

*Nikita Petrov*

## Judicial and Extra-Judicial Punishment and Acts of Retribution against German Prisoners of War, 1941-1945

The initial phase of the Soviet-German war may be justifiably described as mortal combat between two brutal dictatorships. The rapid success of the German offensive left the Stalinist regime reeling on the brink of annihilation. In this context, the question arises as to what extent the issue of German prisoners of war (POWs) exercised the attention of the Soviet leadership at this difficult time? Was a solution found, and if so, what was it? Today, no secret is made of the fact that the laws and customs of war, in particular with regard to POWs, were violated by both parties. This question has been the subject of much research, but while Russian literature generally documents at length the facts of the cruel treatment by Germans of Soviet POWs, information on similar Soviet atrocities, in contrast, are suppressed. But bringing this hitherto hidden truth out into the open seems necessary.

The tragic fate of the first German prisoners of war is attested by the fact that “up to 95% of soldiers and officers of the Wehrmacht who were captured in 1941-42 were killed by Red Army soldiers or died from the arbitrary actions of the Soviet authorities somewhat later.”<sup>1</sup> But what lies behind the term “arbitrary actions of the Soviet authorities”? There are numerous accounts of executions of German POWs carried out by Red Army soldiers. The Russian historian Anatoly Yakushevsky has cited numerous examples of the “liquidation” of prisoners of war captured by the Red Army during 1941-43,<sup>2</sup> but it remains unclear to this day how many German prisoners of war

1 Alfred de Zayas, *Die Wehrmacht-Untersuchungsstelle: Deutsche Ermittlungen über alliierte Völkerrechtsverletzungen im Zweiten Weltkrieg* (München, 1980), 277. Cited in: Viktor Konasov, *Sud'by nemetskikh voennoplennykh v SSSR* (Vologda, 1996), 9-10.

2 Anatolii Yakushevskii, *Rasstrel na klevernom pole*, (June 21, 1993). See also his publication in the journal *Novoe Vremya*, 25 (1993), 40-2 and in the book: Konasov, *Sud'by nemetskikh voennoplennykh v SSSR*, 25-6.

died in this way. One can only assume that the figure is large. Nevertheless, the contribution of these summary executions hardly rivals that of Soviet state terror itself. Here it is important to understand where the “unsanctioned random actions” at the Front ended and the deliberate, widespread terror sanctioned from above began. It is a commonly held view that only from May 1943 was any differentiation made of prisoners based on their potential danger.<sup>3</sup> It is difficult to accept this view. Most likely, this practice, which reached its zenith with the shooting in 1940 of captured Polish officers (“the Katyn Massacre”), was to determine policy in respect of German prisoners of war. It is indeed the case that Germans, when taken prisoner, disappeared en route to their designated POW camps. We can assume that only the most obedient and docile prisoners reached these camps. Those considered, by reference to their conduct in captivity or by occupation (e.g. service in the SS), to be “heinous enemies”, were incarcerated in prisons belonging to the special sections of the territorial directorates of the NKGB-NKVD.

Official Soviet statistics show that on August 10, 1941, some 1,990 men (of whom 1,016 were Romanians and 974 Germans) found themselves in Soviet POW camps in the rear, and that from 22 June to 31 December 1941 such camps received a mere 9,147 POWs.<sup>4</sup> This number seems to be surprisingly small.

It is impossible to imagine that during the second half of 1941, in this vast theatre of war, only 9,147 enemy effectives engaged in combat with Soviet forces were taken prisoner. The natural conclusion one might draw is that in addition to those Germans killed without being taken prisoner, there were other categories of prisoners whose cases were transferred for investigation to Military Counterintelligence units (Special sections of the NKVD) or local State Security and Internal Affairs branches. Here, prisoners were not kept in POW camps (and, thus, their numbers were not counted), but in prisons closest to city outskirts. But even then, German POWs could easily be shot without trial if there was a danger that they would be liberated by the advancing Wehrmacht. This approach lay within the rules of the Soviet penal system so well known to Soviet citizens themselves; prisoners whom the authorities had not managed to evacuate deep into the Soviet Union in the event of a hasty retreat were simply executed by the NKVD and the People’s Commissariat for State Security (further referred to as *NKGB*).<sup>5</sup>

3 Konasov, *Sud’by nemetskiikh voennoplennykh v SSSR*, 58.

4 Vladimir P. Galitskii: ‘Vrazheskie voennoplennye v SSSR (1941-1945)’, *Voennoe-istoricheskii zhurnal*, 9 (1990), 39-46, 39-40.

5 For more details of massacres in the course of the evacuation of prisoners from the western regions of the USSR in the years 1941-42, see the work of Aleksandr Gur’yanov and Aleksandr Kokurin in the journal *Karta*, 12 (1994), 137-8.

There is no shortage of examples, as in 1941-1942, of German POWs being transferred directly from Military Counterintelligence (*UOO*) to internal prisons of territorial frontline directorates of the NKVD. So in July 1941, the first German pilots shot down near Leningrad were held in an internal NKVD prison of the Leningrad region. Those Germans who fell into the hands of Military Counterintelligence became subject to investigation and could be sentenced in full compliance with the Criminal Code of the Russian Soviet Federal Socialist Republic (RSFSR). However, most frequently during this period, German POWs were executed without trial, merely by verdicts of the Special Sections of the Fronts.

So, at the end of 1942, in accordance with the decrees of the Special Section of the NKVD Western Front, two German pilots who had been taken prisoner – Georg Schinagel (born in 1915) and Martin Justel (born in 1922) – were executed. The former was executed on November 14, 1942, the latter on December 19, 1942. In both cases, instead of formal sentencing there was merely a hand-written top secret decree:

“Approved”

December 18, 1942

Deputy Chief

Special Section NKVD Western Front,

Major of State Security

(Shilin)

#### Decree

Operational Field Army, December 18, I, Deputy Chief of the 6th Department of the Special Section (*OO*)<sup>6</sup> NKVD of the Western Front, Captain of State Security, Gordon, having considered the materials regarding the German POW, fighter pilot, Lieutenant Martin Justel, born in 1922, native of the town of Osterode (East Prussia)

#### Find:

Justel was a member of the Hitler Youth, he volunteered to enlist in the German Army in 1939 and actively participated in the actions of the German occupation forces in France and other countries, actions for which he was awarded the “Iron Cross” 2nd class. He refused to provide information on equipment and units of the German Army, pleading ignorance.

6 *OO* – *Osobyi Otdel* – Special Section.

On the basis of the above

I decree that:

Martin Justel as an implacable enemy of the USSR IS TO BE EXECUTED  
Deputy Chief of the 6<sup>th</sup> Department of the Special Section OO NKVD  
Captain of State Security. / Signature / (Gordon)

Agreed: Chief of the 6<sup>th</sup> department of the Special Section OO NKVD ZF  
Captain of State Security. / Signature / (Zaitsev)

December 18, 1942.<sup>7</sup>

There follows the handwritten Declaration:

“Operational Field Army December 19, 1942

We, the undersigned, Comrade Junior Lieutenant of State Security Ostreiko and Junior Lieutenant of State Security Samusev affirm that on this date at 02:00 in the morning, pursuant to the decision of NKVD ZF we executed POW Martin Justel.

We hereby sign /signatures/ Samusev, Ostreiko.”<sup>8</sup>

Similar documents were drawn up for the pilot-observer Staff Sergeant Schinagel. In the order to execute him it was said: “He refused to provide information on the unit in which he served, or about other units of the German Army known to him, claiming that he did not possess such information.”<sup>9</sup>

There is no need to add that such executions contravened not only the accepted norms and rules for the treatment of POWs, but also even the internal rules of operation of Soviet State Security. During the war, the right to extra-judicial reviews of cases was held solely by the Special Council (OSO) of the NKVD, but certainly not by the separate structural subdivisions of the NKVD. When in 1943, the Head of the 1st Special Department (accounting archive) of the NKVD Arkady Gertsovsky received these papers, he forwarded them to the archive, with the following adnotation:

“In returning the decrees of the Special Section of the NKVD Western Front regarding German POWs Georg Schinagel and Martin Justel, we consider it necessary to deposit documents of this kind, if they are to be kept for on-going work purposes of the Special Sections, in the Special Archive. There is no need to make a note of these persons in the Operational Reference File (*OSK*).”<sup>10</sup>

7 *Tsentralnyi Arkhiv Federal'noi Sluzhby Bezopasnosti RF (hereinafter TsA FSB)* F. 7. op. 1. D. 137.

8 *Ibid.*

9 *Ibid.*

10 *Ibid.*

Gertsovsky's remark should be understood as signifying that these materials had to be deemed top secret and should not be known to a wider circle, even to all NKVD members; thus they should be kept in the "Special Archive". And, of course, no reference to those executed in accordance with the decisions of the Special Sections of Front Operations should ever be released, which is why their names were not to figure in the files. It is most likely that even to this day, German soldiers who were summarily executed in this manner are still registered as missing in their homeland. It proved possible to uncover the statistics for such decisions of the Special Sections, but only for the year 1942. Such judicial statistics state that for 1942 "600 people were subjected to" the decisions of the Special Sections.<sup>11</sup> What is important here is the fact that it was such a number – 600 people were sentenced without trial, merely according to decisions issued by Directorates of Special Sections of Front Operations of the Red Army. It is hard to say who these people were. One can only assume that many of them were POWs. And, certainly, such executions took place not only in 1942 but also in both preceding and subsequent years.

It should be noted that the executions of prisoners on the basis of summary *in absentia* rulings by Directorates of Special Sections were not legitimate in the eyes of the leadership of the NKVD. This practice was not part of any regulatory framework even in Stalin's judicial system. Official recognition by the NKVD OSO was quite another matter. This body, which had the power to scrutinise outcomes of investigations, issue rulings on punishments and pronounce sentences *in absentia*, was, at the beginning of the war, the only organ with the power to order extra-judicial executions.

### Special Council (OSO) of the NKVD

The practice of examining cases *in absentia* was nothing new or out of the ordinary for the Soviet legal system; to be precise, it did not go beyond the traditions already established in Russia even before October 1917. In Tsarist Russia, a Special Council was created in the Interior Ministry to consider cases of individuals conducting anti-state revolutionary activities. Such a mechanism of repression was envisaged in situations where insufficient evidence prevented such cases being brought before a jury in ordinary courts. However, the powers enjoyed by the Special Council in the twilight years of

<sup>11</sup> *TsA FSB, F 8 (fond statistiki)*. D. 156. Also in the book: Oleg Mozokhin, *Pravo na repressii* (Moscow, 2011), 489 – the listed number of those sentenced by OO NKVD decisions is 439.

Imperial Russia, in the early twentieth century, were modest – the maximum punishment that it could give was three years' exile under police surveillance. It was a far different matter after the Bolsheviks came to power. The practice of *in absentia* reviews of investigations was not only firmly endorsed by the new government, but generally came to represent the norm and principle of penal policy. Mass repression and wide-ranging oppression would have been impossible on the large scale desired by communist authorities without speedy and simplified procedures to determine sentences in such cases, not to mention, without any failures and legal "complications". Over the many decades of the USSR's existence, penal policy may have had periods of severity or thaw, but its illegal character always remained the same and unchanged. Even many years after Stalin, when it seemed that the practice of extra-judicial repression had been abolished and condemned, this policy in one form or another continued.<sup>12</sup>

The extra-judicial legal policy conducted by the Bolsheviks was punitive and one of extreme cruelty. The executive committee of the Cheka had the right to conduct non-judicial reviews of those cases concurrently under investigation by the commission itself. Here, the maximum possible punishment was the death sentence. It turned out that the Cheka combined the detective (operational), investigative and judicial functions at one and the same time. Until 1934, the executive committee of the Cheka-OGPU<sup>13</sup> had powers of extra-judicial execution, right up to carrying out such summary executions. Furthermore, with a view to the denunciation and isolation of undesirable elements, in 1924 a Special Council was attached to the Executive Committee of the OGPU with the right to sentence to terms of imprisonment in concentration camps or up to 3 years exile and banishment. In 1934, with the abolition of the OGPU and the formation of the NKVD, the Special Council (OSO) extended its right of punishment – up to five years' exile, banishment or hard labour camps. In 1937, the Politburo of the Communist Party granted the NKVD Special Council the right to imprison people for up to eight years, and in some cases, on charges of spying for Poland, for up to ten years. Shortly after the outbreak of war, on the basis of the decision of GOKO<sup>14</sup> No. 303ss of November 17, 1941, the NKVD OSO

12 In 1961, after the Decree of the Presidium of the Supreme Soviet of the RSFSR on the fight against persons evading socially useful work, it was decided on the basis of the decisions of the executive committees of local councils (not judicial bodies!) that citizens could be deported to remote areas and be forcibly made to work. Also without the decision of a judicial authority, academician Andrei Sakharov was exiled to Gorky in January 1980. Numerous similar examples can be cited.

13 OGPU – Obedinennoe gosudarstvennoe politicheskoe upravlenie – Joint State Political Office.

14 GOKO – Gosudarstvennyi komitet oborony – State Defense Committee.

received the right to pronounce the death penalty. The NKVD OSO and, subsequently, the MGB Special Council, retained this prerogative until Stalin's death. It is true, however, that, as of 1946, there are no known cases in which the Ministry of Interior (MVD) or Ministry of State Security (MGB) Special Councils (OSOs) sought to take advantage of this right, but at the same time, sentences of up to twenty-five years in the camps were common.<sup>15</sup>

The principles upon which cases were transferred for examination on an extra-judicial basis were set out in NKVD Order No. 00762 of November 26, 1938: "Case to be sent to the Special Council of the NKVD with the prosecutor's final ruling in cases where there are circumstances preventing the transfer of the conduct of the case to court (risk of revealing the identity of a valuable agent, the inability to use in court evidence implicating the guilt of the arrested person when the prisoner's guilt is beyond doubt, and so on)."<sup>16</sup>

This phrase "guilt beyond doubt" – guilt which, however, could not be proven in court – contained the quintessential element of Soviet law, when a person's guilt was actually not determined by a court, but determined before the defendant's trial, on the basis of the criterion of the "harmfulness or usefulness" of this person to the Soviet regime – as was clearly expressed in the early 1920s by one of the first members of the Cheka, Martyn Ivanovich Latsis, a staunch advocate of Red terror.

In April 1943, responsibility for state security was transferred from the NKVD to the newly formed *NKGB*. Vsevolod Merkulov was appointed People's Commissar of State Security, and at the same time, on April 19, 1943, Military Counterintelligence responsibilities were transferred from the NKVD's Special Sections to the People's Commissariat of Defence and to the People's Commissariat of the Navy which, with the GUKR<sup>17</sup> SMERSH NKO<sup>18</sup> and UKR<sup>19</sup> SMERSH NKVMF,<sup>20</sup> were formed in its stead. Investigations conducted in these departments (NKGB and SMERSH) might also be considered extra-judicial. They were sent to the NKVD Special Council. Matters continued thus until 1946, when a Special Council was organized within the framework of the Ministry of State Security (MGB). By MGB

15 *Normativnye dokumenty reglamentirovavshie rabotu OSO NKVD-MGB-MVD*, see: Evgeni Zaytsev (ed), *Sbornik zakonodatel'nykh i normativnykh aktov o repressiyakh i rehabilitatsii zhertv politicheskikh repressii* (Moscow, 1993), 61-83.

16 Order published with redactions: *Organy gosudarstvennoj bezopasnosti SSSR v Velikoj Otechestvennoy voine* vol. 1, book 1 (Moscow, 1995), 16-20.

17 GUKR – Glavnoe upravlenie kontrrazvedki – General Directorate of counterintelligence.

18 NKO – Narodnyi komissariat oborony – People's Commissariat of Defence.

19 UKR – Upravlenie kontrrazvedki – Directorate of counterintelligence.

20 NKVMF – Narodnyi komissariat voenno-morskogo flota – People's Commissariat of the Navy.

Order No. 00496 of November 2, 1946, the composition of the MGB OSO staff was announced.

Prior to 1950, the Special Councils (OSOs) in the Ministry of Internal Affairs (MVD) and the State Security Ministry (MGB) worked in parallel, examining cases in their respective departments. It was nonetheless obvious that the centre of gravity of all extra-judicial penal functions had ineluctably been transferred to the MGB OSO. All that was left for the MVD OSO was to examine cases regarding special settlers and those who were exiled, issues of early release from prison camps and, finally, adjudicating on the odd few cases occurring within the MVD itself.

In June 1950, in connection with the transfer of all work on special settlers and those moved from the MVD to the Ministry of State Security, the Special Council of the Ministry of Internal Affairs was abolished. Meetings of the MGB OSO were attended by Deputy Ministers of State Security (GB). They, in the presence of the prosecutor dealing with the given case, would take the ultimate decisions and would sign the protocols in affirmation. An extract from the minutes of the OSO was deemed to have the validity of a court judgment and would be presented as such to the prisoner. Regular reports on meetings held by the MGB OSO and on the number of cases handled were sent to Stalin by the MGB. Until his death, Stalin invariably interested himself in such matters and received reports on the work of the Special Council. The last report addressed to him was sent by State Security Minister Ignat'ev on March 4, 1953.

The Special Council (OSO) was abolished by Decree of the Presidium of the Supreme Soviet of the USSR on 1 September 1953. But it was only in January 1989 that this Presidium declared the practice of extra-judicial proceedings, including those conducted in the Special Council to be unconstitutional. However, until now NKVD-MGB OSO decisions on certain categories of cases (including those regarding POWs) have not been revoked and remain in force to this day.<sup>21</sup>

### Trial of German Prisoners of War by the NKVD OSO (Special Council)

After the adoption of the Decree of April 19, 1943, "On measures for the punishment of fascist criminals responsible for the killings and torture of

21 For categories not subject to rehabilitation, see: *p. 1 Ukaza PVS SSSR ot 16 yanvarya 1989; Zaytsev, Sbornik zakonodatel'nykh i normativnykh aktov o repressiyakh i rehabilitatsii zhertv politicheskikh repressii*, 186.

civilians and Soviet prisoners of war, for the punishment of spies, traitors from among the ranks of Soviet citizens and their accomplices” (further referred to as the April Decree), the majority of cases against POWs on charges of war crimes were brought before the organs of Military Justice (Military tribunals of troops of the NKVD-MVD territorial districts) and a small number to the Military Committee of the Supreme Court of the USSR. After the transfer of internal troops to the Ministry of State Security in January 1947, it was only the name that changed. Now these were Military Tribunals of Ministry of State Security forces. The structure enabled these Military Tribunals to hear cases following a “simplified procedure”: namely, in the presence of the accused but without the participation of prosecutors, lawyers or witnesses being summoned to the courts. Obviously, in this case, there was no judicial process. Justice of such kind is not worthy of the name and cannot be deemed to have been as such, but it was accepted as being thus under Stalin’s reign, and took fairly firm root in penal practice. After Stalin’s death, Military Tribunals involving MGB-MVD troops were abolished, and the “simplified” procedure in considering cases was also abolished.

In what way did the procedure of extra-judicial proceedings conducted by the Special Councils differ from the “simplified” procedure employed by Military Tribunals? Strictly speaking, the presence of the accused at a Military Tribunal in itself was not enough to affect proceedings, since they sometimes lasted only fifteen to twenty minutes. It is true, however, that when the case was heard in a manner indicative of an open trial, then in terms of form and structure, all the necessary procedures were observed: a state prosecutor would be present, witnesses would be cross-examined and lawyers would be admitted to the case, although, of course, there could be no question whatsoever of independent lawyers let alone lawyers from abroad being involved.

With regard to the treatment and sentencing of German POWs, the NKVD OSO was governed by the need to comply with all the rights as those enjoyed by Soviet citizens; in effect the former possessed the same rights as Soviet citizens. Simply put, the NKVD OSO made no distinction between citizens of the USSR and foreigners. Although the NKVD OSO respected full procedural norms (as opposed to the “simplified” procedure of the Military Courts where the defendant was still present), it could be regarded as an extra-judicial body with the authority to pronounce death sentences (i. e. conviction *in absentia*); its decisions often contained links to laws or specific articles of the Criminal Code, but not always. In addition to the widely applied April Decree and Article 2 of Law No. 10 of the Control Council in Germany, the NKVD – MGB OSO based itself on the norms of domestic criminal law – Article 58 of the Criminal Code of Soviet Russia (counter-revolutionary crimes) and most often Point 6 of this article, which defined the

punishment for espionage, was used to convict German POWs. Members of German intelligence and counter-intelligence: Abwehr, Gestapo, SD and the like, were convicted under Article 58.6, although frequently reference was made only to the category to which the accused belonged (such as “perpetrator of reprisals”, “perpetrator of atrocities”, “terrorist”, “participant in an anti-Soviet organisation”, “dangerous due to social relations” etc.). This was also the difference between the Special Councils and the Office of the Special Sections of the Fronts in regard of the mechanism employed to conduct extra-judicial repression. When pronouncing death sentences on POWs in 1941-43, the Offices of the Special Sections of the Fronts did not bother to link such decisions to any laws or specific charges, but merely relied on the “theory” put forward by Latsis, and determined the “harmful nature” of the Germans sentenced to death, noting that they were “irreconcilable enemies of the Soviet Union”.

Exact statistics are not available, but we can assume that before the adoption of the Decree of the Supreme Soviet of the USSR of April 19, 1943, the Special Council was the main body responsible for sentencing German POWs. But in the years 1943-1952, military tribunals were the main authorities for trying POWs. The Military Committee of the Supreme Court was allocated only the most important cases. As for the NKVD – MGB OSO, it clearly played a supporting role. It should, however, be said that we are aware of many examples of German POWs being sentenced in 1948-50 where such cases were examined by the MGB OSO. However, in general this related to prisoners whose cases were investigated by the Ministry of State Security and who were detained in its prisons (and not in MVD POW camps). As a rule, these were cases in which there was insufficient evidence or punishment was applied on the basis of formal evidence that such persons were members of the punitive organs and special services of the Third Reich.

Thus, in 1945-1947, prisoners were detained in NKGB-MGB prisons and convicted upon investigation by SMERSH counterintelligence or the 4th Directorate of the NKGB. Let us look at one of these cases.

In 1944, the 4th Department of the NKGB, headed by Pavel Sudoplatov, deceived the German command by subterfuge. It radioed a request for assistance from a group of German troops allegedly marooned behind Red Army lines. This imaginary group asked the German command to provide weapons, food, and medicine – and to evacuate the injured. A Ju-290 rescue transport aircraft was dispatched to assist; thus, its crew fell into the hands of the NKGB. The whole operation was codenamed “Berezino”. For the role of commanders of the “encircled group” Sudoplatov picked POWs captured shortly before, namely German Army Colonels Scherhorn and Michaelis, who had agreed to cooperate with State Security. Radio communications

bearing their names were sent to Berlin requesting help.<sup>22</sup> But then the war ended. What was to be done with Luftwaffe personnel that had been arrested and detained in the Lubyanka, airmen whose guilt lay only in the fact that in fulfilling their duty and obeying an order to help fellow soldiers who found themselves in difficulty, they discovered that they had been deceived. Leaders of the NKGB and NKVD sent Beria a recommendation that they should be executed as unwanted witnesses. This is what they wrote on October 13, 1945:

“As a result of communication ruses carried out against German intelligence agencies by the NKGB until the end of the war, the following found themselves on the territory of the Soviet Union and were arrested by us:

1. 17 paratroop agents trained in German intelligence schools and dropped into Red Army territory to conduct subversive activities.
2. 10 members of the German special intelligence team ‘South-East’, dropped by German intelligence on the territory of Kalmykiya as part of two airborne troop drops for sabotage, reconnaissance and insurgent operations.
3. 7 traitors of the Homeland – spies (not paratroopers) dropped behind Red Army lines and on the instructions of German intelligence sought to carry out active hostile operations.

Of a total of 34 detainees: 20 were Germans, 10 Russians, 2 Poles, 1 Lithuanian, 1 and 1 Armenian.

The investigation in respect of those arrested by the NKGB USSR has been completed.

Given the gravity of their crimes against the Soviet Union, and also in order to preserve the secrecy of communication deceptions targeted against the Germans, we consider it expedient to consider these cases at a Special Council, including the imposition of the death penalty upon the accused.

The proposed punishment is consistent with the expressed views of the Deputy Prosecutor of the USSR, Comrade Lieutenant-General of Justice Vavilov. In presenting the list of prisoners referred to herein, we seek your instructions.

V. Merkulov

B. Kobulov

V. Chernyshov”.<sup>23</sup>

22 Leonid Reshin, ‘Bez Grifa Sekretno: Skortseni, Sudoplatov *porazhenie cheloveka so shtromom*: Vpervye rasskazyvaem o krupneishei v istorii vtoroi mirovoi voiny radioigre sovetskoi rasvedki s abverom’, *Krasnaya Zvezda*, (September 23, 1995); *Ocherki istorii rossiiskoi vneshnei razvedki*, vol. 4, (Moscow, 1999), 120-8.

23 *TsA FSB F. 4 Op. 3 D.24 L.140*.

A list of 34 people was attached to the letter which was signed by the Chief of the 4<sup>th</sup> Directorate of the NKGB, Sudoplatov. The letter contained Beria's resolution granting consent to carry out the executions:

"To Comrade Kobulov. Reported, Comrade Beria. Comrade Beria, no objection 17 / X. Merkulov"

"To Comrade Ivanov.<sup>24</sup> Put these cases forward to the regular meeting O. S. Kobulov 17 / X."<sup>25</sup>

As one can see, the activities of the German airmen were painted by leaders of the NKGB in pretty menacing tones. They decided to treat them as spies and saboteurs. But the war was over! Against whom was Soviet state security continuing to fight? With incarcerated, unarmed prisoners of war? Their case was heard by the NKVD OSO on October 19, 1945, and on October 26, an execution decree was issued against the ten – as named in Sudoplatov's list under point 2 of the letter:

Wagner Wilhelm, 1911, commander of the Ju-290 transport aircraft

Wiedeler Hans, 1917, radio operator

Jenichen Heinrich, 1920, pilot of the aircraft

Görge Bruno, 1924, on-board gunner

Kremer Willi, 1920, on-board gunner

Melzer Willi, 1904, on-board engineer

Möller Herbert, 1912, pilot

Von Hogen Karl, 1924, on-board gunner

Fritzges Heinrich, 1922, on-board gunner

Zeuner Helmut, 1922, senior Lance Corporal.<sup>26</sup>

24 At the time, Vladimir Ivanov was the chief of the Secretariat of the Special Council (OSO) of the NKVD USSR and was responsible for the preparation and progress of affairs in the Special Council and the execution of its judgments. O. S. is an abbreviation meaning Special Council.

25 *TsA FSB F. 4 Op. 3 D.24 L.140.*

26 *TsA FSB F. 7 Op. 1 D.196.* As determined by the Military College of the Supreme Court of the Russian Federation no. 4N-0475/99 of 14 October 1999 they were classified as not subject to rehabilitation. As a result of this definition of the decision of the NKVD OSO of 19 October 1945, the relationship had changed and charges under Art. 58-11 (belonging to a counterrevolutionary organisation) of the Criminal Code of the RSFSR were excluded, and their actions were reclassified from Art. 58-6 (espionage) to Art. 17-58-6 RSFSR Criminal Code (participation in the form of complicity, since by being "in a special aircrew of the intelligence service of the enemy, they acted only to provide an opportunity to carry out espionage, reconnaissance and sabotage operations deep in the rear of the Soviet Union".

A day later, on October 27, 1945, Decrees on the execution of the Germans mentioned in Sudaplatov's list under point 1 of the letter (operation "Berezino") were issued:<sup>27</sup>

Wild Harri, 1922, on-board engineer.<sup>28</sup>

Voisk Rudolf, 1920, on-board engineer.<sup>29</sup>

Klaus Jeschke, 1912, doctor, Captain, German Army.<sup>30</sup>

Stibar Karl, 1919, on-board radio operator, Austrian.<sup>31</sup>

The executions of three Germans mentioned in Sudoplatov's list under point 1 – were not carried out. Their names were:

Pander Aleksander Reneevich, 1912, non-commissioned officer of SS troops, teacher at the Oranienburg School of subversion and intelligence.<sup>32</sup>

Sauter, Willy, 1924.<sup>33</sup>

Rüdiger Hank, 1923, radio operator.<sup>34</sup>

Under point 3 of the letter were the names of those arrested by the 4<sup>th</sup> Directorate of the NKGB and charged on single indictments, three of whom were Germans:

Lemke (aka Kalinovsky) Alfred Antonovich, 1923, German citizen, a non-commissioned officer in the German army, who with the aid of German intelligence infiltrated a Polish partisan unit operating behind enemy lines.<sup>35</sup>

27 *TsA FSB F. 7 Op. 1 D.196.*

28 Convicted for espionage and sentenced to death by the NKVD OSO on 19 October 1945. Rehabilitated by decision of the Chief Military Prosecutor's Office of the RF on 30 November 1998.

29 Convicted for espionage and sentenced to death by the NKVD OSO on 19 October 1945. Rehabilitated by decision of the Chief Military Prosecutor's Office of the RF on 5 October 1998.

30 Convicted for espionage and sentenced to death by the NKVD OSO on 19 October 1945. Rehabilitated by decision of the Chief Military Prosecutor's Office of the RF on 5 October 1998.

31 Convicted for espionage and sentenced to death by the NKVD OSO on 19 October 1945. Rehabilitated by decision of the Chief Military Prosecutor's Office of the RF on 6 October 1998.

32 Convicted for espionage and sentenced to death by the NKVD OSO on 19 October 1945. Classified by the Military Court of unit 16666 on 30 October 1998 as unsuitable for rehabilitation.

33 Convicted for espionage and sentenced to death by the NKVD OSO on 19 October 1945. Executed on 27 October 1945. Rehabilitated by decision of the Chief Military Prosecutor's Office of the RF on 7 October 1998.

34 Rehabilitated by decision of the Chief Military Prosecutor's Office of the RF on 1 December 1998.

35 Convicted for espionage and sentenced to death by the NKVD OSO on 19 October 1945. Rehabilitated by decision of the Chief Military Prosecutor's Office of the RF on 23 November 1998.

Reinhardt Adolf, 1912, a German citizen, served in the “Sonder” regiment of the German army, which carried out punitive actions against partisans, an agent of British and German intelligence agencies, and on their orders attempted to covertly enter the territory of the USSR.<sup>36</sup>

Bernhard Franke, 1922, German citizen, senior Lance Corporal, under the guise of a deserter infiltrated a guerrilla unit, where he remained until joining up with the Red Army, then having received a special assignment from the NKGB, stole a horse and a gun and tried to escape and go over to the enemy.<sup>37</sup>

Sudoplatov demanded that they should also be executed.<sup>38</sup>

Executions in Lubyanka were not limited to those for whom sanctions had been demanded in the aforementioned letter addressed to Beria. The NKVD Special Council also judged and sentenced to death German soldiers whose cases were investigated by GUKR SMERSH. Among them:<sup>39</sup>

Hengstenberg Robert, 1908, German citizen, journalist, accused under Article 58-6 and “Decree of April 19, 1943” (for espionage against the Soviet Union and participation in the struggle against guerrilla forces). Sentenced to death by the NKVD OSO on October 6, 1945. Shot 26 October 1945.<sup>40</sup>

Gesch Kurt Walter, 1917. Sentenced to death for spying by the NKVD OSO on September 24, 1945. Shot on October 12, 1945.

Leimer Willi, 1912 Head of Department IV-2 of the Prague Office of the Gestapo, Hauptsturmführer (Captain). Sentenced to death for spying by the NKVD OSO on September 24, 1945. Shot October 12, 1945.<sup>41</sup>

Göttler Waldemar, 1915, sentenced to death by the NKVD OSO for espionage and terrorist activities on October 20, 1945. Shot 2 November 1945.<sup>42</sup>

36 Convicted for espionage and sentenced to death by the NKVD OSO on 19 October 1945. Rehabilitated by decision of the Chief Military Prosecutor’s Office of the RF on 30 November 1998.

37 Rehabilitated by decision of the Chief Military Prosecutor’s Office of the RF on 8 October 1998.

38 Meanwhile, contrary to the law “On the Rehabilitation of Victims of Political Repression”, P.A. Sudoplatov, who had committed crimes against justice and the legal system and had permitted “violent actions against prisoners of war”, is considered to this day as rehabilitated. See: Nikita Petrov, ‘Chem Shkuro khuzhe Sudoplatova?’, *Kommersant-VLAST*, 35 (September 4, 2001), 60-3.

39 *TsA FSB F. 7 Op. 1 D. 196*.

40 As determined by the Military Court of the Moscow Military District on 25 November 1998, deemed not suitable for rehabilitation.

41 As determined by the Military Court of the Moscow Military District on 28 October 1998, deemed not suitable for rehabilitation with the requalification of the charge from Article 58-6 of the Criminal Code of the RSFSR to points “b”, “c” and “d” of paragraph 1 of Art. 2 of Law No. 10 of the Control Council in Germany.

42 As determined by the Military court of the Moscow Military District on 20 January 1999, deemed not suitable for rehabilitation.

Von Schoeller Eberhard, 1899, Captain in the German Army. Sentenced to death by the NKVD OSO for espionage on October 20, 1945. Shot 2 November 1945.<sup>43</sup>

Von Bayer Paul, 1891, sentenced to execution by the NKVD OSO on November 17, 1945 for spying and involvement in atrocities under Article 58-6 and “Decree of 1943”. Shot November 30, 1945.<sup>44</sup>

Wolf Walter, 1902, sentenced to death under Article 58-4 by the NKVD OSO on November 17, 1945 for belonging to the German fascist party and for serving in the police. Shot November 30, 1945.<sup>45</sup>

Neugebauer Erich Friedrich, 1902, German army Lieutenant, sentenced to death by the NKVD OSO on November 24, 1945 for espionage. Shot December 11, 1945.<sup>46</sup>

Gil Herbert, 1900, Captain, German intelligence officer. Sentenced to execution by the NKVD OSO on December 1, 1945 for espionage and sabotage. Shot December 21, 1945.<sup>47</sup>

On September 22, 1945 another group of Germans was executed in Lub-yanka, some of them in Luftwaffe uniforms as worn in photographs taken when they were imprisoned.<sup>48</sup> They were shot in accordance with the NKVD OSO Decree of September 8, 1945, having been indicted on a rather odd and incomprehensible charge: Wirus Helmut Emil, born in 1918, – for preparing a terrorist act, and Tiedt Gerhard, born in 1920, Haberecht Gerhard, born in 1923, Hetterich Eugen, born in 1920, Schneider Gerhard, born in 1921 – for participating in preparing a terrorist act.<sup>49</sup>

The story of the execution carried out by the 4<sup>th</sup> Directorate of the NKGB headed by Sudoplatov and his deputy Eitingon of the captured Germans would be incomplete without mentioning facts which have only recently

43 As determined by the Military Court of military unit 16666 on 30 October 1998, deemed not suitable for rehabilitation.

44 As determined by the Military court of the Moscow Military District on 3 February 1999, deemed not suitable with the exception of the charge Article 58-6 (espionage) of the Criminal Code of the RSFSR and the abandonment of the charge under the “Decree of 19 April 1943”.

45 As determined by the Military Court of the Moscow Military District on 27 January 1999, deemed not suitable for rehabilitation with the requalification of the charge from Article. 58-4 of the Criminal Code of the RSFSR to points “b” and “c” of paragraph 1 of Art. 2 of Law No. 10 of the Control Council in Germany.

46 As determined by the Military Court of military unit 16666 on 26 October 1998, deemed not suitable for rehabilitation.

47 As determined by the Military Court of military unit 16666 on 26 October 1998, deemed not suitable for rehabilitation.

48 *TSA FSB F. 7 Op. 1 D. 196.*

49 All five were by rehabilitated by a decision of the Chief Military Prosecutor’s Office of the RF on 7 October 1998.

come to light concerning the inhuman experiments conducted on them in Lubyanka. A section of the 4<sup>th</sup> Directorate of the NKVD-NKGB operated laboratories that tested poisons, produced for the terrorist activities of Soviet State Security, on prisoners sentenced to death. But given that in cases handled by the 4<sup>th</sup> Directorate, one group of Germans, about whom we spoke earlier, was sentenced to death, yet other Germans, apart from POWs held at the time in Lubyanka, were not executed, we can conclude that some of them were not shot, but were brutally tortured to death during the testing of poisons.<sup>50</sup> This is according to the accounts of authors who were privy to the testimony of Colonel Mairanovsky of the Medical Service. Mairanovsky headed the toxicological laboratory of the 5<sup>th</sup> Section of the 4<sup>th</sup> Directorate of the NKGB:

“Around the end of 1945, Eitingon was ordered by Merkulov to attend Mairanovsky’s experiment with new poisons in person. ‘The test subject’ – a group of Germans. Who they were – is seemingly unknown, but they had been sentenced to death.”<sup>51</sup>

There are also stories about how a NKGB officer, I. N. Balishansky, was tasked to select as test subjects three Germans sentenced to death (note, we did not find decrees relating to the shooting of three individuals!). He was tasked with bringing them into the courtyard of the Varsanof’evsky Alley prison. In this building there was an area where death sentences were carried out, but there was also a special laboratory for testing poisons. The Germans were taken to the laboratory and the authors write the following:

“In the special laboratory they were given injections, after which within 14-15 seconds they safely passed into another world, as Mairanovsky, the Head of the laboratory described it.”<sup>52</sup>

Although the authors of the above-cited book (one of them a prosecutor) argue that it is now virtually impossible to list the names of all the victims of criminal experiments conducted at Lubyanka because there are no surviving lists or reports relating to the work of Mairanovsky’s special laboratory<sup>53</sup> – in fact this is not the case. Both lists and decrees relating to those sacrificed in Laboratory “X” were kept out of the reach of researchers in the departmental archive of the FSB<sup>54</sup> and a full review of decrees on the enforcement of sen-

50 Perhaps we are talking here about those whose names were not to be found on the lists for execution: Pander A., Sauter V. and Khank R. For more details, see Nikita Pietrow *Py Stalina* (Warsaw, 2012), 67-79.

51 Vladimir Bobrenev and Valeri Ryazantsev, ‘Varsanof’evskie prizraki’, *Rodina*, 11 (1995), 56-7.

52 Ibid.

53 Ibid.

54 Nikita Pietrow, *Stalinowski kat Polski, Iwan Sierow* (Warsaw, 2013), 189. FSB – Federalnaya sluzhba bezopasnosti – Federal security service.

tences is now stored in the archive at Lubyanka (Fund 7) and a comparison of them with the lists of those sentenced to death at the time and the materials of Laboratory “X” will help to clarify the picture.

It is interesting to note that in 1945, in some way, a situation typical for the initial period of the war was to recur. The advance of the Red Army in the “far West” resulted in a weakening of central control over the activities of numerous frontline POW camps. And there again, self-authorized violence resumed anew. Now, however, in contrast to 1941, if such instances came to light, punishment would be imposed.

One such case was considered at the NKVD OSO on December 26, 1945. The accused in this instance were the Commander of assembly point number 9 of the Northern Group of the Soviet Army Major Leonty Mamchich (born 1910) and a group of POWs at this assembly point. The essence of the matter was that Mamchich, in violation of the regulations, allowed certain German POWs to enjoy specific conditions, namely, privates Erich Frie and Staff-Sergeant Franz Sechkov were permitted to wear Red Army uniforms and granted the right of free movement with Frie being appointed a senior person in the camp. Frie and Sechkov, having enlisted the services of a few other POWs, and under Mamchich’s supervision, engaged in the systematic murder of POWs. In May 1945, twenty nine POWs arrived at assembly point number 9 of UKR SMERSH. On Mamchich’s order, they were placed in solitary confinement without being registered. Mamchich ordered both Frie and Sechkov to identify, out of the group of prisoners who had just arrived, those who were the most committed fascists and execute them. At the same time, Mamchich indicated where and how the bodies should be buried. Frie and Sechkov killed fifteen people in the group. From May to August 1945, they murdered thirty German POWs: former workers at concentration camps, members of the SS and those who spread Nazi propaganda in the camp. A group of prisoners of war led by Frie brutally beat and then strangled inmates in solitary confinement.

Information that such things were happening in a POW camp reached the Divisional NKVD Directorate of the Northern Group; the case itself became public and those responsible had to be punished. The investigation was carried out quickly by the Operational Directorate of GUPVI.<sup>55</sup> Frie, Sechkov and with them five more prisoners were arrested and taken to the Butyrka prison in Moscow. They were charged under Article 136 of the Criminal Code of Soviet Russia for committing murder, the severest punishment for which was the death penalty. Mamchich was charged only under Article 193-

55 GUPVI – Glavnoe upravlenie po delam voennoplennykh i internirivannykh – General Directorate for Prisoners of War and Internees.

17 “a” (malfeasance and negligence) which did not carry an excessively harsh punishment. But the remainder were sentenced to death by the Special Assembly of the NKVD (Minutes No. 49 dated 12/26/45) and on January 10, 1946 those listed below were executed:

1. Frie Erich, 1903, German, soldier in the German Army.
2. Sechkov Franz, 1901, Pole, a German citizen, Stabsfeldwebel (Warrant Officer).
3. Bemdorfer Fritz, 1910, German, soldier.
4. Biren Albert, 1920, Luxembourger, a soldier in the German Army since 1943.
5. Seidel Erich, 1924, German, Corporal.
6. Weidemann August, 1928, a German citizen of the USSR, born in Zhytomir region. He retreated with the Germans and then fought in the German Army until capture in February 1945.
7. Shcherban Pavel Timofeevich, 1910, a Ukrainian, retreated with the Germans and took German citizenship. From September 1944 until capture fought in the German Army.<sup>56</sup>

The reason that this case was conducted by the Special Council is understandable. The case needed to be conducted quickly and without any publicity. It also allowed the possibility of a brutal crackdown on the perpetrators of the crimes (prisoners of war) and, at the same time, allowed more lenient punishment for the organiser – a Soviet officer. The Special Council gave Mamchich a three year suspended sentence,<sup>57</sup> so, in the end, he did not even have to serve any term in prison.

### Justice or a Political Charade? Soviet Political Show Trial Mechanisms Relating to German Prisoners of War, on the Example of the Kharkov Trial of 1943

The first public trials for war crimes and atrocities committed in German-occupied Soviet territory were held in 1943. In July, in Krasnodar, Soviet citizens who had collaborated with the German police<sup>58</sup> were sentenced; in September, four German soldiers were publicly executed in Mariupol. Finally, in December 1943, the trial of three Germans and one Russian citi-

<sup>56</sup> *Tsa FSB F. 7 Op. 1 D. 198 L. 1-26.*

<sup>57</sup> *Ibid.*

<sup>58</sup> The trial took place on July 14-17, 1943 and ended with the public execution of eight of the accused “traitors of the Homeland, collaborators in the atrocities.” See: *Vneshnyaya politika Sovyetskogo Soyuza v period Otechestvennoi voiny*, vol. 1, (Moscow, 1944), 633-4.

zen was held in Kharkov. One reason for the desire of the Soviet leadership to organise and carry out such trials as quickly as possible was the reaction of the entire world to the widely publicized discovery of crimes committed under the Stalinist regime. In 1941, the world learned how prisoners in Lvov had been executed by organs of Soviet State Security when the city was being abandoned by the Red Army (in June 1941). Similar executions took place in other cities in the first weeks of the war with Germany. In 1942, the existence of mass graves of those executed by the NKVD in 1937-1938 in Vinnitsa became widely known. Finally, news travelled the globe of Stalin's heinous crime, when in 1943, an international commission published its findings regarding the mass graves of Polish officers shot in the spring of 1940 in Katyn near Smolensk.

By giving maximum exposure to the brutal and ruthless policies and crimes of the Germans in their occupied territories, the Soviet Union thereby hoped to conceal or gloss over its own bloody crimes committed by the hands of Stalin's NKVD.

These first show trials in 1943 were not some spontaneous phenomenon. The decision as to their conduct was made by the Soviet ruling elite; the trials were carefully prepared and orchestrated with the country's leadership in every detail. The script of the trials was duplicated according to the established template and the verdict predetermined indeed, these were the tried and tested methods dating back to the hearings of the "Moscow Trials" of 1936, 1937 and 1938. But, at the same time, the Kharkov Trial of 1943 became the first and the last open trial conducted against the Germans during the war. It had a very unfavourable resonance and it was a propaganda belly flop. Only in late 1945 – early 1946 did the Soviet Union return to the practice of holding show trials with public sentencing.

There is no doubt that among the German POWs convicted in the USSR in the 1940s, there were serious war criminals. But on this occasion, the complete helplessness of the Soviet system to dispense justice in a legally correct manner and in accordance with international rules of law was laid bare. The Soviet political system, which sustained itself by means of terror, violence and disregard for human rights, did not know how to conduct legal proceedings of this kind – and, therefore, failed in its design. Thus, the format and nature of the Soviet legal proceedings against war crimes remained contrary to legal norms. In addition, the Soviet system was not in a position to judge German war criminals; it itself lacked the moral authority and right to do so, since the Soviet state had itself acted in a criminal manner.

## The Trial in Kharkov (1943)

The mechanism and secret origin of how open trials of German POWs were prepared are clearly visible in the Kharkov trial. The first proposal for an open trial of German soldiers came from the Head of Military Counterintelligence of the Red Army (GUKR SMERSH), Viktor Abakumov. In a letter to Viacheslav Molotov on September 2, 1943 (number 223/A) he reported that in tightening the ring around Stalingrad in mid-January 1943, Soviet troops captured a German transit camp “Dulag-205” near the village of Alekseevka, where they found thousands of Red Army soldiers and officers who had died of starvation and exposure. Only a few hundred Soviet POWs survived – albeit in extremely emaciated and exhausted condition. In this regard, as Abakumov wrote, the military counterintelligence service SMERSH conducted an investigation and found the following guilty as charged:

1. Körpert Rudolf, born in 1886, Colonel, the former Commandant of “Dulag-205”. Taken prisoner January 31, 1943 at Stalingrad.

2. Von Kuhn Werner, born in 1907, a nobleman, son of a general of the German Army, Lieutenant Colonel, former Senior Quartermaster of the 6th Army. Taken prisoner January 31, 1943 at Stalingrad.

3. Langheld<sup>59</sup> Wilhelm, born in 1891, Captain, a member of the NSDAP since 1933, a former counterintelligence officer with “Dulag-205”. Taken prisoner January 31, 1943 at Stalingrad.

4. Mäder Otto, born in 1895, Lieutenant, a member of the NSDAP since 1935, former adjutant of the Commandant of “Dulag-205”. Taken prisoner at Stalingrad January 31.<sup>60</sup>

The crux of the matter was that some 4,000 Soviet prisoners of war were cramped into a camp designed for 1,200 people, who were barely able to survive on the starvation rations they received. Furthermore, from December 5, 1942, the 6<sup>th</sup> Army Chief of Staff, Lieutenant-General Arthur Schmidt denied the camp any food. Kuhn addressed Schmidt requesting that the camp be supplied with food. Schmidt, however, was unable to help. The situation of troops besieged and surrounded in Stalingrad was equally disastrous. Kuhn, seeing the desperate situation of prisoners of war, on one occasion, said despairingly to Mäder that it would be better to shoot the prisoners. Prisoners in the camp were dying each day and by the time of their liberation, some 3,000 people had died. The distribution of food was

59 In this document his surname is written as Lyangheld, in subsequent documents as Langheld.

60 *Tsa FSB F. 14 Op. 1 D. 21 L. 292-6.*

accompanied by mayhem with dogs having to be set upon the prisoners to restore order. Langheld, who, even prior to this, had experience of work in Soviet POW camps, willingly began to ply SMERSH with evidence. He said that similar situations prevailed in other camps, and what is more, he talked about the treatment of prisoners of war: "In the Poltava camp, German soldiers who made up a contingent of the guards, fired at the prisoners from small-calibre rifles because they urinated in the wrong place, not where it was stipulated."<sup>61</sup>

Abakumov reported that Körpert, Kuhn, Langheld and Mäder pleaded guilty and finished his letter with a proposal: "I would consider it appropriate to organise a transparent trial in case of any media coverage", and, of course, asked Molotov for instructions in this regard.<sup>62</sup>

The document bears evidence suggesting that the letter was addressed to Molotov alone, but passed on to Stalin all the same. Stalin made no annotations because, probably, the matter seemed too trivial. The letter has a resolution from Molotov, written in blue pencil and undated: "With Comrade Vyshinsky. V. Molotov".<sup>63</sup> This meant that all questions about the possibility of a trial had to be discussed with Vyshinsky. So it would appear that Molotov, too, preferred to distance himself from the case. It must be assumed that even such an experienced organiser of show trials as Vyshinsky also did not see anything to be gained from the case, though, certainly, it was worth exposing German atrocities in public. After all, 3,000 Soviet prisoners had died. This made for a depressing picture of the Soviet regime's failure and defeat lurking in the background. And, where were the Germans to find food for Russian prisoners, if in the cauldron of Stalingrad German soldiers were themselves perishing from extreme exhaustion? Such circumstances did not provide material for triumphant court hearings or compelling propaganda. Probably, Abakumov lucidly explained this in the Kremlin, and he undertook to look for more serious reasons for such trials and suitable candidates for the role of defendants, because the idea of organising a trial (or trials?) was already in the air. Indeed, at this time, preparations were underway for the formulation of a declaration, and in October 1943 the Moscow Declaration "on Nazi responsibility for atrocities committed" was adopted.<sup>64</sup>

61 Ibid., L. 296.

62 Ibid.

63 Ibid., L. 292.

64 At the Moscow Conference of Foreign Ministers of the USA, Great Britain and USSR on the initiative of Churchill in October 1943 the "Declaration on the culpability of Nazis for atrocities that had been committed" (Moscow Declaration) was proclaimed, according to which the principle that German officers, soldiers and members of the National Socialist (Nazi) Party bore responsibility for German "atrocities, murders and executions". In accordance with the declaration it was pro-

What is interesting is the fate of those defendants whose prosecution failed. They were dealt with later, secretly and brutally. Körpert and Mäder were sentenced to death by the Military Court of the 3rd Baltic Front on October 9-10, 1944, under the April Decree<sup>65</sup> and executed on October 13, 1944. Kuhn was not spared either. He was sentenced to death on January 15, 1947 by the Military Court of the Moscow Military District under the same Decree and executed March 10, 1947. As for the Counterintelligence officer Langheld, Abakumov kept him in reserve and three months later produced him in the Kharkov show trial. We can assume that professional intelligence and counterintelligence officers, such as Langheld, were regarded as the best candidates for the role of repentant defendants willing to give “frank testimonies”. For them it was a kind of continuation of their professional activity, without which life appeared boring. They played such “games” of interrogation and disclosure of secrets out of a sense of duty to the service, even before falling into the hands of Cheka security officers. Once in the hands of SMERSH, they soon saw in the Soviet Chekists “soul-mates” and naively believing that they might save their lives and successfully endure imprisonment, they readily accepted the rules of the game dictated by SMERSH officers, hoping to outwit them. Perhaps this was the reasoning of Abwehr officer Wilhelm Langheld, but his ultimate demise was a sad one.

After the first failed attempt, Abakumov sifted out and chose new candidates to put in the dock, and gathered evidence against them. Soon, on September 28, 1943, he again sent a letter (No.251/A) to Stalin and Molotov, in which he wrote that in August and September 1943, counterintelligence agencies had established numerous facts regarding the extermination of Soviet citizens in specially-equipped gas chamber vehicles (*Gaswagen*). And, as Abakumov wrote, unlike the trial in Krasnodar, where only Soviet citizens

posed that those who had committed such acts be handed over and tried under the laws of those countries where these acts had been committed. See: *Sovjetskii Soyuz na mezhdunarodnykh konferentsiyakh perioda Velikoi Otechestvennoi Voiny 1941-1945*, vol. 1, *Moskovskaya konferentsiya ministrov inostrannykh del SSSR, SShA i Velikobritanii 19-30 oktyabrya 1943*, (Moscow, 1984), 336-7.

- 65 The Decree of the Presidium of the Supreme Soviet of the USSR “About measures for the punishment of German-Fascist criminals responsible for the murder and torture of the Soviet civilian population and Red Army prisoners of war, measures for the punishment of spies, traitors of the Homeland and their accomplices from the ranks of Soviet citizens” of 19 April 1943 became the main judicial instrument in the event of the indictment of German prisoners of war (henceforward in the text – the Decree of 19 April 1943). This decree was not published and right up to its annulment in 1983 it remained a secret normative act. It was not published until the 1990s: Irina V. Bezborodova, *Voennoplennyye vtoroi mirovoi voiny: Generaly Vermaakhta v plenu* (Moscow, 1998), 203-4.

had attested to the existence of such vehicles, SMERSH agents had now identified and arrested Germans. These were:

1. Retzlaff Reinhard, born in 1907, Sen. Corporal auxiliary police officer, attached to 560 Group Secret Field Police (GPF) at the Headquarters of the German 6th Army. Taken prisoner in January 1943 at Stalingrad.
2. Kirschfeld Robert, born in 1905, a translator, Junior Sergeant, captured in April 1943 near Smolensk.
3. Loyda Hans, born in 1912, Sen. Corporal, cryptanalyst 612 Company of the 2nd Communications Intelligence Staff of the Central Front, voluntarily went over to the Red Army in February 1943.

Of these, according to Abakumov, only Retzlaff was personally involved in executions in Kharkov, while Kirschfeld and Loyda were only witnesses to such events, the former in Kharkov, and the latter in Smolensk. Abakumov went on to report that the driver of the Kharkov Gestapo, Bulanov, had also been arrested and that further investigations were underway. The letter was signed off with the traditional appeal: "I would believe it appropriate to organise transparent proceedings for the trial, with reports of it in the press."<sup>66</sup>

One can presume that Stalin looked favourably and responded positively to this venture, since it now looked as if they had a serious case.<sup>67</sup> Abakumov was encouraged and on November 18, 1943 sent the following letter (ref. No.313/A) addressed to Stalin and Molotov, in which he reported new evidence in the investigation of this case. Now, the accused under investigation were listed as Retzlaff, Kirschfeld and a new character. The latter was taken from an earlier Abakumov "project", an open trial which had failed; now willing to give testimony to the Soviet secret police, he would prove useful. And Abakumov presented him somewhat differently, emphasising his affiliation with German military intelligence, without any mention of the infamous "Dulag-205":

<sup>66</sup> *TsA FSB F. 14 Op. 1 D. 5 L. 256-4.*

<sup>67</sup> It is difficult to guess why Stalin reacted to the "gas wagons" in the way he did. One cannot with certainty state that he knew in detail about analogous NKVD practices with similar vehicles before the war. But judging by the fact that information about such methods of execution originated from senior staff members of the Moscow NKVD, Stalin must surely have been aware of such practices. According to evidence of NKVD personnel, the Moscow Directorate of the NKVD employed a specially equipped van to murder people; exhaust fumes were fed into the tightly sealed cabin of the vehicle which contained those condemned to death. See: *Komsomol'skaya Pravda* (October 28, 1990). According to a statement of a former member of staff of the Public Relations Centre of the KGB Directorate for Moscow and the Moscow region, a certain A. Oligov, such "mobile gas chambers" were used as early as 1936 (*Argumenty i fakty*, 17 [1993]).

Langfeld Wilhelm, born in 1891, a member of the Nazi Party since 1933, Captain of counterintelligence in the “Abwehr”, taken prisoner on January 31, 1943.<sup>68</sup>

Abakumov reported that on November 16, 1943, Langheld admitted in the course of his interrogation that people had been executed on his orders and that he had beaten those under interrogation. In addition, now Kirschfeld, on November 15, admitted that he had participated in raids against partisans, in beatings during interrogations and in executions. There also appeared a new Russian – Kovalevsky, Viktor, born in 1918 – a former Staff Sergeant in the Red Army, who served under the Germans in SS punitive detachments in Smolensk. Loyda had seemingly been dropped as a defendant – and in this letter he is mentioned only as a witness. Ritz Hans, a member of the NSDAP, a Lieutenant, whose name cropped up for the first time, was also produced as a witness. In this message of Abakumov reference was made to the ChGK Act<sup>69</sup> relating to atrocities in Smolensk, signed by Burdenko, which referred to the annihilation of the Russian population, with blame squarely put on Simon, Commander of the “Adolf Hitler” SS Division.<sup>70</sup> Thereafter, Abakumov wrote about the need to facilitate the organisation of the trial in Kharkov, entrusting the examination of the case to the Military Court of the 4th Ukrainian Front under the chairmanship of Major General of Justice A. N. Myasnikov in open court with the participation of the parties, and requested that the prosecution be conducted by the military prosecutor of the Kharkov Military District, Colonel of Justice N. K. Dunaev. Abakumov

68 *TsA FSB F. 14 Op. 1 D. 5 L. 241-9.*

69 The Emergency State Commission for the establishment and investigation of German-Fascist occupiers (further ChGK). The Commission was set up by the Decree of the Presidium of the Supreme Soviet of the USSR of 2 November 1942. The primary function of ChGK was to act as the organ guiding the investigations of official authorities in the field and it recorded and summarised incoming field reports. ChGK activities were regularly published in the press. As a rule, when the ChGK dealt with responsibility for the crimes of specific individuals in the German Command or representatives of the occupying authorities, no proof of their guilt was cited. Most frequently the following formula was used: “The ChGK considers the following responsible for ...” There would then follow a series of crimes committed in a specified place and the surnames of “those responsible”. Very often, ChGK acts were timed to coincide with the beginning of show trials. See: Nikita Petrov, ‘Chrezvychainaya gosudarstvennaya komissiya i ee rol’ v sudebnykh presledovaniyakh voennoplennykh Vermahta v SSSR 1943-1950’, in Stefan Karner and Vjacheslav Selemenev (eds), *Avstiitsy I sudetskie nemtsy pered sovetскими voennymi tribunalami v Belarusi 1945-50* (Graz-Minsk, 2007), 49-76.

70 *Sbornik soobshchenii Chrezvychainoi komissii o zlodeyaniyakh nemetsko-fashistskikh zakhvatchikov*, (Moscow, 1946), 58-77.

suggested: “The accused Retzlaff, Kirschfeld, Langheld, Bulanov and Kovalenko<sup>71</sup> should be sentenced to death by hanging.”<sup>72</sup>

As we can see, at this stage, three Germans and two Russians were involved in the case. But it turns out this was not the final version. On November 26, 1943, Abakumov sent to the Secretary of the Central Committee of the Communist Party Georgy Malenkov a draft decision of the Communist Party to conduct a trial in Kharkov on December 10-12, with charges laid against Retzlaff, Kirschfeld, Langheld, Ritz and others. The overall management of the trial and its media coverage was assigned to Aleksandr Shcherbakov (Head of the Soviet Information Bureau [*Sovinformburo*] and Secretary of the Central Committee), Konstantin Gorshenin (Attorney General) and Abakumov.<sup>73</sup> The proposed ‘screenplay’ was reviewed and submitted by Abakumov the same day – which was approved without changes as Politburo Decree (b) (P42/185) of November 26, 1943. At this point, it was envisaged that four Germans and two Russians, who in the Politburo decree were listed as “others”, without specifying their names, would be indicted.<sup>74</sup>

A week and a half later, on December 6, 1943, Abakumov sent Molotov the indictment concerning “the atrocities of the German fascist invaders in the cities of Kharkov and Smolensk.” In this document, Ritz appeared as a defendant, which corresponded to the SMERSH proposal and the Politburo Decree of November 26; he was accused of being in charge of organising and carrying out executions. His rank and position – Deputy SS Company Commander of the SD “Sonder” Command – were cited in the text. There were new charges against the remaining defendants. So, Kirschfeld was accused of having participated in the extermination of people through the “gas vans”, and Langheld of personal involvement in the executions. A new witness also appeared: Yanchi Geits, a staff member attached to a counterintelligence officer in “Dulag-231” prison camp. All in all, the four Germans and the two Russians already known to us (Bulanov and Kovalevsky) were charged. They were all, as mentioned in the document, detained in the inner prison in Lub-yanka. They were to be indicted under the April Decree. The entire case was built only on the confessions of the defendants and witness testimonies – as tellingly revealed by the following phrase in the indictment: “No physical evidence in the case exists.” The indictment was drafted by SMERSH’s Head of the Investigation Department, Colonel Aleksandr Leonov, and approved on December 3 by Abakumov himself.<sup>75</sup>

71 In this document Viktor Kovalevsky is written as Kovalenko.

72 *TsA FSB F. 14 Op. 1 D. 5 L. 256-64.*

73 *TsA FSB F. 14 Op. 1 D. 5 L. 194-5.*

74 *AP RF. F. 3 Op. 57 D. 40 L. 25.*

75 *TsA FSB F. 14 Op. 1 D. 6 L. 161-3.*

But then, for some reason, there was a halt to the proceedings and the trial failed to open on the date designated by the aforementioned Politburo decree. The Soviet leadership had decided to exclude from the trial all prosecution materials relating to Smolensk and leave only those relating to Kharkov. To be sure, it was at this juncture that state security (NKGB) officials were examining the graves of Polish officers in Katyn and fabricating evidence and “new” data regarding the mass graves unearthed near Smolensk by the Burdenko Commission in the presence of representatives from abroad.<sup>76</sup> This was to take place in January 1944. But in December 1943, by which time evidence relating to the accusation that Germans were responsible for the shooting of Polish officers had not been falsified yet, any mention in a trial of German massacres in the Smolensk region, and silence about the shooting of the Poles, would have been viewed as indirect recognition of the fact that the Soviet version of Katyn was “tainted”.

But this delay proved shortlived. Abakumov sent new versions of the indictment to Molotov on December 8, 1943 (with letter No. 330/A). The latest had the title “Indictment in the case of the atrocities committed by the German fascist invaders in Kharkov and in the Kharkov region”.<sup>77</sup> There was no mention of Smolensk.

In the actual trial, which was held in Kharkov on December 15-18, 1943, four men stood in the dock: Langheld, Ritz, Retzlaff and Bulanov. The case was considered by the Military Tribunal of the 4th Ukrainian Front under the chairmanship of Major General of Justice A. N. Myasnikov. Colonel of Justice N. K. Dunaev appeared for the prosecution. The Court appointed N. V. Kommodov, S. K. Kaznacheev and N. P. Belov as counsel for the defence. Yes! The very same Kommodov and Kaznacheev, who represented the defendants in the notorious “Moscow Trials” of 1936-1938; their legal footwork was so nimble and effective on that occasion, that those whom they defended were executed.

The trial opened December 15, 1943, in the hall of the Opera House (21, Rymarskaya St.). The proceedings were widely reported in the local and national press. On December 16, the newspaper *Izvestia* printed an editorial with the headline “German fiends appear before Soviet court”, thereby informing readers that the trial had begun. On December 19, at the end of the trial, *Izvestia* also reported on the death sentence, which was pronounced

76 Inessa Yazhborovskaya, Anatoli Yablokov, and Valentina Parsadanova, *Katynskii sindrom v sovetsko-pol'skikh otnosheniakh* (Moscow, 2001), 346-8. See also: *Katyn: Plenniki neobyavlennoi vojny. Dokumenty i materialy*, edited by Rudolf Pikhoya and Alexandr Geishtor / compiled by Nataliya Lebedeva, Nelly Petrosova, and Boleslav Voshinskii (Moscow, 1997).

77 *TsA FSB. F. 14. Op. 1 D. 6 L. 110, 127.*

at 23:40 December 18. The verdict laid out the specific charges formulated against the accused: Langheld was accused of falsification of cases in which some one hundred people were executed, Ritz of involvement in shootings and beatings, Retzlaff of torture and falsification of investigations and the fact that he personally drove people into “gas chambers” and, finally, that Bulanov had transported men to face firing squads. The verdict in this case had been previously considered and approved in Moscow. On December 18, Abakumov sent the wording of the sentence to be delivered to Stalin and Molotov for their approval; the text of the sentence was accompanied by a covering letter (number 338/A), in which he wrote:

“In accordance with your instructions, I hereby present the draft of the sentence to be issued by the Military Tribunal of the 4th Ukrainian Front in the case of the atrocities of Nazi invaders in Kharkov and the Kharkov region.

The verdict was pronounced in the city of Kharkov by the Chairman of the Military Tribunal, Major-General of Justice Myasnikov.

The draft sentence was somewhat amended and reworked by the Prosecutor of the USSR Comrade Gorshenin, Deputy of the People’s Commissar of Justice of the Russian Soviet Federal Socialist Republic, Comrade Perlov and by me.

The new text of the verdict has been agreed with Comrade Shcherbakov.”<sup>78</sup>

The final version of the sentence contained the resolution: “Approved as amended. V. Molotov 12/18/43.”<sup>79</sup> As can be seen by comparing the draft verdicts, major changes were not made, only a minor editorial correction. However, the whole issue of the sentence clearly indicates the absence in the USSR of independent courts free to make their own decisions; it also points to the tight control that was exercised over them by the party’s supreme leadership. Even the TASS reports on the pronouncement of the sentences passed on the four accused in the trial were sent by Abakumov on December 19, 1943 to Stalin for approval (letter No. 339/A), and with a reminder that the draft had already been approved by the Secretary of the Central Committee and Head of the Soviet Information Bureau (Sovinformburo) Shcherbakov. Most likely, Stalin did not consider the draft and simply passed it on to Molotov, because the paper only carries the message: “Approved. Molotov 12/19/43.”<sup>80</sup> Even the Secretary of the Central Committee Shcherbakov and the Head of SMERSH, Abakumov could not take a step without Stalin’s and Molotov’s permission.

78 *T&A FSB. F. 14. Op. 1 D. 6 L. 56-68.*

79 *Ibid.*

80 *T&A FSB. F. 14. Op. 1 D. 6 L. 54-5.*

The Kharkov trial was widely exploited in Soviet propaganda and was intended to reinforce popular hatred of the Germans. The proceedings were described in a separate book with verbatim transcripts (of course far from complete).<sup>81</sup> In addition, a documentary film about the trial was produced and screened in cinemas; the documentary was released under the somewhat Kafkaesque title “The trial has begun”.<sup>82</sup> According to the report in *Izvestia*, the execution took place on December 19, 1943 at 11 o’clock. Around 40,000 spectators gathered in the town square. Under the title “Executioners to the gallows”, the article described the public execution: “Howls of approval and shouts of ‘Hurrah!’ welcomed the announcement of the sentence as a crowd of thousands engulfed the square.”<sup>83</sup> A couple of days after the trial the paper returned to the theme, printing “positive responses” to the trial from the United States and England, and articles by Soviet authors, such as Mikhas Lynkov<sup>84</sup> with the suggestive title “Creatures Possessed.”<sup>85</sup>

The entire course of the trial was widely covered in the press. Foreign journalists and a group of prominent Soviet writers, among them Ilya Ehrenburg, were invited to attend the proceedings. Ehrenburg was always most influential in the formation of attitudes within the Red Army and the cultivation of extreme hatred towards the Germans. During the war, he published no fewer than 1,500 articles. Judging by his impressions of the first day of the trial, Ehrenburg could not hide his joy: “On this day, we stopped talking about the upcoming trial of the criminals. We began to judge them.”<sup>86</sup> And he described the accused with scorn and disdain: “I scan the faces of the accused. Blank expressions. Despite the pathos of the situation, I want to say: the usual German Fritz. Captain Wilhelm Langheld seemed puzzled. This red-haired German – with harsh accent and evil nature. He probably could not understand it, how he, an Aryan, an interrogation specialist with a passion for his profession, found himself in the dock. Next to him sat Retzlaff, a corporal from the secret police. Large round spectacles. A vacant, empty face – save for these glasses; not a shadow of a thought or a flicker of emotion. Men like him kill, like others breathe – without even noticing. And

81 *Sudebnyi protsess o zverstvakh nemetsko-fashistskikh zakhvatnikov na territorii Khar'kova i Kharkov'skoi oblasti v period ikh vremennoi okkupatsii* (Moscow, 1943), 97.

82 Producer Il'ya Kopalín. See *Rossiiskii gosudarstvennyi arkhiv kinofotodokumentov (RGAKFD)*.

83 *Izvestia* (December 21, 1943).

84 Lyn'kov Mikhail Tikhonovich (1899-1975) – Belarusian writer and social-political figure; in the years 1938-1948 headed the Union of Writers of the Byelorussian SSR. Lyn'kov's wife and son were executed by the Germans in September 1941.

85 *Izvestia* (December 22 and 23, 1943).

86 Il'ja Èrenburg, *Voina 1941-1945* (Moscow, 2004), 533.

the weedy Hans Ritz. He had the little moustache of some provincial dandy. He timidly preened himself.”<sup>87</sup>

Thus, the proceedings progressed, the defendants were executed. However, the question arises, what happened to the defendants and witnesses not put on trial? It was established that Kovalevsky was sentenced to death by Court Martial of the 70th Infantry Division on May 2, 1944 under the April Decree. Kirschfeld was saved for the follow-up trial in Smolensk of December 15-20, 1945, where he was sentenced to death by hanging under the April Decree.

And what of the sad fate of the witnesses in the case? They themselves were imprisoned and were easy prey for SMERSH investigators. They were flung into cells to be “prepared” for other investigations to make sure of their lines for the organisers of the next trial. They provided the necessary evidence. And, to thank them for their pains, they were still indicted, after being incarcerated for some considerable time in Ministry of State Security prisons. They were the unwelcome witnesses who knew exactly the mechanisms at play in preparing show trials. Loyda was sentenced to twenty-five years on April 14, 1951 by the Ministry of State Security Special Council under Article 58-6 (espionage) of the Criminal Code of the Russian soviet republic. He was transferred to Germany on January 15, 1954, and only on June 2, 1976 was he fully rehabilitated. Yanchi was sentenced to twenty-five years on January 12, 1952, by the Military Court of the Moscow Military District, under Article 58-6 of the Russian Criminal Code and the April Decree. On October 10, 1955, he was handed over to the German authorities.

Open trials in the Soviet Union had never been the norm; decisions on how they should be conducted were typically taken by the Kremlin. They were carefully prepared, orchestrated and coordinated with the country’s leadership in every detail. Nothing could happen without the approval and go-ahead from on high. As noted by observers at the time, the Kharkov trial (1943) was intended to demonstrate the determination of the Soviet government to bring to justice all those guilty of war crimes and atrocities.<sup>88</sup> However, this trial was to be the first and last open trial of German prisoners until the end of the war. In a sense, it even had a negative impact. Violations of the rights of the accused were all too apparent: they were not given leave to appeal against their sentences and they were denied the right to file petitions for clemency. To add to this charade of justice, the accused were charged by the tribunal under a law of which they had no knowledge, namely the April Decree – a law which had not appeared in print and whose

87 Ibid., 534-5.

88 Nataliya Lebedeva, *Podgotovka k Nyunbergskomu protsessu* (Moscow, 1975), 107.

power was retroactive. Moreover, at that time, military tribunals had not yet received the right to use such powers, as the April Decree could only be used in court-martials.<sup>89</sup> As modern day researchers point out, the Kharkov trial set “a precedent for the violation of the rights of the accused and legislation for the benefit of political interests.”<sup>90</sup> Finally, the highly publicized show trial in Kharkov negatively affected the attitude of German soldiers and officers, who would no longer be tempted to surrender or cooperate with the Soviet authorities, having gained irrefutable proof of what it meant to go on trial under the Soviet regime. Perhaps this was the reason for the decision not to conduct more show trials against the Germans before the war ended.<sup>91</sup>

### General Conclusions

There were at least two instances when the NKVD Special Council and the Directorate of Special Sections of the Fronts carried out extra-judicial reprisals against German prisoners of war. Together with these acts of retribution, lynch law executions of German soldiers also took place. These occurred as a means of avoiding taking prisoners and it is unclear to what extent this practice was encouraged from above. The widespread use of extra-judicial reprisals against POWs was in flagrant violation of international law. Did Stalin take note of this fact, and what considerations determined his position in relation to prisoners of war?

We can assume that Stalin approached the issue of POWs from the class perspective, preferring not to attach much importance to their status as citizens of other states. His view was based on an evaluation of their “harmfulness” or “usefulness” to the Soviet system. This explains the decision of March 5, 1940, on the execution of Polish officers. At that time, Stalin had no thought or concern about the possible re-establishment of Poland; for him Polish army officers, border guards and police officers were something

89 Andreas Hilger, Nikita Petrov, and Günther Wagenlehner, ‘Der “Ukaz 43”: Entstehung und Problematik des Dekrets des Präsidiums des Obersten Sowjets vom 19. April 1943’, in Andreas Hilger, Ute Schmidt, and Günther Wagenlehner (eds), *Sowjetische Militärtribunale*, vol. 1, (Köln-Weimar-Wien, 2001), 177-209.

90 Alexander E. Epifanov, *Otvetstvennost' gitlerovskikh voennykh prestupnikov i ikh posobnikov v SSSR (istoriko-pravovoi aspekt)* (Volgograd, 1997), 31. See also Viktor B. Konasov, *Sudebnoe presledovanie nemetskikh voennoplennykh v SSSR* (Moscow, 1998), 8-9.

91 In subsequent years, Red Army military tribunals reviewed a number of individual cases of German prisoners of war whose actions fell under the Decree of 19 April 1943. However, they received no media coverage and statistical information regarding these prosecutions is as yet unknown.

of a burden upon the Soviet Union and represented a very “hostile and dangerous contingent”.

Much the same can be said of the German POWs in the early years of the war between the USSR and Germany. Stalin was preoccupied with one issue and one issue alone: whether the country would survive and whether he would be able to repel Hitler’s onslaught. Right until the beginning of 1943 he was not so sure of the ground he stood on. Hence his collusion (if not encouragement!) in the massacres of POWs which were committed by Red Army commanders and the NKVD. Moreover, given unclear prospects for the outcome of the war, Stalin cared little about international opinion. Such considerations proved important only when it became evident the Soviet Union would triumph in the war.

In the publications of Russian historians, one can find the assertion that “the execution of Polish officers in the Katyn forest apparently convinced the Soviet leadership that citizens of foreign states merited different treatment to Soviet nationals, and any disregard of this ‘rule’ was fraught with complications at the diplomatic level.”<sup>92</sup> Is this true? Most likely it was not the shooting itself, but the publicity surrounding it that convinced the Soviet leadership of the harmfulness in persevering with such a policy. The “Katyn syndrome”, so to speak, was to remain the symbol of Stalin’s policy towards prisoners of war until the beginning of 1943. In addition to the considerations cited above, there are several others which deserve attention. In the early days of the war, when relatively few Germans were captured on Soviet soil, incidents of extra-judicial killings were consequently limited and thereby hardly troubled Stalin. Moreover, Stalin himself had given instructions on the issue in his own inimitable way. When, on September 4, 1941, in a conversation with Stalin, Georgy Zhukov referred to the testimony of a German soldier who had gone over to the Soviet side. Stalin responded by saying: “Don’t put too much trust in prisoners of war; interrogate him brutally, and then shoot him.”<sup>93</sup>

This can be explained by the fact that in 1941-1942 Stalin was far from certain that Hitler would be defeated and he was not thinking of any “international complications” arising from the killing of German POWs. It was an altogether different matter after the Battle of Stalingrad, when Stalin began to believe in the possibility of the military defeat of Germany, and thereafter international public opinion came to play a crucial role in his calculations.

It is no coincidence that Stalin came to define 1943 as the year of “radical change in the course of the war”. And here it is evident that the adoption

92 Konasov, *Sud’by nemetskikh voennoplennykh v SSSR*, 56.

93 *Izvestia TsK KPSS (News Central committee CPSU)*, 10 (1990), 216.

of the April Decree signified confirmation of Stalin's increasing intention to move his army on to the offensive. After all, the main candidates for punishment under this Decree were, in the Soviet leader's opinion, Soviet citizens who had served in the administration of the German occupation. The fact that this Decree was passed on the same day as the decree declaring that the organisation of the Military Counterintelligence SMERSH should be subordinated directly to Stalin is also ominous. Investigations under the April Decree were passed on to SMERSH. Consequently, the advancing Red Army and SMERSH, its Military Counterintelligence, were fully armed and prepared, and able to wield the Decree at will, as a tool to punish "traitors" and "accomplices of the Nazi occupiers". Of course we should not forget that the April Decree was aimed, as is clear from its title, against the "German-Fascist villains". However, we also know that this decree was employed in repressing an immeasurably greater number of Soviet citizens than foreigners. It is significant that the April Decree "died" with Stalin. After 1953, it was almost never used.

The predominant concern of the postwar period was the mechanism by which to prosecute German POWs. As regards extra-judicial repression (cases forwarded for examination by the NKVD-MGB OSO) applied to POWs, Stalin remained steadfast in his beliefs until his death. This mechanism was used even after the adoption of the April Decree and, even though it was essentially a back-up device, it could be employed in addition to the state's other Stalinist weapons of repression.

No reliable news on the fate of the majority of those POWs who fought the Red Army and were executed in the years 1941-45 was available for many years. The explanation is simple. In accordance with KGB Directive No. 108ss passed in 1955, it was decreed that queries about the fate of those sentenced to death, whose cases were considered by the State Security authorities, should be fobbed off with the po-faced assertion that they died in prison, quoting a fictitious date of death.<sup>94</sup> Later, in 1963, it was decided to give true information about executions with exact dates about the fate of Soviet citizens, but as previously, the truth about executions of foreign nationals was to remain suppressed. In response to enquiries about the fate of the latter, the policy remained to lie in accordance with Directive No. 108ss. And even to this day, historians and researchers have an incomplete picture, no statistics, on executions of prisoners of war or lists of those who mysteriously disappeared.

94 For the text of this directive, see: *Memorial—aspect*, 10 (1994), 12.