in a letter to the Supreme Soviet in 1955: "How can it be that according to Soviet law somebody can be convicted twice of the same crime?" In 1957 the sentence was revised to ten years and Mynzar was released from prison. But in 1983 a new investigation of the case was started because of new witness accounts.<sup>77</sup>

It is important to note that most collaboration trials under Stalin were not public. This was also true of the trials against German war criminals in the Soviet Union: several important public show trials took place, but on the whole, only 18 trials against 224 defendants were public (until 1950).<sup>78</sup> For the first time, the all-Ukrainian Military Tribunal of the NKVD troops demanded of regional tribunals that the trials against "traitors" be public because of the "huge political and educational impact of the trials on the masses of workers". It also happened that local soviets and party organisations had the same request.<sup>79</sup> Since the 1920s, the Soviet government had used political show trials for the education of Soviet citizens in the spirit of loyalty to the Motherland.<sup>80</sup> In addition, a massive propaganda campaign accompanied the few public trials against German war criminals, turning the courtroom into an ideological podium.<sup>81</sup> However, most collaboration trials were closed to the public. According to a report by the Ukrainian district military tribunal, among 633 trials against collaborators which

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Committee of the Communist Party of the Soviet Union and other materials. March 1953 — February 1956](M., 2000), 259-260.

76. See Hilger, "Die Gerechtigkeit nehme ihren Lauf"... in Frei, ed., *Transnationale Vergangenheitspolitik...*, 239-244.

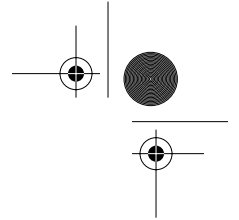
77. See USHMM, RG 31.018M/reel 24 (D. 33533).

78. See Hilger, "Die Gerechtigkeit nehme ihren Lauf", in Frei, ed., *Transnationale Vergangenheitspolitik...*, 214-215; Hilger et al. (eds.), *Sowjetische Militärtribunale*, Vol. 1, *Die Verurteilung deutscher Kriegsgefangener 1941-1953*; A.V. Prusin: "'Fascist Criminals to the Gallows!': The Holocaust and Soviet War Crimes Trials, December 1945-February 1946," *Holocaust and Genocide Studies*, 17, 1 (Spring 2003): 1-30.

79. See USHMM, RG 31.018M/reel 2 (D. 23828).

80. See Julie A. Cassidy, *The Enemy on Trial: Early Soviet Courts on Stage and Screen* (DeKalb: Northern Illinois University Press, 2000).

81. See Prusin, "Fascist Criminals to the Gallows!..." 17.



took place in July and August 1943 in Ukraine, only seven were public (four in Voroshilovgrad, two in Stalino and one in Khar'kiv). One reason why the tribunals might have avoided public attendance was — as it was at least reported in one case — that defendants complained about the illegal methods of the NKVD's staff during the inquiry.<sup>82</sup> Later on, it also seems reasonable that the Soviet government was not interested in giving the collaboration issue too much public attention because it was contradictory to the much touted myth of the Soviet people's unanimous resistance to the German invader.

In general, there existed different levels of publicity during the trials. Only a few received broad public attention in press reports. In some cases they were open to the local public of a village or kolkhoz, but were not reported in the press to a broader regional and national public. In most cases the trials were carried out at the place where the crimes were committed. But even if the trials, as in most cases during Stalin's times, were not public, they had an immense symbolic meaning for local societies. This was due to the fact that the collaborators' crimes and betrayals took place within the context of the community, which made them morally even worse in the public's perception.<sup>83</sup> Therefore, the local communities knew about the collaborators and participated actively in their denouncement. Sometimes, the local population even took the initiative in arresting collaborators and handed them over to the NKVD. The wish for revenge is often visible in witness accounts at the trials. All witnesses had to confirm at the beginning of their testimony that they did not have any personal grievances against the defendants. However, it often turned out during their accounts that they had personally suffered from the defendant, that the defendant has beaten them or arrested their family members, who later were killed by the Germans. The testimonies are sometimes extremely detailed and mention extensively if the defendant had stolen a loaf of bread from the witness or slapped the witness into his face, etc. Furthermore, in talking to Ukrainians today, we learn that many people knew about the trials against local collaborators from reports of witnesses who gave evidence at the trials or by word-of-mouth tradition.<sup>84</sup> We must keep in mind that in a totalitarian state, these informal ways of communication were of enormous importance.

### **Trials, justice and society**

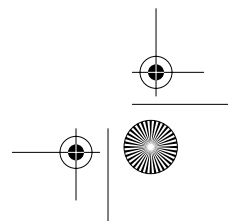
To what extent did Soviet postwar trials against collaborators serve justice? To what extent were these trials mainly political trials? Regarding these questions the overall picture is rather contradictory: on the one hand we see real war criminals

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82. CDAGOU, 1/23/684, 1. 6-15.

83. See J.T. Gross, *Neighbors: The Destruction of the Jewish Community in Jedwabne, Poland* (Princeton: Princeton University Press, 2001).

84. For example, in several interviews with local people in the Donbass region who lived under occupation, it came out that they remembered postwar trials in which they were not personally involved.

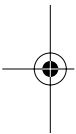


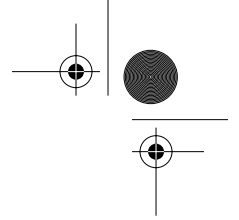


such as policemen who directly participated in mass killings sentenced to death or 25 years of forced labour. (For comparison: in Germany, policemen of lower ranks who just obeyed orders were not sentenced at all.) And we also see that war criminals, like the man from Travniki, sometimes could get a minor sentence of 15 years because they served in the Soviet Army after collaborating with the occupant and obtained military awards, and “thereby partly made up for their guilt towards their homeland”. And on the other hand, we see that Soviet citizens who in our understanding were not war criminals at all, like former *Ostarbeiter* or women who cooked and cleaned for the Nazi, or specialists who helped the Germans rebuild the destroyed industries, and even several Jewish defendants were also sentenced to 20 or 25 years of forced labour. Unfortunately, we do not know how many of the tried collaborators committed real crimes and how many were tried mainly for political reasons. And of course, trial records alone do not allow us to draw any conclusions about the actual scale of collaboration because they do not tell us anything about those who were executed without any trial, wrongfully accused, or not tried at all.

Traditionally the Soviet system of justice has been seen as an instrument of the Stalinist state. Most recently Andreas Hilger, who studied Soviet trials of German war criminals, confirmed this view and came to the conclusion that because Soviet politics always had precedence over the law, the Soviet courts did not succeed in clarifying and prosecuting German war crimes adequately. There can be no doubt that there was no independent system of justice under Stalin. Nevertheless, it would be too easy to interpret Soviet postwar trials as mere examples of the abuse of justice in a totalitarian state. Postwar reality was much more nuanced and complex. And whereas Hilger might be right regarding the more centralised trials against German war criminals, the situation was different with the conviction of local collaborators. Two facts seem particularly striking in this context: firstly, as the above mentioned documents from the Kievan party archive reveal, the Soviet government encountered difficulties operating and controlling the regional military tribunals, which developed a certain autonomy and dynamic in their work. This aspect still needs more research, but as it seems so far, the policies of the different regional military tribunals might have as well depended on the individuals in charge and their specific interests as in general on a more local understanding of justice in contradiction to the policies of the Center.

Secondly, the trials seem to have satisfied a strong desire for revenge, order and the re-establishment of social hierarchies inside local communities. They were not simply imposed on the population and directed from above: they also provided a locus for interaction between Soviet authorities and local communities. Furthermore, it seems that they provided (however limited) a podium for alternative memory discourses which differed from the official Soviet one. This was of even more importance as other public spaces where the local people could come to terms with their experience under German occupation were lacking. While the Soviet government during the immediate postwar years tried to establish an official memory discourse on World War II (which had very little in common with the real





experiences and memories of the population who lived under German occupation), using the victory over Nazi Germany as an integrating factor for the heterogeneous Soviet population, alternative war experiences could be addressed in the trials. Not only did the trials allow the mass killings of Jews to be openly discussed, they also addressed the forced deportations of workers to Germany, which gave the latter the same status as any other group of victims, at the same time when official Soviet practice stigmatised repatriated *Ostarbeiter* as potential “enemies of the people”.<sup>85</sup> And, as mentioned above, the trials also discussed the pogroms against Jews and Poles that occurred in several places of Western Ukraine. The Jewish perspective on the crimes was well represented in the trials where Jewish survivors could give evidence. Not surprisingly, this was mostly the case in the territories under Romanian occupation, where the Jews had better chances to survive.

At the same time, we should also consider that the local memory discourse and its expression in local trials represented a rather ‘atomized knowledge’, because the Soviet authorities (at least under Stalin) prevented a broader public discussion of the trials beyond these local borders. Therefore, the inhabitants of one village knew about the German crimes and the collaborators in their village, but they probably did not know what happened under German occupation in the neighbouring villages or that collaboration was a widespread phenomenon all over occupied Soviet territories.

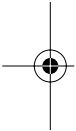
In conclusion, the trials had at least a double function. On the one hand, they were a demonstration of Soviet power, and intended to punish disloyal behaviour towards the Soviet state. Especially in the new Western Ukrainian territories, they served the aim of sovietisation and brought the population into line. On the other hand local actors used the trials for individual or collective revenge. It seems reasonable that in the end, they in fact served the re-Stalinization process of postwar Soviet society because they partly answered the pressure “from below”. Here a similar dynamic seems to have functioned, as Sheila Fitzpatrick has described, according to rural show trials against Kolchoz officials during the Great Purges in 1937. At these trials, which resembled a “political theatre”, the peasants were given the possibility to participate as witnesses in the prosecution of their abhorred Kolkhoz directors. Quite often the trials were based on peasants’ denunciations.<sup>86</sup>

However, unlike the trials of the Stalinist 1930s, in which mostly innocent people were sentenced for pure political reasons, postwar trials often concluded with the conviction of real war criminals. This brought about a carnivalesque situation in which the Stalinist regime successfully legitimised its postwar purges by the fact that now, at least partly, real criminals were convicted. Consequently it might be argued that postwar trials of collaborators even provided a delayed legitimization of the political show trials of the 1930s.

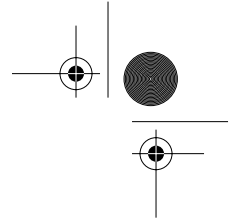
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85. See T. Penter, “Zwangsarbeit — Arbeit für den Feind. Der Donbass unter deutscher Okkupation, 1941-1943,” *Geschichte und Gesellschaft* 31 (2005): 68-100.

86. See Sheila Fitzpatrick, “How the Mice Buried the Cat: Scenes from the Great Purges of 1937 in the Russian Provinces,” *The Russian Review*, 52 (1993): 299-320.







Also remarkable is the symbolic meaning of postwar trials. It came out in the fact that the demonstrative lawfulness was maintained not only in the few public show trials, but in the numerous non-public trials as well. Obviously the Stalinist regime intended to emphasize the appearance of lawfulness in postwar trials in contradistinction to the purge practice of the 1930s, when hundreds of thousands of people were convicted without seeing any judge or prosecutor. There can be no doubt that the trials must have had an important symbolic meaning. Otherwise the Soviet government could just have had collaborators arrested and repressed by NKVD organs without any trial, as happened during the mass terror of the 1930s. This symbolic meaning of the trials also becomes evident in the use of attorneys not in every, but in a considerable number of trials. From these trials it becomes clear that the role of attorneys in Soviet trials was very different from that of Western attorneys: like in Western countries the defendants officially had the right to be defended by an attorney assigned by the military tribunal. But in reality, it often happened that defendants did not believe in the attorney's qualities, rejected his defence and preferred to defend themselves.<sup>87</sup> Here, the attorney's role was obviously purely symbolic. In conclusion, it can be argued that postwar trials also served the Stalinist regime for its own legitimation inside Soviet society and abroad.

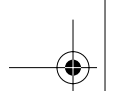
### The value of trial records for historical research

As mentioned above, trial records have so far rarely been studied for historical research. They undoubtedly present a very subjective and tendentious material. The interrogation of the defendants and witnesses was often carried out by only one Soviet official, and the language of the interrogation protocols indicates that these people sometimes rephrased statements (thereby interpreting them) in their own words when they wrote them down.<sup>88</sup> In a few cases the defendants also complained during the trial that the NKVD had used torture to force their confessions.<sup>89</sup> Nevertheless, trial records represent an extremely valuable resource for the study of Nazi occupation and crimes in occupied Soviet territories. They contain detailed descriptions of the Holocaust in different local settings, towns and villages, and of life in ghettos and camps. Sometimes they even contain primary documents and quite often, reports of the Extraordinary Commission. The records of later trials, when preliminary inquiries were carried out more elaborately, contain drawings and photos of ghettos and camps or crime scenes. In a number of cases, the records may very well be the only source documenting the existence of ghettos and camps or mass executions. For example, in Donetsk, the trial of the

87. For example, at the 1951 trial in Kiev of a former policeman, four of the five defendants refused to be represented by an attorney. See USHMM, RG 31.018M/reel 2 (D. 46837).

88. This was the practice not only in the Soviet Union, but also in several Western countries.

89. See for example the trial against a Jewish defendant which took place in 1944 in Vynnyts'ia, US Holocaust Memorial Museum RG-31.018M/ reel 36 (delo 1994).



head of the local administration is the only source, aside from a few survivor testimonies, suggesting the existence of a ghetto in this city.<sup>90</sup> Of shocking detail are the accounts about mass killings, as the following description by a Jewish survivor and trial witness of the mass killings of ghetto inmates in the village Murovano -Kurilovtsy in the Vynnyts'ia region, in the summer of 1942, illustrates:

In the morning of the day when this horrible incident took place, all policemen and gendarmes of the village Murovano-Kurilovtsy were afoot. Several of them circled the ghetto grounds, others entered the houses in groups and drove the Jews out onto the street. Then all ghetto inmates — about 6,000 people — were driven by the policemen and gendarmes in a convoy to Iankovo forest, which is located two kilometers from the village **Murovano-Kurilovtsy**. I was myself amongst those who were brought to the forest. The policemen and gendarmes brought us Jews by groups of three to the edge of previously dug large trenches. Then we were ordered to take off all our clothes. While we took off our clothes, the policemen and gendarmes started with the executions. First, they shot the women and children. They forced them to lie down in the trenches. Then they shot them.<sup>91</sup>

Most interestingly, we learn from several trials that local perpetrators sometimes organised pogroms against the Jewish community spontaneously and on their own initiative. These cases show us in a striking way that Jedwabne was not a single event, but happened at other places in Ukraine as well.<sup>92</sup> Trial records contain descriptions of pogroms in shocking detail. For example in the records about a pogrom trial in a village of the Chernivtsy region dated 1945 we can read, in one of the defendants' report:

Around July 1941, after the retreat of Red Army troops from the village Nepolokovtsy and before the arrival of Romanian forces, one night I heard a loud noise in the village and stepped out into the street. At that time, Isachuk, Kuzma, Polij, Lazar, Grigorij Bodnar and Il'ia Oleinik passed by. They were shouting that the Bolscheviks were coming with the Jews to beat up the Christians, and appealed to the population for a pogrom against the Jews. I, and many others, believed this provocation. I armed myself with a stick and went off to drive the Jews out of their houses. [...] We led them in a large convoy to the river Prut. We pushed them onto the bridge and clubbed them to death. [...] Then we threw them into the Prut. [...] When, as it seemed to me, not a single one of them was left alive, we went back to the village Nepolokovtsy. [...] The very next day, Romanian troops arrived in the village.<sup>93</sup>

At the trial, Jewish survivors remembered that during that day Jewish women were raped by the local perpetrators and that the property of the murdered Jews was

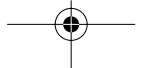
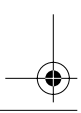
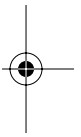
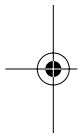
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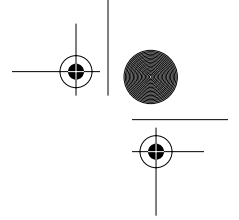
90. For trials in Donetz see Penter, "Die lokale Gesellschaft im Donbass," 183-223.

91. USHMM, RG-31.018M/ reel 28/ fr. 6299 (delo 21215).

92. See Gross, *Neighbors...*

93. USHMM, RG-31.018M/reel 12 (D. 7833).





taken by them. About 30 Jewish people were killed, among them women and children. The tribunal sentenced three defendants to death, and two for ten years in a labour camp.

Until very recently, German occupation of Soviet territories and the Holocaust have been studied mostly from the perspective of Nazi policies and documents — not the least because Soviet archives had been closed for foreigners until the early 1990s. But in many areas, the German documents on Nazi crimes and everyday life under German occupation are rather fragmentary. Trial records allow us to study a hitherto unseen, ‘from-the-people’ facet of the Holocaust. They offer us deep insight into the Holocaust under different regional and local conditions in the occupied Soviet territories, and into the social life and relationships inside local communities.

Furthermore, trial records tell us something about the personal profile of local collaborators and their motives.<sup>94</sup> The investigation of Nazi criminals, their mentalities and motives, has become a major topic of interest in historical research during the last ten years. However, we still know very little about non-German collaborators’ backgrounds and motives for collaboration. In that respect, trial records offer extremely interesting material. At the beginning of every trial, the NKVD collected basic information about each defendant, including date and place of birth, place of residence, profession, nationality, citizenship, membership in the Communist Party, level of education, social background, former convictions, military participation in World War II, and information about the defendant’s family members. This information, which seems to be quite reliable, can be analysed empirically to reach some conclusions about the collective biography of collaborators and their motives. But we must also keep in mind that the profile of convicted collaborators may have depended as well on either the German recruitment policies or, later, the Soviet bias in bringing charges.

Generally, if we look at collaborators’ biographies, we see that they sometimes fought in the Red Army before and after they had collaborated with the Germans and sometimes even received high military awards (which they normally had to return after their conviction). It was not rare that policemen were recruited from among Soviet POWs. This was especially true of the “Travniki”.<sup>95</sup> We may therefore conclude that collaborators mostly did not act primarily out of ideological motivations. And this also shows that the official Soviet representation which tended to divide the Soviet population into “collaborators” and “resistants” did not fit the much more complex wartime reality. Quite often, there was no clear line between “collaboration” and “loyalty” in people’s actions, but rather “moral grey zones”. This also means that phenomena like “collaboration”, “resistance” and also

94. But, not surprisingly, the testimonies of defendants and witnesses provide more reliable and exact information on the local criminals and police structures than on the German ones because local witnesses tended to perceive all German police organisations as “Gestapo”.

95. See P. Black, “Die Travniki-Männer und die ‘Aktion Reinhard,’” in Bogdan Musial, ed., “Aktion Reinhardt”: *Der Völkermord an den Juden im Generalgouvernement 1941-1944*, Osnabrück: Fibre, 2004, 309-352.



“forced labour” were in fact much more interrelated than historians have thought so far and should not be studied separately but in conjunction.

The life story of the Jewish woman Margarita E. Shevchenko from Donetsk, who experienced the war as a six-year-old girl, presents a lively example of the complex reality under German occupation and its aftermath.<sup>96</sup> The German occupation radically changed the life of the daughter of prominent Soviet scientist and professor Evstafii A. Funt and his Jewish wife. Margarita’s Jewish mother was denounced and murdered by the Germans during the very first weeks of occupation. Margarita and her elder brother were saved by the Ukrainian cleaning woman Fenia Chaletkaia, who took care of them like a mother for the rest of her life (thereby calling into question the old stereotype of Ukrainians as nationalists and anti-Semites.) Margarita’s father Evstafii A. Funt decided to cooperate with the Germans and worked for them as a mining expert in the rebuilding of the Donbass coal mines, which had been destroyed by the Red Army during retreat. After the liberation of the Donbass, in May 1944, Funt was convicted of collaborating by a Soviet military tribunal and sentenced to 25 years of forced labour in a camp in Karaganda. The main charge against him was that he had provided the Germans with underground mine maps which were necessary for reconstruction. According to the Soviet tribunal, these maps represented “state secrets”. Funt denied his guilt until the end.<sup>97</sup> Though Evstafii A. Funt survived the camp and was amnestied during the 1950s, he was never rehabilitated until today. Margarita and her brother, who had hardly survived the German occupation (hiding at various places), were stigmatised in postwar times as children of an “enemy of the people” and suffered from discriminations until very recently.

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96. Personal interview with Margarita E. Shevchenko in October 2003 in Donetsk.

97. See trials records in the former KGBarchive in Donetsk: ASBUDO, F. 1, D. 26612, Tom 1-2.

