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Crime, Treason and Greed: The German Wartime Occupation of Poland and Polish Post-War Retributive Justice¹

At the outset it should be explained that this paper looks at “German crimes and collaboration with the German occupiers” when, in truth, Poland was divided between two occupiers, German and Soviet, from 17 September 1939 to 22 June 1941. Due to the course of the war, the re-entry of the Red Army into Poland in 1944, and the establishment of a permanent communist dictatorship under its protection, neither collaborators with the Soviet authorities, nor accomplices in Soviet World War II crimes, were ever brought to justice in Poland after the war. Furthermore, the émigré Polish authorities were not even-handed either in demanding punishment for the war crimes of both invader-occupiers of Poland as decreed by the President-in-Exile. It was recognized that in the geopolitical situation of the time, such a demand would scupper “any possibility of implementation” of any part of the design.² Therefore only Germany was to be arraigned. The issues of Soviet war crimes and collaboration with the Soviets were raised frequently by members of the émigré community (which also took the form of case studies in the application of law in theory and practice), but the growth of popular consciousness back in Poland as to their scale was a long-drawn process. After 1976, samizdat publications of a nationwide reach on the subject began to circulate and after 1989, and a number of inquiries into Soviet war crimes (notably the Katyń Massacre) were published. However, the justice system did not deal with cases of participation of Polish citizens in these crimes or

1 This text was written as a contribution to the “Punishment, memory and politics: retribution against the past since the World War II” research project, financed by the National Science Center (NCN Project: DEC-2013/10/M/HS3/00577).

2 Statement of Min. Stanisław Stroński, in Marian Zgórniak, *Protokoły Posiedzeń Rady Ministrów Rzeczypospolitej Polskiej*, vol. 4, (Kraków, 1994), 353.

with other forms of collaboration. In principle they were only the subject of academic research and popular history. Given that there was a three-year hiatus in the process of the Soviet subjugation of Poland due to the German offensive against the Soviet Union in 1941, the German wartime occupation lasted three years longer (1941-44) than that of the Soviets and covered Polish territory and its inhabitants in its entirety, which brought many more deaths and material losses than could be ever imagined. As opposed to Soviet crimes, which were generally committed covertly or in remote, uninhabited areas, German crimes were often intentionally committed in public, in city streets, or in villages whose inhabitants were exterminated and their homes razed to the ground in reprisals. To be sure, the concentration camps were something of an exception in German policy in that they were built in out-of-the-way areas or at least shrouded in secrecy (however ill kept) as to their purpose. No wonder that most Poles believed Germans to be the main – and some even believed they were the only – perpetrator of the hecatomb of five and a half years' duration that befell Poland. As a result, Germans were the only “official enemy” and Germans – and persons collaborating with them – became the object of post-war retributive proceedings. Such an attitude was useful to communists, because – as Władysław Gomułka said in February 1945 – “[it] unites the Polish Nation.”³

The Second World War is often defined as a “total war”, so the occupation of the territory of the Second Polish Republic (as interwar Poland is often referred to) should probably be called a “total occupation”. However, it was not so much the totalitarian political systems of Germany and the Soviet Union, but, due to the Holocaust, attention was concomitantly drawn to the genocidal character of their policies in occupied Poland. The irrevocable losses in that war still await an exhaustive audit,⁴ though the estimated figures accounting for losses in conventional and partisan warfare and uprisings suggest that about 500,000-550,000 people (mainly civilians) were killed, which constituted no more than 10% of the overall number of losses. Thus, it may be said that most casualties were not caused by war as such, but by the resulting occupations, and that most of the victims were murdered by the Germans. An important component of the terror unleashed during the occupation was the forced evictions and deportations which affected more than two million people. Due to their destination, Soviet deportations were much more drastic and deadly than the German ones. While Germans transported

3 As cited in Leszek Olejnik, *Zdraycy narodu? Losy volksdeutschów w Polsce po II wojnie światowej* (Warsaw, 2006), 139.

4 For the most recent debate on this topic see Wojciech Materski and Tomasz Szarota (eds), *Polska 1939-1945: Straty osobowe i ofiary represji pod dwiema okupacjami* (Warsaw, 2009), especially 13-75.

people to the General Government of the Occupied Polish Territories (the surviving rump of pre-war Poland, inhabited by Poles but under German administration – further referred to as the General Government), the Soviets sent their victims to northern Russia or east of the Urals. It should be obvious that the total character of the war and occupation gave subsequent retributive justice additional emotional weighting, and justice, which should have been meted out, was all too often replaced – or supplemented – with the desire for retribution.

Dealing with the Occupation – The Specific Character of the Polish Case

As regards the way Poland sought to square accounts with her wartime oppressors, it is important to note that she was not a satellite state of the Third Reich and not a collaborating pseudo-state (such as the Protectorate of Bohemia and Moravia or the Independent State of Croatia). The Germans treated the General Government as German territory exclusively governed by Germans, albeit at least temporarily lying outside the Third Reich, while Poland's western and northern territories were incorporated directly into the Third Reich. Thus, there was no Polish institutional cooperation with the Germans at the national level and, after the war, the problem of putting on trial political and military elites that formally and officially collaborated with the Third Reich, as was the case elsewhere in Europe, did not exist. Therefore, it could not constitute the basis of dealing with wartime crimes. The formal continuity of the Polish state was preserved, and the legal authorities of the Republic of Poland in exile had at their disposal armed forces that continuously fought against the Germans. Back in Poland itself, underground resistance institutions were created, notably those that were to form the Polish Underground State (PPP – *Polskie Państwo Podziemne*). These institutions comprised, among others, an underground administration (led by the Government-in-Exile's Delegate for Poland), a judiciary and representations of the major political parties. The basic components of the Polish Underground State were its armed forces (as from February 1942 called the Home Army [*Armia Krajowa* – AK]) with the primary strategic goal of staging a general uprising at a propitious moment. In the territories under German occupation, there were no permanent centres of political collaboration. Although attempts were made by miscellaneous individual Poles acting on their own initiative,⁵ the authorities of the Third Reich ignored them.

5 One of the first initiatives was the address to the German authorities of 23 Novem-

The only sustainable collaborating institution – but not involved in political collaboration – was the Polish Police (*Polnische Polizei*, PP), commonly called the “navy blue police” on account of the colour of their uniforms. Although its main task was law enforcement, its officers often were accomplice to German crimes. The existence of only one collaborationist institution did not mean that there were no individuals cooperating with the Germans in the General Government. Some Poles acted as public administration officials (for example village headman), under the orders of the occupation authorities. Typically, they worked for the post office, the railways, the fire brigade or the prison service of the occupation institutions and German troops. A Polish bank was allowed to operate, and a limited Polish judicature was allowed to function. Quasi local governments for Jews (*Judenrat*) were set up and charged with administrative tasks, and a Jewish Law Enforcement Service (*Jüdischer Ordnungsdienst*) whose officers did not carry arms was established in the ghettos. Hence, cases of membership of, or cooperation with the occupation institutions (such as the police) were not rare; indeed, it provided fertile soil for the temptation to collaborate with the enemy to flourish in. Some individuals, who worked for Polish language press publishing houses, were secret agents of the Gestapo and other police formations, while still others performed supervisory functions in the concentration camps. Many people, on their own initiative, sometimes knowingly, sometimes by way of unavoidable spin-off effects of their actions, sometimes individually, and sometimes collectively, lent support to the German occupiers’ policies. For instance, the liquidation of ghettos was, more often than not, accompanied by murder, pillage and plunder, or *szmalcownictwo* – the blackmail and betrayal of Jews in hiding. Informants frequently betrayed members of the underground resistance or people they knew or knew of out of spite, envy or revenge. Many people did not obey the orders of the underground authorities, which ranged from forbidding maintaining relations with Germans to performing in theatres and involvement in any other walks of public life, all of which were under the watchful control of the German authorities.

In Poland, a specific aspect of the problem of collaboration was the introduction of the German People’s List (*Deutsche Volksliste*, DVL), which

ber 1939 of the well-known politician and publicist Władysław Studnicki, entitled “Memoriał w sprawie odtworzenia Armii Polskiej i w sprawie nadchodzącej wojny niemiecko-sowieckiej”. In his next memorandum “Memoriał dla Rządu Niemieckiego w sprawie polityki okupacyjnej w Polsce” of 20 January 1940, Studnicki harshly criticized the policy of the Third Reich, which resulted in his initiative failing completely. For both memoranda see Jan Weinstein, ‘Władysław Studnicki w świetle dokumentów hitlerowskich II wojny’, *Zeszyty Historyczne*, 11 (1967), 54-61, 61-86. In September 1944, Studnicki – like other Poles who were sounded out – rejected the German idea of forming a Polish Anti-Bolshevik League.

was divided into four categories or groups, which established *Volksdeutsche* (VD – Ethnic Germans) status. From spring 1940, special offices were set up to implement the scheme; they decided which group a candidate should belong to. In 1942, in the territories directly incorporated into the Reich, especially in Silesia and Pomerania, registration became mandatory; non-compliance with these orders carried the threat of deportation, confiscation of property, expropriation, despatch to a concentration camp or whatever other sanctions the authorities could think up. Members of groups 1 to 3 were compulsorily enlisted. Approximately 220,000-250,000 Poles in total were thereby automatically called up for military service in the German army. Both the Polish émigré authorities and the Catholic Church authorities began to encourage volunteering for the third group in order to avoid the mass extermination of Poles. All members of the first group became full-fledged German citizens (*Reichsdeutsche*). Altogether, more than 2.8 million people were registered. The third group consisted of approximately 1.7-1.8 million people, mainly from Silesia and Pomerania. There was no division into categories in the General Government, and more than 100,000 Polish citizens declared themselves to be *Volksdeutsche*, while in the southern Polish mountain region of Podhale the Germans tried to convert the highlanders, the Górale, into a separate ethnic group which they named *Goralenvolk*. Foreigners (for example Lithuanians or White Russians), stateless persons and Ukrainians had a separate status. They had some privileges that were denied to Poles. This system introduced deep divisions among people who were all Polish citizens.

Simultaneously with the issue of punishing war criminals, the problem with people of German descent also emerged. On 30 November 1939, President Raczkiewicz announced the intention to deport Germans after the war because, as the Ministry of Foreign Affairs explained, “it is impossible for the future Polish population and the German minority to coexist.”⁶ In August 1944, the National Council of Ministers, being formally part of the government of the Republic of Poland, issued regulations on the loss of Polish citizenship by all people of German nationality, which meant their future expulsion. In addition, the national authorities, created in 1944 under the auspices of the incoming Soviet-sponsored communists (PKWN – Polski Komitet Wyzwolenia Narodowego – Polish Committee of National Liberation, KRN – Krajowa Rada Narodowa – National Home Council), promised to expel Germans residing in Poland. Finally, the Big Three at the Potsdam Conference agreed on a radical solution: the total removal of Germans from the ter-

6 Cited by Stanisław Jankowiak in *Wysiedlenie i emigracja ludności niemieckiej w polityce władz polskich w latach 1945-1970* (Warsaw, 2005), 28.

ritories of Poland, Czechoslovakia and Hungary. In effect, all Germans were held to be collectively responsible for the wartime crimes and world conflict unleashed by their government; thus the war crimes committed in Poland in the course of its German occupation automatically fell under this category.

The Polish émigré authorities announced in December 1939 that “after winning the war, the Republic of Poland shall take reprisals against Germany, especially its authorities.”⁷ Together with France and Great Britain, in April 1940, a declaration was made, in which Poland was promised “compensation for the harm it had suffered”, though punishment of those responsible for the crimes was not mentioned. However, the public announcement issued after the meeting of Sikorski and Stalin in December 1941 spoke of the “proper punishment of Nazi criminals”. In January 1942, in St. James’s Palace in London, representatives of exiled governments met and recognized the need to “punish Nazis and their accomplices for their crimes”. On 30 March 1943, the President-in-Exile issued a decree on “criminal responsibility for war crimes”.⁸ In autumn, a criminal investigations office was set up at the Ministry of Internal Affairs (*Ministerstwo Spraw Wewnętrznych* – MSW). It possessed files on 4,000 German criminals⁹ and a similar unit, called the Central Commission for Studying and Recording of Occupant Crimes, was established as part of the apparatus of the Government Delegate for Poland in January 1944.¹⁰ Both in Poland and in the Soviet Union, Polish communist agencies promised to punish criminals and collaborators.¹¹

For the Polish émigré authorities, due to complications in international relations, the main object of interest was the crimes committed by just one invader, the Germans, and “additionally”, cases of treason were taken into consideration.¹² They were the most important for the Polish Underground State. Therefore, Special Military Courts, (*WSS – Wojskowe Sądy Specjalne*) and Special Civil Courts (*CSS – Cywilne Sądy Specjalne*) were created, and a code of

7 Marian Zgórniak (ed), *Protokoły posiedzeń Rady Ministrów Rzeczypospolitej Polskiej*, vol. 1, (Kraków, 1994), 15.

8 For the text of the Decree see: *Pamięć i Sprawiedliwość*, 38 (1995), 190-1.

9 Elżbieta Kobierska-Motas, *Ekstradycja przestępców wojennych do Polski z czterech stref okupacyjnych Niemiec, 1946-1950*, vol. 1, (Warsaw, 1991), 47-8.

10 Waldemar Grabowski, *Polska tajna administracja cywilna, 1940-1945* (Warsaw, 2003), 283. According to Edmund Dmitrów, the materials concerning Poland presented at the Nuremberg Trials “included mostly materials collected and prepared in London” – Edmund Dmitrów, *Niemcy i okupacja hitlerowska w oczach Polaków: Poglądy i opinie z lat 1945-1948* (Warsaw, 1987), 255.

11 Among others in the manifesto of July 22, 1944.

12 Among others, in May 1940, the “Material provisions” of the Criminal Code were supplemented by new types of crimes: provocation, denunciation and inhuman persecution – Piotr Kładoczny, *Prawo jako narzędzie represji w Polsce Ludowej (1944-1956)* (Warsaw, 2004), 177.

civil morality was drafted to cover contingencies not included in the Criminal Code, viz. conduct which “compromised the responsibilities of Poles during the war”.¹³ Offences under the code of civil morality were tried by “Judicial Civil Combat Commissions”. Lists of people collaborating with the Germans were published in the underground press; such stigmatisation spelt infamy and exclusion from Polish society at the very least. According to the estimates of Leszek Gondek, during the German occupation¹⁴ approximately 2,500 people were sentenced to death and the courts examined about 5,000 cases,¹⁵ with the Judicial Civil Combat Commissions adding a few hundred more names to that total. However, it should be added that executions of snitches, informants or “navy blue police officers” had commenced before these courts were established. The number of people shot without trial, only on the basis of orders from above, was never even estimated. These were underground resistance initiatives undertaken as reprisals or in self-defence, but nevertheless, they can be also considered the *sui generis* dispensation of justice (sometimes with the use of legal instruments) in regard of treason and crimes related to the wartime occupation. Therefore, the problem of dealing with crimes consisted of several elements: punishing the perpetrators of German crimes and their accomplices (including Poles), the removal of Germans from Poland, solving the problem of Polish citizens who were enrolled on Volkslists and German citizens of Polish descent and persons who failed to fulfil their “duties as Poles”. All these actions were certainly undertaken regardless of which political force dominated in Poland and the political system of the state. However, since the early summer of 1944 – in line with the Soviet Union’s plans and under its international “umbrella” – the foundations of a communist-dominated state had been laid. As a result, the process of the judicial calling to account for wartime crimes and treason in relation to just one invader-occupier (because Soviet crimes had to be swept under the carpet for obvious reasons) was stage-managed by the new Soviet-sponsored authorities; awkward as this situation may have been

13 Cited in Piotr Szopa, *W imieniu Rzeczypospolitej... Wymiar sprawiedliwości Polskiego Państwa Podziemnego na terenie Podokręgu AK Rzeszów* (Rzeszów, 2014), 30.

14 Reactions of the underground state to collaboration with the Soviets were relatively rare, nevertheless before the Soviet-German war; in Vilnius, for instance, four executions were carried out – Paweł Rokicki, ‘Wymiar Sprawiedliwości Polskiego Państwa Podziemnego na Wileczyźnie’, in Waldemar Grabowski (ed), *Organy bezpieczeństwa i wymiar sprawiedliwości Polskiego Państwa Podziemnego* (Warsaw, 2005), 92-III, 98. The best known execution was that of Teodor Bujnicki. Judgment (for “collaboration with the Soviet Union to the detriment of Poland”) was delivered by the Special Military Court in Vilnius in December 1942 and carried out with a two-year delay.

15 Leszek Gondek, *Polska karząca 1939-1945: Polski podziemny wymiar sprawiedliwości w okresie okupacji niemieckiej* (Warsaw, 1988), 114.

for this new regime, it had no compunction in using this drive for retributive justice to legitimise its seizure of power and its struggle with its political opponents.

The main legal instrument used for judging classic war crimes and contingent occupation-period crimes was the decree of the Polish Committee of National Liberation “on punishment for fascist-Nazi criminals responsible for killing and abusing civilians and POWs and for the traitors of the Polish Nation.”¹⁶ It was signed on 31 August 1944, so it is called the *August Decree* (colloquially called *Sierpniówka*). It covered acts committed from 1 September 1939 to (as it was decided later) 9 May 1945. The decree did not exclude charging those brought to book under the Criminal Code of 1932. The provisions of the *August Decree* concerned persons who “by acting for the benefit of the German state” were guilty of: “participating in killings” (Article 1, Item 1), undertaking “actions to the detriment of persons ... by capturing or deporting sought or persecuted persons” (Article 1, Item 2), “operated otherwise ... to the detriment of the Polish State, Polish legal (corporate) persons, members of the civilian population or soldiers” (Article 2), and those who exerted “duress ... under threat of capturing these persons and delivering them into the hands of the authorities” (Article 3). Article 4 listed criminal organizations and institutions. Membership of these organizations could have been sufficient reason in itself for prosecution.¹⁷ Those who committed crimes defined under Article 1 were always sentenced to death. For crimes under Article 2, the death sentence was optional, while the minimum penalty for crimes coming under Articles 2, as well as Articles 3 and 4, were three years in prison. All penalties were accompanied by the confiscation of property. These very severe provisions were similar to those that were soon to be adopted internationally.

Deportations of the German Population

In terms of the number of people subject to punishment for war crimes, the deportation of the German population posed the biggest challenge. It started on 20 June 1945 when, without waiting for the definite adjudication of the Big Three, units of the Second Polish Army began “cleansing Polish territories

16 *Dziennik Ustaw*, 4 (1944), item 16. Giving the decree such an outlandish title was almost certainly in imitation of the Ukase of the Supreme Council of Soviet Union of 19 April 1943 “on penalties for German-Fascist evildoers, guilty of killing and the agony of Soviet civilian population, Red Army soldiers taken prisoner [and] for spies [and] traitors of the homeland among Soviet citizens and for their accomplices”.

17 To a list created by the International Military Court Polish legislators added the Ukrainian Insurgent Army (UPA – *Ukraińska Powstańcza Armia*).

of German filth".¹⁸ Within about a month, approximately 600,000-700,000 people were deported.¹⁹ After a break of one month, the second phase of deportations started, organized this time by the civil authorities (including the security apparatus). By December, the total number of expulsions during this phase probably exceeded 400,000.²⁰ After 20 November 1945, on the strength of a resolution of the Allied Control Council for Germany, the third phase of deportations was commenced. The first transport to the British zone, codenamed 'Operation Swallow', was despatched on 24 February 1946. By the end of the year, roughly 1,650,000 persons were transported out of Poland by train, and some 200,000 to 300,000 (mostly from the close-lying border areas) probably left Poland by other means of transport.²¹ In January 1947, the British stopped accepting transports of German deportees, and in the Soviet zone they were accepted only until the end of October of that year. This initiative finally ended in 1949; commencing in February 1946, it affected approximately 2.6 million people in total.²² Altogether, from June 1945 to the end of 1949, approximately four million people were forced to move.²³ In the following years, relocations, now called repatriations, were based on a contract with the newly created German Democratic Republic (the GDR, popularly known simply as East Germany), to "reunite families" on the basis of individual applications. Therefore, these relocations were of a different character.

The deportations were frequently laced with violence ranging from homicide, robbery and rape to common-or-garden brutality, but there are no credible estimates of the numbers of victims involved. Germans were unceremoniously ejected from their homes, their workshops, their farms, all of which were sequestered, and compelled to work a 60-hour week. Usually they had to wear identity badges (stitched on patches or armbands). German schools were liquidated, Protestant churches were turned into Roman Catholic churches. Tens of thousands²⁴ were sent to labour camps. These were

18 Jankowiak, *Wysiedlenie*, 90. Quote from the order of the day of the 10th Infantry Division commander.

19 *Ibid.*, 95.

20 *Ibid.*, 118.

21 *Ibid.*, 162.

22 *Ibid.*, 207.

23 There are still no credible estimates of the German population that escaped or was evacuated before the approaching Red Army. Perhaps it was approximately four million people. The number of deaths among these fugitives, from exhaustion, accident or enemy action was enormous, probably running into hundreds of thousands.

24 According to some estimates, approximately 130,000-150,000 civilians were sent to detention camps – Kłodoczny, *Prawo jako narzędzie*, 199. The status as of January 1947 was that 124,000 persons, including approximately 43,000 former Polish citizens, still remained in these camps – Tadeusz Wolsza, *W cieniu Wronek, Jaworzna*

transitional camps, but some people were kept in them for extended periods of time. Similar procedures were also applied to the Germans in the lands incorporated into the Reich, regardless of whether they were settlers from the east (typically from the Baltic States and Bessarabia) who were brought there in considerable numbers in 1940-1942 or “local” Germans, enrolled on the 1st or 2nd group Deutsche Volksliste (German People’s List). Sometimes Germans were lynched by their Polish neighbours.²⁵ Deportations of Germans also extended to the so-called autochthons, German citizens of Polish descent (Silesians, Kashubians or Masurians). Refraining from deporting them was useful for legitimisation purposes (proving that Poland was returning to her “primeval Piast lands”), and for patriotic and economic reasons. The problem of separating Poles (“autochthons”) from Germans emerged immediately after establishing the Polish administration in former German lands. In the first months after the entry of the Red Army, these autochthons were often treated as Germans; as such, they were subject to remand in custody, in gaol or detention camp; they, too, were often the victims of violence, robbery and rape. Poles from central Poland and those forcibly resettled from eastern Poland (which was annexed by the Soviet Union) were usually suspicious and very frequently hostile towards them. Numerous excesses, attempted seizures of property, farms and equipment, were recorded. As a result, many autochthons volunteered for “repatriation” to Germany. Uniform vetting regulations were issued on 20 June 1945, but soon the regulation “on the procedure of identifying the Polish national origin of individuals residing in the area of the Recovered Territories” of 6 April 1946, and the Act of 28 April “on Polish citizenship of positively vetted people” enabled the commencement of their full-scale vetting process. It ended in 1949, and the population census of 1950 demonstrated that roughly 1.1 million people were positively vetted.²⁶

A particular category subject to onward repatriation were the 50,000 or so POWs passed on to Poland by the NKVD. This was related to the con-

i Piechcina ... 1945-1956: Życie codzienne w polskich więzieniach, obozach i ośrodkach pracy więźniów (Warsaw, 2003), 117.

- 25 For instance, on the day the Red Army entered Łódź, “Germans, beaten severely to a greater or lesser extent ... (with a few being) killed by the populace along the way”, were brought to the town hall – according to the account of Mieczysław Kosiński, the chairman of the Łódź Civic Committee, in *Karta*, 83 (2015), 7. It is not clear whether the Germans were soldiers or civilians. The most famous case was that of Aleksandrów Kujawski and the neighbouring Nieszawa where, in early February 1945, a dozen or so Germans were drowned in the Vistula – Piotr Pytlakowski, ‘Jak na Kujawach zabijano Niemców’, *Polityka*, 6 (2001).
- 26 Piotr Madajczyk, ‘Niemcy’, in Piotr Madajczyk (ed), *Mniejszości narodowe w Polsce: państwo i społeczeństwo polskie a mniejszości narodowe w okresach przełomów politycznych (1944-1989)* (Warsaw, 1998), 66-109, 71.

tract with the Soviet Union on the export of large quantities of bituminous coal.²⁷ In October–November 1945, about 40,000 of these POWs were transferred to camps organized in Silesia and Zagłębie Dąbrowskie by the Central Board of Coal Industry. Others were divided into smaller groups. The conditions in the camps were very poor and work in the mines was crippling. Ten percent of the prisoners died for these reasons alone. POW camps were protected by the Geneva Convention, which formally prevented the employment of officers (approximately 1,400). As from 1948, propaganda regarding “democratic Germany” was quite intensive. By decision of the Great Powers, captives should be released and sent back to Germany by the end of 1948, but Poland, for economic reasons, delayed this process and the last transports of prisoners released and allowed to return to Germany left in April 1950.

Punishing the *Volksdeutsche*

The situation of the *Volksdeutsche* was exceptionally complicated. While the demand to punish all of them was quite common, the more popular opinion was that the differences between those who participated in crimes (and were thus subject to punishment on the strength of the *August Decree*) and those who merely enjoyed certain privileges, but did not actively commit crimes, should be taken into consideration. An informal division into “active” and “passive” collaboration was introduced.²⁸ The first was covered by the *August Decree*, the second by the Decree of 4 November 1944 “on protection measures for the traitors of the Nation”.²⁹ It stated that “regardless of [possible] criminal responsibility”, each person who declared being of German origin is subject “to arrest [and] confinement in a forced labour camp” for an indefinite period of time. Implementation of the Decree was finally entrusted to the prosecutor of the Special Criminal Court (SSK – Specjalny Sąd Karny – as discussed later below), but initially, decisions were undertaken by the local secret police. Executive regulations envisaged the confiscation of property and the remand of those above thirteen years of age in prison camps. Approximately 9,800 public prosecutors’ orders were submitted for approval to the Special Criminal Courts,³⁰ but there were probably more prisoners. These were extremely draconian dispositions, but in line with popular expectations towards people regarded as traitors. They were not only publicly

27 Jerzy Kochanowski, *W polskiej niewoli: Niemiecy jeńcy wojenni w Polsce, 1945-1950* (Warsaw, 2001), 50.

28 Olejnik, *Zdrajcy*, 71.

29 *Dziennik Ustaw*, II (1944), item 54.

30 Olejnik, *Zdrajcy*, 77.

ostracized and dismissed from work, but also their properties were often expropriated and they were subjected to acts of violence. So far, no research has been made into these spontaneous reckonings with crimes; therefore, it is not possible to quote any figures.

The Decree of 4 November proved a dead letter in the lands incorporated into the Reich in 1939 as it would have meant having to imprison more than a million people. Therefore – after some disturbances – on 6 May 1945, “the Act on exclusion from Polish society of hostile elements”³¹ was adopted. Under this Act, people who were in the first *Volksdeutsche* group were designated for resettlement, while those in the second group, if they wanted reinstatement and recognition as Polish citizens, had to apply to the courts for rehabilitation. A similar procedure was applied to persons regarded as belonging to one of “privileged national groups”. Rehabilitation of mentally challenged persons of the largest, the third group, was treated differently. In areas where the Germans pressured or coerced people into applying for *Volksdeutsche* status, the rehabilitation procedure was limited to submitting a “Declaration of loyalty to the Polish Nation and the democratic Polish State”. The applicant would receive a temporary certificate of submission of such a declaration, which meant that he could enjoy all civil rights. The final deadline for making that declaration was 31 July 1946 and in the absence of opting for voluntary rehabilitation, the judicial track would automatically kick in whereby the recalcitrant individual could be sent to labour camp, lose his civil/civic rights and have his property confiscated. In the areas where the Germans did not apply coercion, rehabilitation was possible only by proving in court that the applicant had acted under duress, against his will, and preserved his Polish national identity all the same. Denial of rehabilitation meant moving to the first group. This spelt expulsion. One of the most important provisions of the decree was the right to confiscate the property of persons of the first and second *Volksdeutsche* groups, and of *Volksdeutsche* from the General Government. According to some estimates, in this way approximately 100,000 farmsteads were expropriated.³² Due to delays, political security officers and prosecutors operated for some time on the strength of the Decree of 4 November 1944 in the territories that had been incorporated into Germany (as opposed to merely being conquered and kept under German control). This resulted in a rapidly increasing number of people of various *Volksdeutsche* categories being imprisoned. They were imprisoned together with Germans who were to be deported and the conditions they

31 *Dziennik Ustaw*, 17 (1945), item 96.

32 Jerzy Kochanowski, ‘Wyłączenie wrogich elementów’, *Gazeta Wyborcza*, (February 12-13, 2000).

were kept in, and the attitudes of their gaolers to them and true Germans, were identical. Many thousands, including an indeterminate number of *Volksdeutsche*, died in the camps of natural causes or, less frequently, they were killed.³³ At the time of adopting the May Act, there were approximately 355,000 *Volksdeutsche* in the camps.³⁴ According to the so-called aggregate population census of 14 February 1947, approximately 223,000 rehabilitation proceedings were in progress³⁵ and, until a given ruling was issued, the given applicant was deprived of all civil rights, almost always dismissed from any white collar employment they may have had, and sometimes had their property confiscated. A lot of people were awaiting trial³⁶ and the awkwardness of this situation was intensified by the fact that due to the large number of cases, even in seemingly exceptional cases, this situation sometimes dragged on for a very long time.³⁷ Applicants were vetted for membership of Nazi organizations like *Hitlerjugend* (HJ) or *Bund Deutscher Mädel* (BDM), and any proof positive to that effect was treated as a disqualifying condition. SA (*Sturmabteilung*) members were also tracked down. In Silesia, they were the largest group among those arrested and in autumn 1946, by decision of the International Military Tribunal, the SA was excluded from the list of “criminal organizations.” During all rehabilitation proceedings, denunciations

33 Olejnik, *Zdrójcy*, 156.

34 *Ibid.*, 154.

35 *Ibid.*, 103. This number includes 129,200 cases examined by the courts of Silesia, 44,900 by the courts of the Gdańsk Region, 28,200 by the courts of Poznań, 17,700 by the courts of the Pomerania Region, approximately 14,000 by the courts of the Ciechanów Area, 13,700 by the courts in Łódź and in the Łódź Region; in order to act in accordance with the regulations, all of them should be isolated “for an indefinite time”, which was rather impossible.

36 According to the above data, by 14 February 1947 only roughly 1/3 of the applications were examined.

37 This was the case with the application submitted by one of the most famous avant-garde painters, Władysław Strzemiński. The artist, because of his wife, the well-known artist Katarzyna Kobro, who was a Russian, adopted the status of a “privileged national minority”. In October 1945 he submitted an application for rehabilitation, which, after two letters sent by the Association of Polish Visual Artists supporting his application (and urging the court to exercise leniency), was examined after more than a year. Details – Małgorzata Czyńska Kobro, *Skok w przestrzeń* (Wołowiec, 2015), 178-81. Kobro declared she was a Russian (though her family were Courland Germans), which released her from the obligation of “loyalty to the nation”, and therefore she did not apply for rehabilitation. Unexpectedly, in 1949, she was denounced, accused and sentenced to six months in prison. She lodged an appeal and was acquitted a year later.

or incriminating witness testimonies, often motivated by personal revenge, were very frequent.³⁸

To standardise proceedings, a decree “on criminal responsibility for deviating from one’s [Polish] nationality during the war of 1939-1945”,³⁹ was signed on 28 June 1946, but passed into law with a four-month delay on 21 October. The provisions of the Decree were quite drastic: in the absence of mitigating circumstances, affiliation to German nationality (or to privileged nationality status) was punished by ten years in prison, a fine, the total or partial confiscation of property, loss of civil / civic rights. These penalties could be imposed jointly. Meanwhile, this legal act was supplemented on 13 September 1946 by the Decree “on exclusion from Polish society of persons of German nationality”,⁴⁰ which was implemented on 25 April 1947, when its corresponding executive regulation was issued. Loss of citizenship was decided by local authorities because the Decree of 17 November 1946 liquidated the Special Criminal Courts and their competencies were transferred to the common courts. So it may be concluded that the legal status of the *Volksdeutsche* was finally regulated.

Court cases ran in line with the Decree of 28 June started in 1947 with approximately 7,600 people being sentenced on that basis. Only 0.9 % of the defendants were sentenced for more than five years in prison and approximately 41 % were sentenced for one year in prison or remanded in custody (for up to three months). There were many court proceedings which were conducted quite slowly: at the end of 1947 they concerned 43,100 persons.⁴¹ However, there were many acquittals and according to the estimates of Andrzej Pasek, in the period 1946-1950, only approximately 16,000 people were sentenced.⁴² The effective date of a new decree did not imply that all those who were sent to prison camps for an “indefinite time” were automatically released. From June 1948 to January 1949, a special joint ministerial commission visited the largest camps where *Volksdeutsche* were held. Approximately 32,400 persons were interrogated, which means that so many persons were still subject to isolation and forced labour. Soon, however, these camps were

38 Attention is drawn to this fact by Adam Dziurok in *Śląskie rozrachunki: Władze komunistyczne a byli członkowie organizacji nazistowskich na Górnym Śląsku w latach 1945-1956* (Warsaw, 2000), 92 and 107.

39 *Dziennik Ustaw*, 53 (1946), item 300. On its basis, power was lost by a decree of 4 November 1944 and the act of 6 May 1945.

40 *Ibid.*, 55 (1946), item 310. It applied to Germans – citizens of the Second Polish Republic, and non-Germans residing in 1945 in territories incorporated into the Third Reich.

41 Olejnik, *Zdrójcy*, 189-90.

42 Andrzej Pasek, *Przestępstwa okupacyjne w polskim prawie karnym 1944-1956* (Wrocław, 2002), 174.

closed, or rather re-classified, as they became places where people convicted by Special Commissions for Fraud Prevention and Economic Sabotage were sent.

The process of depriving individuals of citizenship took place by administrative decision, and by implementation of the Decree – as estimated by Leszek Olejnik – approximately 150,000 persons were deprived of citizenship. Some of them – over 30,000 – didn't leave Poland until 1950.⁴³ The actual end of the “Volksdeutsche problem” came on 20 July 1950 with the Act on “cancellation of sanctions and constraints in relation to citizens who declared their affiliation to the German nation”.⁴⁴ The moment of submitting the bill to Sejm (Parliament), as well as the pace with which it went through (three readings and a commission session in half a day), resulted from making a deal two weeks earlier between the Polish People's Republic and the German Democratic Republic (East Germany). From the moment East Germany was established, a sea change occurred in the rhetoric of the Polish communist authorities on the Germans. One of the elements of the new approach was solving the Volksdeutsche problem.

Punishing War Criminals

It is obvious that a primary element of retributive justice was to punish criminals irrespective of the position they held in the Third Reich's apparatus of terror. The main legal act concerning these crimes was the Polish Committee of National Liberation's (PKWN's) Decree of 31 August 1944, which included not only the persons directly belonging to this apparatus, but also those who supported it (as informants or agents) or even without any kind of formal association with it, performed acts “for the benefit” of the enemy occupier (such as *szmalcowniki* – informants on Jews in hiding or their blackmailers or murderers). Therefore, the Decree also concerned Polish citizens who did not renounce their Polish national affinities.

A factor influencing the way of complying with the dispositions of the *August Decree* was the appointment of “Special Criminal Courts for Nazi -fascist criminals” (SSK) on the strength of the PKWN's Decree of 12 September 1944.⁴⁵ These were in fact martial courts: upon submission of a notification, the prosecutor had fourteen days to submit a bill of indictment that “does not require substantiation”, and the court had forty-eight hours to deliver a

43 Olejnik, *Zdrójcy*, 197.

44 *Dziennik Ustaw*, 29 (1950), item 270.

45 *Dziennik Ustaw*, 4 (1944), item 21.

ruling. In addition, the one tier trial court mode was introduced (but with the right of appeal for clemency). The bench would consist of a professional judge and two jurors appointed by the quasi-local government authorities (National Assemblies). The Special Criminal Courts were dissolved by the Decree of 17 October 1946,⁴⁶ and their tasks were transferred to district courts. The reason for this was probably pursuit of the aim to standardise the court system, and also because objections were being voiced against some penalties for collaborators which were deemed to be insufficiently severe, and too many acquittals.

Another institution which was established to implement the *August Decree* was the Supreme National Tribunal (NTN – Najwyższy Trybunał Narodowy), created by the Decree of 22 January 1946.⁴⁷ Its task was both to try criminals deported to Poland by the Allies, and to try persons held responsible (by the Soviet-sponsored regime) for the Polish state's "turn towards fascism" before August 31, 1939 and the "September defeat" of 1939. These "crimes" were defined in a separate decree that was issued on the same day.⁴⁸ This second range of offences was directly connected to the political struggle that was in progress in Poland at the time, and was simply aimed at delegitimising the political elites of the Second Polish Republic. It was not connected in any way with the war and the course of the country's occupation that followed. Both the Decree and its execution, which was entrusted to the Supreme National Tribunal, was the expression of a propensity to take revenge not only in physical form (imprisoning or killing), but also by humiliating those put in the dock by casting them as criminals on a par with the Germans. The Supreme National Tribunal, however, did not examine even one such case. This task fell within the remit of the district courts, which actually examined such cases.

Although the Supreme National Tribunal was of special importance, it operated in similar manner to the Special Criminal Courts: its adjudication panel consisted of three professional judges and four jurors who were selected by the Homeland National Council (Krajowa Rada Narodowa – KRN) from among its delegate deputies, and operated on a one-instance-appeal procedure basis; thus, those who were convicted by it had no recourse to any higher court in quest of justice and could only apply for clemency. The Tribunal consisted only of prosecutors. But it was realized relatively quickly that in connection with the inflow of extradited criminals (by the end 1947 more

46 *Dziennik Ustaw*, 59 (1946), item 324. A decree became effective a month after its enacting.

47 *Dziennik Ustaw*, 5 (1946), item 45.

48 It was called the Act "on responsibility for the September defeat and the fascization of the state" – *Dziennik Ustaw*, 5 (1946), item 46.

than 1,700 were transferred to Poland) that court would have to operate for many years in order to process so many cases. Hence, from October 1946, cases were transferred to the district courts, leaving only the most important cases to the Supreme National Tribunal. This court operated for just over two years and after the seventh trial, which ended on 5 July 1948, it simply vanished from the scene without any legal act being passed to rubber stamp this termination of activity. Alexander Prusin believes that “the authorities decided its time had been and gone” and its consignment to oblivion “was a sign that the communists had completely seized power in the country”,⁴⁹ which meant that spectacular trials of war criminals were no longer needed for the new regime’s legitimisation.

The third, this time extrajudicial, institution dealing with these kinds of cases was the Main Commission for Investigating German Crimes in Poland, set up in March 1945, though the appropriate decree was issued much later, on 10 November 1945.⁵⁰ The Polish Military Mission for Examination of German Crime was established in March 1945, to operate in the Allied-occupied zones of Germany and Austria. Its activity consisted in preparing extradition procedures, including determining the whereabouts of fugitive war criminals. The Main Commission carried out court investigations and collected incriminating materials substantiating requests for the extradition of suspects (its records contained approximately 7,500 cases),⁵¹ but it also dealt with the criminals who remained at home. Both the Main Commission itself and the other ten district commissions conducted investigations for the purpose of facilitating the work of the prosecutors who could not cope with the volume of *August Decree*-based cases by themselves. The Commission outlived both the Special Criminal Courts and the Supreme National Tribunal,⁵² but after 1949 its activity was significantly curtailed (for over ten years), due to both changes in Poland’s German policy once East Germany came into existence, and the fact that, as from the end of 1948, extraditions became less frequent. The change of its name was symptomatic: it no longer dealt with “German crimes” but with “Nazi crimes”.

Hence, the Polish investigation-judicial institutional system was formally extended to deal specifically with war criminals. The inaugural trial of the

49 Alexander V. Prusin, ‘Polska Norymberga: Siedem procesów przez Najwyższym Trybunałem Narodowym, 1946-1948’, *Zagłada Żydów: Studia i Materiały*, 9 (2013), 116-140, 139.

50 *Dziennik Ustaw*, 51 (1945), item 293.

51 Kobierska-Motas, *Ekstradycja*, 16.

52 It had undergone some modifications over the course of time but it still exists up to this day as part of the Institute of National Remembrance as a Main Commission for the Prosecution of Offences against the Polish Nation. Its director is, ex officio, the deputy of the General Prosecutor.

Special Criminal Courts, on the strength of the *August Decree*, was opened in Lublin at the end of October 1944. The defendant was a Volksdeutsch labour camp supervisor, who was sentenced to death. The most spectacular trial in 1944 was that of six staff members of the Majdanek concentration camp, which prompted the amendment of the Code of Criminal Procedure by adding a provision permitting the head of the Polish Committee of National Liberation's justice department to order public executions.⁵³ When the defendants were led into the court building in Majdanek, the citizens' militia (effectively, Poland's armed police throughout the communist era) and soldiers had to fire warning shots into the air to prevent a lynching by an incensed crowd of a few thousand that had gathered there. By the end of 1944, the Special Criminal Court prosecutors had examined more than a thousand cases and the courts delivered twenty-seven death sentences.⁵⁴

There were seven most spectacular trials before the Supreme National Tribunal due to the high level of importance of the defendants. They were not only theatrical performances played to packed court houses, but they were also staged to the accompaniment of radio broadcasts, foreign journalists and foreign lawyers. No wonder that high judicial standards were keenly observed. For example, during the trial of Josef Bühler, the court had a hundred files for reference, and during the Auschwitz staff trial, more than two hundred witnesses were cross examined.⁵⁵ The first defendant to be brought before the Supreme National Tribunal was Artur Greiser, *Gau-leiter* of Reichsgau Wartheland (the lands of western Poland incorporated directly into the Third Reich), whose trial ran from 21 June to 7 July 1946 in Poznań. He was sentenced to death and hanged in the presence of about 15,000 onlookers. Josef Bühler, head of government of the General Government, was last. One trial was of a collective nature: forty staff members of Auschwitz-Birkenau stood in the dock. Altogether, the Supreme National Tribunal judged forty-nine defendants further to which thirty-one death sentences were delivered and one person was acquitted. Thus, the Tribunal was not overworked; it rather set the tone, offered procedural guidelines and possible interpretations, and introduced new legal concepts into circulation, such as "criminal association". Some of the trials before the Special Criminal Courts or district courts (as from 1950 – regional courts) were clamorous and spectacular. These included undoubtedly the trial of fifteen staff members of Stutthof concentration camp (including five women; the defendants also included *kapos* – prisoners who served on the concentration camp staff) who

53 *Dziennik Ustaw*, 13 (1944), item 70.

54 Olejnik, *Zdrajcy*, 73.

55 Prusin, *Polska Norymberga*, 124.

were judged by the Gdańsk Special Criminal Court before the first trial of a defendant who was brought before the Supreme National Tribunal. Eleven sentences of death by hanging were delivered and publicly executed by five prisoners of this camp. The corpses were left to hang until the following day and, upon being cut down, they were taken to the Medical Academy.⁵⁶ War crime trials gradually began to decline as from 1950-1951, but were still quite systematically held until the mid-1960s. For instance one of the most famous criminals, Erich Koch, Oberpräsident of East Prussia, was deported to Poland in 1949, but his trial took place in 1959. The last person convicted under the *August Decree* was a Polish staff member of the extermination camp in Chełmno near Ner. The district court sentenced him to eight years in prison. This came in 2001.

In view of the lack of detailed tests it is difficult to precisely specify how many German criminals were sentenced on the strength of the *August Decree* as, under this Decree, people who worked for various institutions that functioned in German-occupied areas were also tried and sentenced. Leszek Kubicki estimated that, by 1960, "Polish courts convicted approximately at least 4,500 [Germans] for war crimes", which constitutes roughly a quarter of those put on trial.⁵⁷ Czesław Pilichowski believes there were almost 5,500 convictions,⁵⁸ which was supposed to constitute roughly a third of the total number of defendants. It is also still difficult to determine the quantitative structure of the penalties. Sentences in 1,803 criminal cases (fifty of which were neither Germans, nor *Volksdeutsche*), which were transferred to Poland by the Allies, may constitute a kind of sample: 193 persons (less than 11%) were sentenced to death, 204 for more than 10 years in prison, and 101 were acquitted.⁵⁹ As a matter of fact, though the law was severe, its application, seen through the optic of the sentences that were delivered, probably diverged from social expectations.

56 Dariusz Burczyk, 'Specjalny Sąd Karny w Gdańsku (1945-1946): Przyczynnik do monografii', *Przegląd Archiwalny Instytutu Pamięci Narodowej*, 7 (2014), 289-312, 307-308. In January 1948, the MBP Prison Department issued a regulation "on the transfer of corpses of German war criminals for medical purposes" – Joanna Żelazko, 'Losy skazanych na karę śmierci przez Wojskowy Sąd Rejonowy w Łodzi', in Olgierd Ławrynowicz and Joanna Żelazko (eds), *Archeologia totalitaryzmu: Ślady represji 1939-1956* (Łódź, 2015), 251-75.

57 Leszek Kubicki, *Zbrodnie wojenne w świetle prawa polskiego* (Warsaw, 1963), 81. This estimate is based on the figures quoted in documents according to which convicts of German nationality constituted 39% in 1946 and 18% in 1949.

58 Czesław Pilichowski, *Badania i ściganie zbrodni hitlerowskich, 1944-1974* (Warsaw, 1975), 157.

59 Kobińska-Motas, *Ekstradycja*, 22. In the case of ninety-two people, the proceedings were discontinued for various reasons. Fifty-five people died before judgement was delivered.

Punishing of Collaborators

Differentiating between “active” and passive” collaboration seems reasonable (both legally and morally); it is, however, not possible to draw a distinct demarcation line, especially taking into consideration changes in time and regional differences. It is difficult to separate a “war crime” from a “crime of active collaboration”, which frequently meant an accomplice (to varying degrees of culpability). I believe such collaboration entailed both the direct involvement of Polish citizens in the crimes of others and spontaneous – individual or collective – acts “for the benefit” of the enemy occupier. Research into the workings of the *August Decree* has determined neither the quantity of cases which the prosecutors worked on, nor the number of indictments. It is easiest to calculate convictions, but here, whereas Elżbieta Kobierska-Motas assumes that in 1944-1988 there were approximately 20,000 convictions,⁶⁰ Andrew Kornbluth estimates that in 1944-1960 various courts convicted 21,000 persons,⁶¹ and according to Kubicki, approximately 18,000 people were sentenced in those years.⁶² Thus, we may estimate that 13,500-16,500 of the sentenced individuals were “active collaborators” (the rest were Germans or non-Polish citizens). Attention may be drawn to the relatively high percentage of acquittals: according to Pasek, 30-40% of the trials ended in acquittals,⁶³ and according to Kornbluth it was even 45%.⁶⁴ If we assume that about 40% of the total number of defendants were acquitted, and if we use this estimate as a basis for generalized assumptions, we could be talking about approximately 19,000-25,000 “active collaborators” who were put on trial. However, Kornbluth estimates that until 1960 at least 32,000 persons were tried in court (perhaps even 35,000 or so),⁶⁵ which means that this figure would have included some 28,000-30,000 “active collaborators”. Of course the pre-trial stage covered significantly more people – according to Kobierska-Motas perhaps 80,000-100,000 – but the prosecutors very often

60 Ibid., 8. 3,954 judgements were delivered by the SSK, 48 by the NTN, 12, 427 by the District Military Courts and approximately 3,500 by other courts of law.

61 Andrew Kornbluth, ‘Jest wielu Kainów pośród nas: polski wymiar sprawiedliwości a Zagłada, 1944-1956’, *Zagłada Żydów: Studia i Materiały*, 9 (2013), 157-172, 161.

62 Kubicki, *Zbrodnie*, 180.

63 Pasek, *Przestępstwa*, 173.

64 Kornbluth, *Jest wielu Kainów*, 159. Analyzing the situation in Silesia, Adam Dziurok draws attention to the relatively high percentage of acquittals. Out of 1,665 persons accused of affiliation to Nazi organizations, 770 were acquitted (approximately 46%) (Dziurok, *Śląskie*, 204). Silesia was untypical, as of the approximately 3,500 people arrested in the period 1945-1946 under the *August Decree*, most were imprisoned for affiliations to Nazi organizations and only 839 (24%) for “cooperation with the (German) occupier” (ibid., 106).

65 Kornbluth, *Jest wielu Kainów*, 157.

decided on discontinuing proceedings and many such cases were dismissed without judicial proceedings being opened.⁶⁶ All of this suggests that, in general, the judiciary acted relatively prudently and neither prosecutors nor judges buckled under public pressure. The net was cast fairly far and wide and many people were caught in it, but the catch was then sifted.⁶⁷ The same conclusion is also confirmed by the surviving data regarding the sentences: according to government statistics for 1947-1953, the court sentenced 9,300 persons on the basis of Article 1 of the *August Decree*, with 856 persons being sentenced to death,⁶⁸ which was approximately 9% of the total number of convictions, though, according to the Decree, this article made the death penalty obligatory. Kubicki draws attention to the fact that courts “applied extraordinarily lenient measures very frequently”,⁶⁹ but, on the basis of what had been established previously, it should be assumed that in the first years of the *August Decree’s* regime, its sentences were more severe: there were 2,471 convictions in 1944-1946. They included six hundred and thirty-one death sentences (a quarter of their total) and there were twice as many more prison sentences of over ten years.⁷⁰ There were some surprisingly severe sentences. In November 1944, for example, the Lublin Special Criminal Court sentenced the chairman of the district court in Zamość under the German occupation to fifteen years in prison together with the loss of civil and civic rights for 10 years; the defendant was accused of applying for Volksdeutsch status, receiving German food coupons and having a higher salary.⁷¹ Most trials took place in 1947-1948 (producing approximately 6,900 sentences in total), while the figures began to drop considerably as from 1952, going into rapid decline as from 1956.⁷² The number of death sentences declined correspondingly.

Crimes described in the *August Decree* were not covered by the amnesties of 1945 and 1947. They were covered by the amnesty of 22 November 1952, but only those described in Articles 2 and 3 of the Decree which did not

66 Kobińska-Motas, *Ekstradycja*, 19. For instance, in Silesia, prosecutors discontinued approximately 3,000 cases out of approximately 11,000 that were submitted, with the same number being transferred to courts, and they did not even manage to examine approximately 4,300 cases by the time the Special Criminal Courts were liquidated (Dziurok, *Śląskie*, 176).

67 Also the number of those arrested by the security apparatus for “occupation period crimes” (in 1944-1956, approximately 39,600 were held for such crimes – IPN BU 0887/73, 2) significantly exceeded the number of persons tried before the courts.

68 Archiwum Akt Notowanych (AAN), Ministry of Justice, 9434, fol. 162-3.

69 Kubicki, *Zbrodnie*, 183. In Silesia approximately 70% of all convicts were given the minimum penalty of three years in prison (Dziurok, *Śląskie*, 205).

70 *Demokratyczny Przegląd Prawniczy*, 7 (1946), 47.

71 Olejnik, *Zdnajcy*, 73.

72 Kubicki, *Zbrodnie*, 181.

necessarily mean total remission because, for example, the death penalty was replaced by fifteen years in prison. In 1954-1955, as a result of the ending of imprisonment periods, and due to the departing from the policy of mass reprisals, a considerable number of sentenced individuals were released. As a result, on 1 January 1956, approximately 1,500 individuals sentenced under the *August Decree* were deemed to have served their sentences.⁷³ Another amnesty was proclaimed on 27 April 1956. It concerned, first of all, individuals sentenced in political trials. It also covered “active collaborators”: it provided for the cancellation of planned proceedings, the termination of already initiated proceedings, and clemency. Pardons thereby became very frequent and, as Andrzej Pasek observed, by the beginning of 1957 “almost all persons sentenced for ‘war transgressions’ left their penitentiaries.”⁷⁴ This act of pardon applied to most, but not all, because, for example, Erich Koch died in prison in Barczewo in 1986.

On the basis of Alina Skibińska’s analysis of the District Court records in Kielce,⁷⁵ it may be concluded that the increase in the number of accusations (three hundred and forty-seven) was very significant: from participating in killing Jews and Poles, denunciations, participation in round-ups and blackmail, to “offensive statements concerning Poland and Poles” made by Germans. Studies show as many as forty-four percent of these crimes related to Poles who were victims of denunciations. This applied most often to neighbours and friends and sometimes even close family members (most often husbands).⁷⁶ Apart from the wish to make good impressions on the authorities, avoiding penalties or obtaining payment, many denunciations were related to private differences, including marital conflicts. In the vast majority of trials (except for those before the Supreme National Tribunal), investigations and hearings were based on the testimonies of defendants and witnesses; very rarely did the prosecutors and courts have documentary evidence in the strict sense of the word. Many cases under the *August Decree* were commenced due to denunciations, which were, in some way, retributions for denunciations made in the wartime period.

As determined by Skibińska, thirty-six percent of the near on eight hundred trials that took place in all of the courts in Kielce put together concerned various kinds of crimes against Jews. Kornbluth, who examined the

73 Kornbluth, *Jest wielu Kainów*, 171.

74 Pasek, *Przestępstwa*, 178

75 Alina Skibińska, ‘Dostali 10 lat, ale za co? Analiza motywacji sprawców zbrodni na Żydach na wsi kieleckiej w latach 1942-1944’, in Barbara Engelking and Jan Grabowski (eds), *Zarys krajobrazu: Wiśń polska wobec zagłady Żydów, 1942-1945* (Warsaw, 2011), 313-444.

76 *Ibid.*, 322.

files of the District Court in Siedlce, determined that twenty-nine of the one hundred and thirty-one cases examined under the *August Decree* concerned crimes against Jews. In the District Court in Warsaw, one hundred and thirty-six of the three hundred and twenty examined cases concerned crimes against Jews.⁷⁷ The review of seventy-six court files made by Skibińska all over Poland suggests that seven percent of the cases belonged to this category,⁷⁸ but in some parts of Poland's post-war territory there simply was no problem in relations between Poles and Jews. In any case, crimes against Jews constituted a significant part of dealing with "active collaborators" whose scale still remains impossible to determine. Perhaps slightly surprisingly, among those charged with crimes against Jews, there were Jews themselves. According to Gabriel N. Finder and Alexander V. Prusin, at least forty-four were tried, thirty were sentenced of whom ten were sentenced to death, and ten were acquitted.⁷⁹

Apart from crimes against Jews, further to the application of the *August Decree* in Silesia and the trials of the more prominent German criminals, no systematic research into the investigation and trial records related to this Decree has been made. In general, in Silesia there were many sentences for affiliations to Nazi organizations, while in what was the General Government, the more typical sentences were for extortions and blackmail by the *szmalcownicy* and numerous crimes committed by "navy blue police officers" and people with *Volksdeutsche* status who abused their power and status. Defendants also included district governors, mayors or civil servants and camp and prison staff. Due to the current status in research on these issues, it is not possible to produce the correct statistical typology of crimes and criminals related to the issue at hand. Therefore, a few miscellaneous examples are given below by way of illustrating the different forms of "active collaboration" and related judicial proceedings.

There were hearings which were not publicized when in progress and only became known many years later. One example was the trial that took place on 16-17 May 1949 before the District Court in Łomża which involved twenty-two defendants accused of murdering a few hundred Jewish inhabitants of Jedwabne on 10 July 1941. The sentences were quite severe: one person was sentenced to death (President Bierut, however, exercised his right

77 Kornbluth, *Jest wielu Kainów*, 158.

78 In six courts, the number of cases related to crimes against Jews exceeded 20% and in twelve courts, such crimes constituted 10-20% of all cases. I thank Ms. Skibińska for making the aggregate result of her archival inquiry in the IPN archive available to me.

79 Gabriel N. Finder and Alexander V. Prusin, 'Jewish Collaborators on Trial in Poland, 1944-1956', *Polin*, 20 (2007), 122-148, 128.

of clemency and reprieved him), eleven people were sentenced for eight to fifteen years in prison and ten were acquitted. There was no press information on the Jedwabne murders and the trial itself only became widely known more than half a century later. The case achieved fever pitch levels of public excitement in 2000 with the publication of Jan T. Gross's book *Neighbours*; the course of the investigations and proceedings regarding the case then and now have been documented in minute detail.⁸⁰ As regards publicity, the trials of journalists working in the German-controlled Polish gutter press (the so-called *gadzinówki*) were the reverse of the Łomża trial: local and national newspapers clamourously reported their course on a current basis, but soon this interest passed into oblivion. Based on Article 2 of the *August Decree*, eight such trials were held (including five collective trials) and forty-one people were tried.⁸¹ Five of the defendants were acquitted (their proceedings were recognized by the court as "unethical rather than against the law"),⁸² one was sentenced to death (the sentence was not carried out), three were sentenced to life imprisonment, nineteen for more than five years in prison (six of whom were sent down for more than ten years). However, in one of the trials, both life sentences were delivered *in absentia* because the defendants, Jan Emil Skiwski and Feliks Burdecki, managed to get out of Poland in January 1945, and then remained abroad. Skiwski, a famous essayist and literary critic, and Feliks Burdecki, a well-known journalist, were politically active collaborators until the last days of the German occupation. Some of those convicted in the early years of communist terror were later to enjoy successful literary careers, like Alfred Szklarski, who was the author of very interesting books for children and adolescents. The trial of the so-called *Goralenvolk* might also be worth mentioning. In an effort to fragment the Polish nation, the Germans hit upon the idea of inventing a new distinctive ethnic minority if not nationality, the highlanders of southern Poland known as Górale, whom they named *Goralenvolk*. Approximately 25,000 people subscribed to this farce for opportunistic reasons (i. e. eighteen percent of the highlander population).⁸³ In January 1945, several *Goralenvolk* activists, including their leader Waław Krzeptowski, were sentenced to death by an underground court and executed, but some of the main organizers, Witalis

80 Paweł Machcewicz and Krzysztof Persak (eds), *Wokół Jedwabnego*, vol. 1-2, (Warsaw, 2002). In particular, vol. 1, 353-460 and vol. 2, 415-816 respectively.

81 Tadeusz Wolsza, 'Gadzinówki przed sądem Polski Ludowej (1946-1949)', *Polska 1944/45-1989: Studia i materiały*, 12 (2014), 349-81.

82 Zuzanna Schnepf, 'Losy pracowników niemieckiej gadzinówki "Nowy Kurier Warszawski" w świetle powojennych procesów z dekretu sierpniowego', *Zagłada Żydów: Studia i materiały*, 2 (2006), 153.

83 Details can be found in the comprehensive monograph by Wojciech Szatkowski, *Goralenvolk: Historia zdrady* (Kraków, 2012).

Wieder and Henryk Szatkowski, managed to escape abroad. The issue was too well known and disturbing to apply the Decree of 4 November 1944 (“passive collaboration”) alone. Six people were tried in public in November 1946. Wieder and Szatkowski were tried and sentenced to death *in absentia*. Krzeptowski and his deputy (and the President of the pre-war Highlanders Union) Józef Cukier, received fifteen year prison sentences apiece (Cukier was released by the amnesty of 1952), while others were sent down for three to five years. Ludwik Kalkstein and his wife Blanka Kaczorowska, a member of the Home Army’s (ZWZ-AK) intelligence, were “classic” traitors. They were recruited by the Gestapo in 1942 and denounced a year later as people who were responsible for the arrest of the Home Army Commander-in-Chief Gen. Stefan Rowecki, pseudonym “Grot”.⁸⁴ Their delegated executioners failed in their mission to carry out the death sentences that were delivered by the underground court. After the war, using false documents, they led normal lives: Kaczorowska was arrested in December 1952, and Kalkstein in August 1953. They were sentenced to life imprisonment in two separate trials held *in camera*, but they were relatively quickly released (Kaczorowska after six years, Kalkstein after twelve years) and allowed to leave Poland.

It is difficult to clearly specify whether sentencing some ten thousand “active collaborators” or more, and judging probably approximately 30,000, is a success or a failure in terms of the number of defendants and convictions. The significant percentage of acquittals and many cases of prosecutors refusing to press charges and putting defendants on trial could suggest that even collaboration of an “active” nature was to a great extent recognized to be situational and “acting for the benefit of the occupier” was often a one-off act motivated by the prospect of immediate profit rather than from a sense of political or ideological commitment to the enemy cause.

Dealing with the Occupation as an Excuse to Eliminate the Political Opponents of the New Regime

“Retaliatory regulations”, including the Decrees of 31 August 1944 and 22 January 1946, became the basis (or rather pretext) for reprisals against Home Army soldiers and Polish Underground State officials. Piotr Kładoczny draws attention to the fact that this was facilitated by the introduction in 1946 of the provision stating that the *August Decree* also applied to “political associ-

84 The Gestapo agent who betrayed Gen. Rowecki was the brother-in-law of Kalkstein, Eugeniusz Świerczewski, a pre-war theatre critic. In June 1944 an underground court passed sentence on him.

ations that operated for the benefit of Germany”⁸⁵ and to “organizations” such as the National Armed Forces, “the AK (Home Army) leadership” and the Polish Government-in-Exile Delegate in Poland. This accorded both with the beliefs of Stalin and the Polish communist authorities, who stated many times over that the “London government” and its representatives at home acted to the benefit of the Germans and were even in collusion with them.⁸⁶ Hence, this Decree could be wielded against political opponents at will, and starting from 1948, prominent soldiers and activists of the Polish Underground State were accused of various crimes. According to Andrzej Pasek, three hundred people were sentenced this way.⁸⁷ Previous research shows that, for instance, in trials of counterintelligence units of the Polish Government-in-Exile Delegate’s Office that took place in 1951-1952, twelve defendants were sentenced, nine of whom were sentenced to death (with five executions being carried out).⁸⁸ The course of one of these trials was publicized by way of a fake stenographic record published under the provocative title “Gestapo Allies. The trial of Kwasiborski and others”. Under the *August Decree* Gen. Emil Fieldorf, pseudonym “Nil”, the commander of the Diversion Section (Kedyw) of the Home Army High Command (KGAK), was sentenced to death and executed and Colonel Bolesław Kontrym simultaneously convicted under this Decree for the state’s lurch towards fascism (ten years of imprisonment) and under the *August Decree* (sentenced to death and executed). Kazimierz Moczarski was arrested in 1945 under the Decree for committing “particularly dangerous crimes in the period of reconstruction of the state” and convicted to ten years in prison, but in 1952 he was sentenced to death under the *August Decree* (but reprieved). Reprisals were systematically carried out against persons connected with the Department of Internal Affairs of the Polish Government-in-Exile Delegate in Poland. As determined by Waldemar Grabowski, at least sixty-four persons employed by the Ministry were subjected to repressions.⁸⁹ Among those convicted were

85 Kładoczny, *Prawo*, 182.

86 For instance, during the conference in Tehran, Stalin said to his partners that the Polish government “has very good relations with Germany”, and during the trial of sixteen leaders of the Polish Underground State that was held in June 1945 in Moscow, they were accused of “preparing, together with the Germans, military operations against the USSR”. In the central press organ of the Polish Communist Party (PPR) *Głos Ludu*, articles were published on “AK and NSZ criminals acting hand in hand with Nazis”.

87 Pasek, *Przestępstwa*, 200-1.

88 For details see Janusz Wróbel and Marek Słojewski, ‘Zbrodnie sądowe z oskarżenia o kolaborację z nazistami’, in Witold Kulesza and Andrzej Rzepliński (eds), *Przestępstwa sędziów i prokuratorów w Polsce lat 1944-1956* (Warsaw, 2001), 85-108.

89 Waldemar Grabowski, *Polska tajna*, 530.

a pre-war prime minister and Marshal of the Sejm Kazimierz Świtalski and provincial governors Wacław Kostka-Biernacki and Stanisław Twardo. Under the Decree regarding the country's pre-war "fascistization", Mieczysław Siewierski, the prosecutor of the Supreme National Tribunal, was himself arrested and given a five year prison sentence.⁹⁰ Most trials, of both underground resistance activists and top pre-war government officials, civil servants, security service agents or members of the judiciary, were punished not for current anti-state activities, but out of political revenge in which legal instruments were created to enable punishment of war criminals and collaborators.

Reckonings with the Past: Wartime Social and Professional Organisations and Associations, Police and Prison Services

Apart from dealing with crimes based of *ad hoc* legislation ("retaliation regulations") or on political decisions of the great powers (the expulsion of Germans), crimes were also dealt with at a professional level without the direct involvement of the justice system. Some of them – concerning professions of public trust – were conducted on the basis of the existing legislation or temporary regulations, but the majority took place within the corporations, under their own internal disciplinary procedures. Apart from research into the thespian community, there have been no monographs on crimes brought to book in these walks of life, and therefore this description can only be cursory.

One of the professions subject to positive vetting was that of judges, that is, those who wanted to remain in practice. Applications were examined both from the standpoint of pre-war professional requirements (education, experience, etc.) and on the basis of "information on the attitude of the candidate at time of war and occupation".⁹¹ Anna Machnikowska, the author of a comprehensive study on the judiciary, believes that attitudes during the German occupation period "became the basis for a small number of negative decisions" and only "eleven to nineteen people" were dismissed from their posts.⁹² I did not manage to establish whether prosecutors were vetted

90 Prusin, *Polska Norymberga*, 139. Of course, Siewierski was not convicted for holding a position in the Supreme National Tribunal, but because he was prosecutor in the Second Polish Republic.

91 Anna Machnikowska, *Wymiar sprawiedliwości w Polsce w latach 1944-1950* (Gdańsk, 2008), 155.

92 *Ibid.* One of them was the already mentioned chairman of the District Court of Zamość.

in a similar manner. Attorneys were vetted on the basis of the Decree of 24 May 1945 “on temporary regulations supplementing the corporate bar structure law”.⁹³ Article 8 of this Decree provided for the appointment of vetting commissions – at the attorney’s chambers and a central commission (appeal commission) at the Polish Bar Council (NRA – Naczelna Rada Adwokacka) – that was to check “whether the behaviour of the candidate, especially during the period of German occupation, was unblemished in civil, social and professional matters”. The field commissions, save for delegates of district bar councils, also had representatives of the Minister of Justice and presidents of competent appeal courts in their number, and spokesmen of bar chambers and of appeal court prosecutors also took part in their proceedings. Only the Chief Vetting Commission was composed solely of attorneys. All persons registered on the attorneys’ list had to complete an eleven-point questionnaire.⁹⁴ It seems that the vetting was conducted quite meticulously, but I did not manage to determine its final results. Marcin Zaborski believes that 500-1,000 attorneys were vetted, and only between a dozen or so and no more than one hundred failed to get clearance.⁹⁵

The professional groups that had to undergo fairly rigorous selection processes included “navy blue police” and “Prison Guard” officers. The Prime Minister appointed a six-man Rehabilitation-Qualification Commission on 29 August 1945. It consisted of Citizen Militia officers, employees of the Presidium of the Council of Ministers, and an MBP (Ministerstwo Bezpieczeństwa Publicznego – Ministry of Public Security) delegate.⁹⁶ Each officer of one of these services who wanted to work in state institutions or local government was obliged to present a certificate issued by a vetting committee. Systematic vetting commenced in January 1946, and assessments were made on the basis of individual applications for “rehabilitation” and detailed checks by the UB (Urząd Bezpieczeństwa – Security Office) and the Citizen Militia. In the event of detecting evidence of the applicant having collaborated with the Germans, the case would be transferred to the prosecutor’s office. In the absence of reservations, the Commission would issue a certificate permitting the applicant’s admission to public service. By October

93 *Dziennik Ustaw*, 25 (1945), item 146.

94 AAN, Ministry of Justice, 5848, fol. 16-7.

95 Marcin Zaborski, ‘Pierwsza weryfikacja adwokatów w Polsce Ludowej (1945-1950)’, *Palestra*, 11-2 (2015), 215. Details were not specified by Lech Krzyżanowski, who in conclusion to a comprehensive article merely wrote that in Silesia “only a few” persons were excluded – ‘Weryfikacja adwokatów śląskich po II wojnie światowej’, *Annales Universitatis Paedagogicae Cracoviensis: Studia Politologica*, 10 (2013), 97-112, 112.

96 A detailed analysis of commission work – see Robert Litwiński, ‘Komisja rehabilitacyjno-kwalifikacyjna dla byłych policjantów (1946-1952)’, *Dzieje Najnowsze*, 1 (2004), 117-133.

1947, 8,247 applications were examined, of which five hundred and fifty six (6.5%) were denied rehabilitation certificates,⁹⁷ mostly due to acts described in the *August Decree*. Among the nine hundred and ninety-eight applications submitted by Prison Guard officers, only thirty-three (i. e. 3.3%) applications were rejected.⁹⁸ Commission decisions were issued on the strength of the Decree of 22 October 1947 “on the acceptability of rehabilitation of persons employed in the police and prison guard services during the German occupation”.⁹⁹ Piotr Majer, a leading expert on the history of the Polish police in the 20th century, believes that the vetting procedures did not have a repressive character, and even perceives there to have been an “attempt to protect the entire professional environment against the [“August”] Decree.”¹⁰⁰ The relatively small number of clearance failures could be the result of the relatively lenient approach characterizing many proceedings against persons suspected of collaboration. A specific, rigorous vetting process began in 1950 with mass investigations and inquiries by the MBP against former police officers and employees of the prison service of the Second Polish Republic. The legal basis for this was the Decree regarding the country’s pre-war “fascistization”, and previous positive vetting decisions of the commission were of no consequence.¹⁰¹

Systematic *ex officio* vetting also covered other professional groups. However, there are no related studies. The high rate of looking into people’s pasts is illustrated by the following example. In autumn 1945, an eighteen year old from a small town, who wanted to study, but also took into consideration the need to start working in some state institution, before sallying forth “to conquer the world” applied for and obtained a document from his local municipal council. His clearance certificate stated: “The bearer of this document is not German or Volksdeutsch and did not engage in hostile actions against the Polish people.” Local communes and other local government authorities probably issued thousands of such documents. This one, bearing traces of the zeal with which applicants for what were regarded as more sensitive positions were scrutinized, survived only because that young man was to become the world-famous philosopher Leszek Kołakowski.¹⁰²

97 Ibid., 125.

98 Ibid.

99 Aleksander Kochański, *Polska 1944-1991. Informator historyczny*, vol. 1, (Warsaw, 1996), 212.

100 Piotr Majer, *Milicja Obywatelska 1944-1957* (Olsztyn, 2004), 171. Apart from vetting, routine personnel “purgings” took place in MO.

101 Piotr Majer ‘Okupacyjne i powojenne losy polskich policjantów’, *Przegląd Policyjny*, 1-2 (1999), 102-120, 118.

102 Wiesław Chudoba, *Leszek Kołakowski. Kronika życia i dzieła* (Warsaw, 2014), 38.

An interesting sphere of dealing with crime was what could be described as “civil dealing with crime”. It started in autumn 1944 when in the weekly magazine *Odrodzenie* (Rebirth) issued in Lublin, which had only just been liberated from the Germans, a polemic on the attitudes of actors during the German occupation was given prominence. One of the authors expressed full understanding for persons acting in licenced theatres big and small, while another author believed that the boycott of these productions ordered by the Secret Theatre Council (the underground Trade Union of Artists of Polish Scenes, ZASP – Związek Zawodowy Artystów Scen Polskich) was justified and needed. The problem of dealing with particular attitudes was quickly taken up by “numerous authors’ centres” where “improvised vetting commissions sprang up”.¹⁰³ By June 1945, four hundred and seventy-one persons were vetted (including auxiliary employees) of whom one hundred and twenty-two were punished. Some penalties were quite severe: e.g. bans on acting in big city theatres, in films or in participating in radio programmes, bans on publicising the names of actors starring in given productions on posters and in programmes (which were replaced by three asterisks), and fines. Only in several cases was the penalty expulsion from the given professional association, which meant being struck off and consigned to professional perdition. Vetting procedures evoked great emotions, with luminaries expressing their opinions (Stefan Jaracz, among others, was a supporter of the purge, while Leon Schiller was against), various aspects of these processes were discussed at conventions, tens of articles were published and their full quantitative results remain to be determined. It is known, however, that in the period 1945-1946, the Central Court which, as a second instance body, approved the verdicts of local courts, reviewed seven hundred and fifty cases and penalised one hundred and thirty-one individuals,¹⁰⁴ while in 1947 a further six hundred and sixty persons were vetted, of whom one hundred and seven were punished.¹⁰⁵ Many well-known artists and actors were punished which, of course, heated up the atmosphere, but even the most radical supporters of these vetting procedures laid down their arms in 1948. In a sense, the grand finale in the process of “purging” the profession came on 18 November 1948 in a judgement on five actors who played in *Heimkehr*, an anti-Polish propaganda film: one person was sentenced *in absentia* to life imprisonment, one to twelve years, one to five, and two to three years in prison.

103 Edward Krasieński: ‘Działalność komisji weryfikacyjnych ZASP 1945-1949’, *Pamiętnik Teatralny*, 1/4 (1997), 36-112, 45.

104 Instytut Teatralny, Archive, ZASP ZG 3/171.

105 Krasieński, *Działalność*, 89.

Since the problem was related not just to the thespian community itself, its administrative authorities got involved as well: on 1 March 1945 the Ministry of Culture and Art sent “guidelines on the grounds, criteria and methods of vetting artists which should be used by Artistic Associations and Artists’ Trade Unions in order to purge them from undesirable individuals discredited in the days of occupation”.¹⁰⁶ This document recommended the creation of vetting commissions which, in the case of “any charges” would transfer the case to the given organisation’s disciplinary committee, and if the disciplinary committee decided that the vetted person could have committed the crimes described in the *August Decree*, it was obliged to transfer the case to the Special Criminal Court prosecutor. I did not manage to determine whether the Ministry’s guidelines were adopted by all artists’ trade unions. Certainly the Association of Polish Musicians adopted them, but I have not seen the relevant documents for others like the Polish Visual Artists Union (ZPAP- Związek Zawodowy Polskich Artystów Plastyków). The guidelines were applied by the Union of Polish Booksellers (ZKP – Związek Księgarzy Polskich) which was amalgamated with the Polish Association of Book Publishers. A vetting committee was appointed on 25 September 1945, during the ZKP’s general meeting. It was to “clear the atmosphere from charges, accusations and rumours and remove from the booksellers’ community all individuals who, as human beings and as Poles, should face justified charges related to their ethics and morality.”¹⁰⁷ The commission published in *Przegląd Księgarski* (Booksellers’ Review) the names of people to be vetted and in this vetting process all booksellers and publishers had to fill out a multipage questionnaire, in which they were asked, among others, “how did they obtain their permit for pursuing the occupation of a bookseller” and “whether they maintained relations with German bookseller companies”.¹⁰⁸ This vetting lasted until the end of 1949. Of the 1,242 persons who applied for clearance, three failed to obtain a clean bill of health. Thus, a lot of time and money were wasted.

The procedures of the Polish Writers Union (ZLP – Związek Literatów Polskich), one of the most important creative associations, were slightly different. Although during the convention that took place at the turn of August and September 1945, a vetting committee was appointed, it was not to examine the attitudes of its members during the German occupation, but rather to sift out new potential undesirable members. The convention condemned

106 Full text – *Pamiętnik Teatralny*, 1-4 (1997), 117-9.

107 AAN, Association of Polish booksellers, 163, 14, fol.1. All main commission materials have been preserved.

108 *Ibid.*, 15, fol. 154.

a few “writer – collaborators”,¹⁰⁹ including the aforementioned Burdecki and Skiwski, as well as Stanisław Wasilewski, who, however, was acquitted by the Special Criminal Court. Later, by the decision of the Main Board, two persons were accused of writing for the German propaganda gutter press, but no one seemed to be interested in vetting them, and they were not made objects of condemnatory speeches during the conventions. The procedures of “the Republic of Poland’s Union of Journalists” (ZZDRP – Związek Zawodowy Dziennikarzy RP) were more rigorous. It did not appoint a special commission, but a commission to review its members (approximately nine hundred persons) and to issue opinions on the candidates. Regarding of information about charges related to war time, it was obliged to refer those cases to its disciplinary committees. Information on eight proceedings can be found in the partially preserved materials of the disciplinary committee of the Warsaw Branch: in two cases the defendants were acquitted, five persons were found guilty and suspended for two to three years, and one was expelled from the Union.¹¹⁰ One could get the impression that the disciplinary committee was quite lenient towards defendants, as in the case of Tadeusz Pagowski, who was punished by colleagues with a three year suspension, and the journalists of the German propaganda rag *Nowy Kurier Warszawski* were sentenced to seven years in prison.¹¹¹ The authorities of the trade union did not ignore the problem, but during its convention in November 1947, it was stated that “Polish journalists, except for a few individuals, despite having to bear great sacrifices and reprisals, rejected collaboration with the occupying authorities.”¹¹²

The disciplinary bodies of political parties and trade unions, as well as veteran organizations such as the Association of Participants of the Struggle for the Freedom of Spain in the years 1936-1939 (the Dąbrowski Brigade), the Association of Fighters for Democracy against Fascism and Nazi Invasion, and the Polish Association of Former Political Prisoners of Nazi Prisons and Concentration Camps took a lively interest in the examination of social and individual attitudes during the war and under German occupation. Some appointed special vetting committees, others left that task to their statutory

109 Dom Literatry, Archiwum ZZLP, 6, fol. 55.

110 AAN, ZZDRP, 21, *passim*. Materials concerning these proceedings were handed over in 1948 to a unit of the Ministry of Justice dealing with collaboration.

111 Judgment of court of law, see Wolsza, *Gadzinówki*, 368; disciplinary committee, see AAN, ZZDRP, 22, fol. 25. Attitudes towards positively vetted individuals found reflection in the decision of one of the members of the Union who was suspended for a year. The lenient penalty was substantiated with the fact that “the cooperation of the accused [...] with the ‘7 Dni’ weekly was caused by vanity and thoughtlessness [...] therefore a lenient penalty was imposed”, AAN, ZZDRP, 21, fol. 13.

112 *Prasa Polska*, 6-7 (1947), 19.

disciplinary committees. The largest number of cases seemed to be examined by the Dąbrowski Brigade ex-servicemen: from 28 November 1947 to 31 August 1949 (when all veteran associations were rolled up into one Society of Fighters for Freedom and Democracy – ZBOWID), forty-two individuals were found guilty, thirty-three of whom were expelled from this Association, while the remainder were reprimanded.¹¹³

Owing to the Holocaust and the dramatic situation of Jews after the war, the activities of the Social Court of the Central Committee of Jews in Poland (SS CKŻP, Sąd Społeczny przy Centralnym Komitecie Żydów w Polsce), which has been the subject of extensive monograph studies,¹¹⁴ was of peculiar importance. The Court was appointed in October 1946 in reaction to the Appeal Court in Kraków upholding the acquittal by the Special Criminal Court of Michał Weichert who, in 1944, was sentenced to death for collaboration by the Jewish Combat Organization (ŻOB).¹¹⁵ The presence of Jewish police officers or Gestapo collaborators was frequently of interest to the Jewish (and, for that matter, Polish) community: “We must have the courage to admit that our nation does not consist solely of innocent victims,” wrote the publicist “Dos Naje Lebn”.¹¹⁶ The Court imposed moral rather than material penalties: from reprimand, through suspension of member rights for three years, to “exclusion from the Jewish community”. The first trial was held in November 1946. The defendant was Szapsel (“Szapsio”) Rotholc, a rank and file Jewish police officer in the Warsaw Ghetto, but he aroused interest primarily because he represented Poland sixteen times in boxing. The gallery of the Hall of Justice was packed to the rafters with public and press alike, so the course of the trial was very widely reported. One of the twenty-eight witnesses was the captain of the Polish Boxing Association, who testified in favour of his team-mate. Most testimonies, however, were unfavourable to the famous boxer, who was punished with a two-year suspension of his membership of the association. In response to an appeal for a reprieve by the Head Office of Physical Culture, Rotholc was amnestied. Weichert’s trial, held in November-December 1949, during which fourteen witnesses for the prosecution (including three deputies) and fifteen witnesses for the defence were heard, was a real battle.¹¹⁷ It ended with the “stigmatization” of the

113 AAN, Związek Uczestników Walk o Wolność Hiszpanii, 260/IV/1, fol. 5.

114 Andrzej Żbikowski, *Sąd Społeczny w CKŻP: Wojenne rozliczenia społeczności żydowskiej w Polsce* (Warsaw, 2014). Consideration must be given to detailed studies on dealing with the collaboration of Jews in a broad aspect, such as Laura Jockusch and Gabreil Finder (eds), *Jewish Honor Courts: Revenge, Retribution, and Reconciliation in Europe and Israel after the Holocaust* (Detroit, 2015).

115 Żbikowski, *Sąd Społeczny w CKŻP*, 34-5.

116 *Ibid.*, 33.

117 Description of the case – *ibid.*, 133-58.

defendant, which corresponded to being sentenced. The sentence differed from the one delivered by the Special Criminal Court. This was not the only case resulting in a similar discrepancy. By December 1949, the Social Court examined seventy-eight cases, delivered twenty-nine judgments, and discontinued or suspended the remaining cases.¹¹⁸ In the conclusion of his monograph, Żbikowski states that “Jews, who escaped the German death machine, were not able to develop transparent rules on acceptable behaviour during the occupation period, the breach of which would have resulted in penalisation.”¹¹⁹ It seems that this basic assumption, at least to some extent, also applies to the Poles and the problem of “civil dealing with crimes”.

Perhaps that was the basis of the Ministry of Justice commencing work in the spring of 1948 on the Act “on responsibility for breaching the duty of loyalty during the war of 1939-1945”,¹²⁰ and establishing an Authorized Representative for Tracking Down Collaborators (*sic*). The position was held by prosecutor Arnold Gubiński. In its substantiation, it was written that save for already existing legal standards “the other category of acts [...] is related to ethics of a special kind: the sort that regulates relations between individual citizens and their Country and Nation” and those who in failing to uphold this standard sufficiently visibly thereby caused “public despondency” and weakened the “national spirit of resistance”.¹²¹ The notion of “common vetting” instead of that conducted by particular associations and trade unions was justified by the authors of the project by reference to the “small measure of authority” enjoyed by various commissions and professional disciplinary committees, which resulted from both the atmosphere that prevailed in some of those organisations (mostly due to cronyism or professional rivalry) and from their judgments, which “did not reach beyond the given organisation”. As a result, “it could not be regarded as the expression of condemnation by society as a whole.”

In order to obtain such an effect, a five-person Social Vetting Tribunal was to be created,¹²² appointed by the President of the Republic of Poland. The Court would not have to uphold judgments delivered by social organisations; indeed, it could even undermine them, and act as a review body. The penalties were supposed to be “social revilement”, and in cases of lesser

118 Ibid., 39-40.

119 Ibid., 160.

120 Sparse documentation, but containing main documents concerning this initiative – see AAN. Ministry of Justice, 5066, *passim*. Initially this was to take the form of a decree, not of an act.

121 Ibid., fol. 37.

122 Subsequent drafts of the act – *ibid.*, Criminal Code. 19-24, 25-8 and 50-8. In one of the versions – Citizens’ Vetting Tribunal.

importance “social reprimand”. They were to be accompanied by restricted membership rights and stigmatisation “in organized social life” (in case of a “reprimand” up to five years, in the event of “revilement” from three to ten years). As an additional penalty, the court could impose a financial penalty of up to PLN 1,000,000, or even permanently expel a member from its society. Sentences were to be final with no right of appeal. It was not only the additional sentences which were severe. “Restricted participation rights” was also a very serious penalty. It was supposed to correspond to a ban from working for the justice system, holding state and local administration offices, board membership of social organisations, and moreover, “loss of civic rights”. The project was discussed at a meeting of the Consultative Commission on 8 May 1948, which, apart from officials of the Ministry of Justice (together with prosecutor Gubiński), was attended by representatives of KCZZ (Komisja Centralna Związków Zawodowych – Central Commission of Trade Unions) and CKŻP (Centralny Komitet Żydów w Polsce – Central Jewish Committee). The documentation I had access to ends on the text of the amended project and I did not manage to determine any further actions relating to this document. In any case, the Act was not adopted. In the first half of 1948, the vetting activities of various organizations were still very intense, so perhaps they related to the drive to impose a consistent approach in dealing with the problem. The motive, however, could have been the desire of the communist party to have top-down control in dealing with crime and wielding it for political purposes. In any case, both the draft of this act and its substantiation supplement the picture of “civil reckonings with crime”, which was a social phenomenon of considerable range, directly concerning thousands of people of various professions and status. Famous people held “at gunpoint” evoked mass emotional responses, both out of genuine concern and sympathy and out of simple cravings for sensation.

Summary

The great assortment of crimes committed in the Nazi era brought unimaginable problems when their perpetrators were called to account. The problem ranged from punishing German criminals to censuring those who failed to observe the principles of “civil loyalty”. The experience made a deep impact on both social attitudes and the activities of many state institutions and associations of various types. It seems that dealing with crimes committed in war and during the occupation in Poland was quite moderate in scope and form for Poles, as compared to “foreigners” (Germans) who were treated much more radically, albeit rarely indiscriminately. The question of the reasons for

this situation arises. The following hypothesis may be proposed in answer to this question: the introduction of a new political system in Poland, with the participation, indeed, under the orders of the Soviet Union, brought in train political conflict – first and foremost the fight for sovereignty – which pushed all other conflicts into the background. Perhaps the desire to take revenge on “foreigners” (Germans) waned as the focus of hatred shifted eastwards and large numbers of Poles (of course: not all of them) began to see the Soviet soldier or the Polish communist as the foreign intruder; indeed, collaborators or even Volksdeutschers were more familiar and no longer a threat, while members of the independence-minded resistance and partisans had other fish to fry. In such countries as France or Italy, bloody reckonings – *épuration sauvage* – were unleashed, while in Poland the focus was on dramatic self-defence against a seemingly invincible second enemy.

The main wave of dealing with crimes lasted to 1950-1951 or so, when the Germans were expelled, the Volksdeutsch rehabilitated, the number of defendants sentenced under the *August Decree* declined significantly,¹²³ official purges by way of vetting in the professions came to an end and social courts ceased to operate. Around that time, the key phase of the country’s Sovietisation called “construction of the basis for socialism” commenced which, incidentally, coincided with the “hot phase” of the Cold War. Dealing with crimes both in other communist countries and in Western Europe ceased too. Dealing with crime ended, but perhaps Keith Lowe was right when he wrote “Revenge was an integral element on which the foundations of post-war Europe were laid.”¹²⁴ In any case, revenge was exacted on those who committed crimes, those who betrayed their country, those who murdered or denounced their neighbours out of greed, and those who compromised themselves like Judas, for thirty pieces of silver.

123 According to estimates, up to 80% of the judgments under the *August Decree* were delivered by 1950 – Pasek, *Przestępstwa*, 172-3.

124 Keith Lowe, *Dziki kontynent: Europa po II wojnie światowej* (Poznań, 2012), 112.