

# COLD WAR SHOW TRIALS IN ESTONIA: JUSTICE AND PROPAGANDA IN THE BALANCE

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## INTRODUCTION

Starting in 1960, a wave of show trials of persons accused of Nazi crimes, including participation in the Holocaust, rolled over the Soviet bloc as part of the Cold War. Several important common features characterise these trials. From the end of the Second World War until the mid-1950s, political show trials took place in countries under the control of the Soviet Union in which communists and socialists, former comrades in arms of the Soviets, were convicted, including the death penalty, with the aim of consolidating Soviet control.<sup>1</sup> Alongside the direct consolidation of power, these trials played an important role in the Cold War propaganda battle, where they were meant to demonstrate the immutability of the Soviet regime: the trials were held in classic Stalinist style, with arrest and the bringing of charges generally guaranteeing a conviction.<sup>2</sup>

Two factors worked together to make contemporary historians accept the results of Soviet show trials concerning World War II unquestioningly: the importance of the Holocaust in today's world and the inaccessibility of relevant archival of the Soviet state security services, which would have shed a light on the motives for launching these trials.<sup>3</sup> Due to the archival restrictions, an assessment of these cases is often only possible through drawing conclusions from/making comparisons with similar trials. The show trials of Nazi criminals staged by Soviet authorities in Estonia in the 1960's are the focus of the following article.

## Punishment of Nazi Crimes

After the Second World War, the world faced questions of penalizing war criminals more seriously than ever before. The development of international justice had made great strides since World War I: the earlier Hague and Geneva conventions were considered customary international law by the time of the Second World War regardless of whether a country had or had not ratified a particular convention.

Massive numbers of war crimes against civilians and prisoners of war were committed, especially on the eastern front in the war between the Soviet Union and Germany. In 1944, the Polish-American lawyer Raphael Lemkin introduced the term "genocide" in the sense of

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<sup>1</sup> See further: George H. Hodos, *Show Trials: Stalinist Purges in Eastern Europe, 1948–1954* (New York, 1987).

<sup>2</sup> For instance, the trial of the First Secretary of the Czechoslovakian Communist Party Rudolf Slansky and others in Prague in 1951. See further: Ronald Radosh, A Tale of Two Trials: Soviet Propaganda at Home and Abroad, *World Affairs* (2012), May/June (<http://www.worldaffairsjournal.org/article/tale-two-trials-soviet-propaganda-home-and-abroad>, last accessed on 7 February 2014).

<sup>3</sup> Show trials held in the Soviet Union have been examined perhaps to the greatest extent by way of the Latvian example and mostly in connection with the conviction in absentia of accused persons who lived in the USA or other Western countries. Since the authors who have examined these trials are for the most part also of Latvian origin themselves, this has brought reproaches regarding the politicization of those examinations, accusations that they are attempts to "wash their ethnicity clean", that they support neo-Nazism, etc.

the murder of a people,<sup>4</sup> which as a result of political agreements went into circulation in the context of the Second World War primarily in connection with the killing of Jews. In August of 1945, the Soviet Union and the Western Allies signed the London Agreement, resulting in an international war tribunal to put on trial suspects accused of war crimes committed (by the losers) during the Second World War. Germany's higher public officials and military leaders, who were accused of starting the Second World War and of war crimes committed, were tried at the International Military Tribunal at Nuremberg and by U.S. military tribunals organised at the Subsequent Nuremberg Trials.

From the postwar development of international law, it is important in the context of this paper to highlight the updating of the Geneva conventions in 1949, the UN Convention on the Prevention and Punishment of the Crime of Genocide signed in 1948,<sup>5</sup> and particularly the Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity signed in 1968.<sup>6</sup>

Regardless of the rapid development of international justice, the Nuremberg International War Tribunal Trial conducted in 1945–46 on the basis of the London Charter (or Nuremberg Charter) between the allied countries where 24 of Germany's higher political and military leaders were tried remained the only one of its kind.<sup>7</sup> Conflicts between the Soviet Union and the Western countries emerged vividly during the trial already. The crimes of the adjudicator countries themselves were discernible through the tacking yet they still managed to maintain the image of the victorious allies and enforce victors' justice.

An embellished image of this trial developed over the subsequent Cold War decades, while ignoring to a great extent the Soviet Union's experiences in holding staged political show trials.<sup>8</sup> The so-called Subsequent Nuremberg Trials held by the USA occupying authorities in 1946–49 were conducted in the spirit of the principles of Nuremberg, relying on Control Council Law No. 10 of the Allied countries occupying Germany. At the same time, the occupying allied countries held numerous trials of lower level accused persons in Germany's occupation zones on the basis of military tribunals from their own countries.<sup>9</sup> Over the course of these and the following years, thousands of trials of citizens of Nazi Germany and countries that it had occupied or that had cooperated with were tried for war crimes and crimes against humanity in various countries based on domestic laws and procedures.

Under the conditions of the Cold War that had begun, the trial of Nazi criminals became ever more politicised. The Nuremberg Trial itself was political by its nature regardless of its legal

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<sup>4</sup> Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation. Analysis of Government. Proposals for Redress* (Washington, 1944).

<sup>5</sup> Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948. ([http://www.un.org/ga/search/view\\_doc.asp?symbol=a/res/260\(III\)](http://www.un.org/ga/search/view_doc.asp?symbol=a/res/260(III)), last accessed on 12 January 2014).

<sup>6</sup> Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, 26 November 1968 (<https://treaties.un.org/doc/Publication/UNTS/Volume%20754/v754.pdf>, last accessed on 12 January 2014).

<sup>7</sup> The International Military Tribunal for the Far-East was formed under the leadership and domination of the USA to punish the crimes committed by Japan. In general, it was supposed to function according to the same principle as the Nuremberg Tribunal. In 1946–48, 28 higher political and military leaders were put on trial in Tokyo along with thousands of less important figures. The Tokyo trials did not acquire the international weight and influence on the development of international law comparable to the trials held in Nuremberg.

<sup>8</sup> See for instance: Francine Hirsch, *The Soviets at Nuremberg: International Law, Propaganda, and the Making of the Post-war Order*, *American Historical Review* 113 (2008), no. 3, pp. 701–731.

<sup>9</sup> See further: Gerd R. Ueberschär (ed.), *Der Nationalsozialismus vor Gericht: Die alliierten Prozesse gegen Kriegsverbrecher und Soldaten 1943–1952* (Frankfurt, 1999).

basis and thus could easily be criticised from this aspect.<sup>10</sup> After the reunification of Germany, the Federal Republic of Germany could theoretically review the verdicts of the Nuremberg Trials<sup>11</sup> but considering contemporary political, legal and moral developments, this is unlikely. Regardless of its shortcomings, the Nuremberg Trials have become an iconic landmark in the evolution of modern international criminal justice (*Völkerstrafrecht* in German) and together with more recently established Holocaust studies, form an important moral standard of contemporary Western civilisation.

The Cold War significantly affected the investigation of Nazi crimes and the bringing of suspects to justice throughout the world for decades and has left a lasting trace in the historical narratives of many peoples.<sup>12</sup> In addition to the essentially different legal systems and judicial practice of different countries, the Iron Curtain divided the world into two cordoned off spaces. Cooperation across the Iron Curtain in proving the guilt of Nazi criminals was slow to develop. If information was exchanged, palpable mistrust and suspicions regarding the authenticity of the evidence presented in regard to the opposite side left its deep imprint on it. The possible shielding of criminals from the opposite side could accompany this. Persons suspected of committing such crimes were used as military and (security) police specialists in the service of governments on both sides of the Iron Curtain, perhaps simply more covertly on the eastern side.<sup>13</sup>

## **Trials of Nazi Crimes in the Soviet Union**

The Soviet Union set up so called Extraordinary State Commissions (ESC) with representation in even the smallest administrative units in territories liberated from German rule and recaptured.<sup>14</sup> The first political show trials were held during the war already in 1943 in the Soviet Union based on the work of these commissions, resulting in the submission to the Nuremberg Tribunal of Soviet accusations concerning the committing of war crimes and economic demands for compensation for war damages.<sup>15</sup> USSR Supreme Soviet Presidium

<sup>10</sup> Eric A. Posner, Political Trials in Domestic and International Law, *Duke Law Journal* 55 (2005), no. 75, pp. 75–152; Susanne Jung, *Die Rechtsprobleme der Nürnberger Prozesse: dargestellt am Verfahren gegen Friedrich Flick* (Tübingen, 1992).

<sup>11</sup> Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Jan Korte, Petra Pau, Ulla Jelpke, weiterer Abgeordneter und der Fraktion DIE LINKE, Deutscher Bundestag, Drucksache 16/3452 (<http://dipbt.bundestag.de/dip21/btd/16/037/1603744.pdf>, last accessed 17 December 2014).

<sup>12</sup> As an example taken from the Estonian context, the perception of Estonians and other peoples living on Russia's western border as "fascists" that is widespread in Russia as a result of Soviet treatments of history, which was also effectively disseminated in western countries by way of propaganda channels.

<sup>13</sup> Richard Breitman, Norman J. W. Goda, *Hitler's Shadow: Nazi War Criminals, U.S. Intelligence, and the Cold War* (online resource, 2010) (<http://www.archives.gov/iwg/reports/hitlers-shadow.pdf>, last accessed 17 December 2014).

<sup>14</sup> Chrezvychainaia gosudarstvennaia komissiia po ustanovleniiu i rassledovaniuu zlodeianii nemetsko-fashistskikh zakhvatchikov i ikh soobshchnikov i prichinnogo imi ushcherba grazhdanam, kolkhozam, obshchestvennym organizatsiiam, gosudarstvennym predpriatiiam i uchrezhdeniiam SSSR / Extraordinary State Commission to Investigate German-Fascist Crimes Committed on Soviet Territory from the USSR/ Extraordinary State Commission for ascertaining and investigating crimes perpetrated by the German–Fascist invaders and their accomplices, and the damage inflicted by them on citizens, collective farms, social organisations, State enterprises and institutions of the U.S.S.R. (abbreviated as ESC).

<sup>15</sup> See further: Niels Bo Poulsen, The Soviet Extraordinary State Commission on War Crimes: an Analysis of the Commission's Investigative Work in War and Post-war Stalinist Society (PhD-thesis, Copenhagen, 2004); Victor Prusin, Fascist Criminals to the Gallows! The Holocaust and Soviet War Crimes Trials, December 1945–February

Enactment no. 39 “Concerning terms of punishment for fascist German criminals guilty of killing and torturing the Soviet civilian population and imprisoned Red Army soldiers; for spies, traitors of the homeland and their accomplices from among Soviet citizens” was issued in April of 1943 already for punishing Nazi crimes.<sup>16</sup> Public hanging was prescribed as the punishment for war criminals and Soviet citizens who acted as spies and traitors of the fatherland.

Immediately after the restoration of Soviet occupation in October of 1944, the corresponding regional commission also set to work in Estonia. It was supposed to complete its investigation within two weeks.<sup>17</sup> It is inconceivable that it could be possible to thoroughly and objectively ascertain the war crimes and crimes against humanity committed over the course of the preceding four years and to identify material losses during this short period.<sup>18</sup> At that time, it was important for the USSR to present to the world as large a number of “Soviet citizens” as possible who perished at the hands of the German side, even if they were not really Soviet citizens, and to establish the “greatest sufferer” image with an eye to dividing up the spoils after victory.

The arrest and punishment by Soviet authorities of persons who had cooperated with the German occupying authorities began everywhere immediately after the front line had passed through the area. According to data that has by now been disclosed by the Russian Federal Security Service (FSB), over 320,000 local residents were arrested in the Soviet Union in the period 1943–53. Since the vast majority of material concerning arrests are in the classified archives of the Russian Federation’s security services and access to them is hindered for historians,<sup>19</sup> analysis of their content is lacking.<sup>20</sup> According to existing information, over 5000 people were arrested in Estonia in the autumn of 1944, with over 12,000 arrests the following year. By the end of 1949, over 27,000 had been arrested on political grounds, and about 20,000 had been deported to eastern regions of the Soviet Union in March of that same year.<sup>21</sup> It can be presumed that people who had cooperated more closely with the German authorities were mostly among the tens of thousands of people who fled from Estonia to the West before advance of the Red Army. The investigation of arrested persons was in most cases conducted quickly and cursorily during the first postwar years. According to the investigation practices of that time, the confession of the accused or the testimony of a witness was generally sufficient to prove the guilt of the

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1946, *Holocaust and Genocide Studies* 17 (2003), no. 1, pp. 1–30; Tanja Pentter, Collaboration on Trial: New Source Material on Soviet Post-war Trials against Collaborators, *Slavic Review* 64 (2005), no. 4, pp. 782–790.

<sup>16</sup> Ukaz Prezidiuma Verkhovnogo Soveta SSSR no. 39 ot 19 apreliia 1943 goda “O merakh nakazaniia dlia nemetsko-fashistskikh zlodeev, vinovnykh v ubiistvakh i istiazaniiakh sovetskogo grazhdanskogo naseleniia i plennykh krasnoarmitsev, dlia shpionov, izmennikov rodiny iz chisla sovetskikh grazhdan i dlia ikh posobnikov”, E. Zaitsev (ed.), *Sbornik zakonodatelnykh i normativnykh aktov o repressiiakh i rehabilitatsii zhertv politicheskikh repressii* (Moscow, 1993), pp. 66, 148.

<sup>17</sup> Eesti Riigiarhiiv (Estonian State Archives, ERA) ERA.R-364.1.1, 3.

<sup>18</sup> As a result of the ESC’s working campaign, a large amount of data of widely differing content and quality was gathered and presented to the Union-wide commission. This data was summed up as scientifically unsubstantiated total losses that were quantitatively bloated for propagandistic purposes. The data presented by the commission was canonized in the USSR over the subsequent years.

<sup>19</sup> The corresponding files from the archives of the Soviet Ministry of Internal Affairs in Estonia, Latvia and Lithuania were handed over to the national archival system after the restoration of national independence and their use is possible for research work. Their use is regulated by domestic legislation protecting personal data.

<sup>20</sup> Pentter, Collaboration on Trial, p. 783.

<sup>21</sup> Meelis Saueauk, Data about Persons Arrested in Estonia during the Soviet Repressions in 1944–1990, Toomas Hiio, Meelis Maripuu and Indrek Paavle (eds.), *Estonia since 1944: Reports of the Estonian International Commission for the Investigation of Crimes against Humanity* (Tallinn, 2009), p. 309.

accused. Domestically, the Soviet Union did not base the conviction of people who had cooperated with the Germans on the definition of war crimes but rather on its own criminal code and relevant regulations, and it convicted people in accordance with the section dealing with betrayal of the fatherland. The Soviet Union used the term “war crimes” primarily in communication with other countries, for instance when demanding the extradition of Estonians from Finland who had fought in the Finnish Army. This was purely a case of stigmatizing people because the Soviet side had no information whatsoever concerning the possible connection of those persons with war crimes. The actual motive was the punishment of those men for fighting against the Red Army and in the event of extradition; they were convicted of “betrayal of the fatherland.”<sup>22</sup>

The first public trials were held during the war in order to influence society more broadly. Yet the right time arrived after the end of the war when the Soviet Union competed in its own way with the Nuremberg Trials. The first people to be publicly convicted were primarily captured German prisoners of war and a few isolated collaborators. In November of 1945, the Communist Party’s Central Committee adopted two decisions for holding public trials of the more important German military leaders and penal institutions.<sup>23</sup> Convictions and executions took place in two waves: at the seven trials held at the end of 1945 and the beginning of 1946, 84 persons were sentenced to death by public hanging; at the nine trials carried out at the end of 1947, the fate of another 137 persons was decided.<sup>24</sup>

Subsequent trials of accused prisoners of war were held in camera and in connection with the temporary abolition of the death penalty in the Soviet Union (1947–50), 25 years imprisonment in the GULAG became the prevailing punishment. About 34,000 German prisoners of war were convicted in the Soviet Union in 1949–50. The treatment of these trials by both German<sup>25</sup> and Russian<sup>26</sup> historians has vividly illustrated their political and propagandistic nature. This is also proven by the fact that in the first ten years after the collapse of the Soviet Union (1991–2001), 13,035 citizens of foreign countries (mostly former

<sup>22</sup> Meelis Saueauk, *Soomepoisid raudeesriide taga Nõukogude võimu all* (Finnish Boys behind the Iron Curtain under the Soviet Regime), *Soomepoisid – võitlus jätkub* (Finnish Boys – the Struggle Continues) (Tallinn, 2010), pp. 180–181.

<sup>23</sup> Postanovlenie politbiuro TsK VKP(b) ob organizatsii otkrytykh sudebnykh protsessov, 10 November 1945, Rossiiskii gosudarstvennyi arkhiv sotsial'no-politicheskoi istorii (Russian State Archive of Socio-Political History, RGASPI), f. 17, o. 162, d. 37, l. 157; Postanovlenie politbiuro TsK VKP(b) o provedenii sudebnykh protsessov nad byvshimi voennosluzhashchimi germanskoi armii i nemetskikh karatel'nykh otriadov, 21 November 1945, *ibid.* f. 17, o. 162, d. 37, l. 159–160 ([http://www.hrono.ru/dokum/194\\_dok/](http://www.hrono.ru/dokum/194_dok/), last accessed on 23 March 2014).

<sup>24</sup> Valentin Iushkevich, *Uchastie organov gosbezopasnosti v podgotovke i provedenii otkrytykh sudebnykh protsessov nad natsistskimi voennymi prestupnikami, Istoricheskie chteniia na Lubianke. 2001: Otechestvennye spetssluzhby v poslevoennye gody 1945–1953 gg* (Velikii Novgorod, 2002), pp. 76–83.

<sup>25</sup> For instance: Andreas Hilger (ed.), *Sowjetische Militärtribunale: Die Verurteilung deutscher Kriegsgefangener 1941–1953. Vol 1* (Cologne, 2001); *idem*, *Deutsche Kriegsgefangene in der Sowjetunion 1941–1956: Kriegsgefangenenpolitik, Lageralltag und Erinnerung* (Essen, 2000); *idem*, *Sowjetische Justiz und Kriegsverbrechen: Dokumente zu den Verurteilungen deutscher Kriegsgefangener, 1941–1949, Vierteljahrshefte für Zeitgeschichte* 54 (2006), no. 3, pp. 461–515; also thematic publications by Manfred Zeidler and Gerd R. Überschär.

<sup>26</sup> For instance: Aleksandr Epifanov, *Otvetstvennost' za voennye prestupleniia, sovershennye na territorii SSSR v period Velikoi Otechestvennoi voiny: Istoriko-pravovoi aspekt* (PhD-thesis, Moscow, 2001) (<http://www.dissercat.com/content/otvetstvennost-za-voennye-prestupleniya-sovershennye-na-territorii-sssr-v-period-velikoi-ote#ixzz2slp4iABK>, last accessed on 12 January 2014); Viktor Konasov, *Politika Sovetskogo gosudarstva v otnoshenii nemetskikh voennoplennykh (1941–1956 gg)* (PhD-thesis, Moscow, 1998) (<http://www.dissercat.com/content/politika-sovetskogo-gosudarstva-v-otnoshenii-nemetskikh-voennoplennykh-1941-1956-gg>, last accessed on 12 January 2014).

German prisoners of war) were rehabilitated by Russian Federation military tribunals, which was over three quarters of the more than 15,000 applications submitted for rehabilitation.<sup>27</sup> For prisoners of war, however, being placed under investigation meant conviction as a rule.

### Khrushchev's Thaw and Cold War (Show) Trials

Noticeable changes followed Stalin's death in 1953 in the Soviet Union during the latter half of the 1950s. The granting of amnesty to hundreds of thousands of people convicted earlier was followed in September of 1955 by an extensive amnesty of persons who had cooperated with the German side during the Second World War. Over 50,000 people were released from forced labour camps. The number of people released from centers of detention had become considerably larger than the number of new arrests.<sup>28</sup> Nikita Khrushchev, the leader of the Soviet Union, gave a speech at the 20th Congress of the Soviet Communist Party in 1956 in which he denounced the abuses of power and the crimes committed during the Stalin era, along with Stalin's personality cult. The period that became known as the "Khrushchev Thaw" brought fundamental changes in society and politics throughout Eastern Europe.

The Cold War entered into a new phase, which contained contradictory politics. Thus the development of the Cold War arrived at a meaningful and contradictory phase. The Soviet Union under the leadership of Khrushchev had undertaken a new course towards so called "peaceful coexistence" with the West after the CPSU 20th Congress but this took place in part at the expense of peoples under the rule of the Soviet empire. The revolution and uprisings that broke out in Hungary and Poland and were crushed by the Soviet armed forces made Khrushchev apprehensive in regard to subjugated peoples. Russification was accelerated with the aim of stabilizing the system.

A new framework for mobilizing and orchestrating was needed in place of the personality cult of the departed Stalin to support the weakened Soviet regime. The great leader was symbolically replaced by the Soviet people personified first and foremost by the Russian people. The Great Patriotic War, or more broadly the struggle against German occupation in Eastern Europe became the symbol for uniting the people.<sup>29</sup> The post-war generation had emerged in society and with it; a new treatment of the war and the sufferings of the people was formed in opposition to the "attempts of imperialist countries to continue the work of the fascists to destroy the Soviet Union".<sup>30</sup> Victory over Germany and the sufferings of the people took on a monumental-sacral aspect. The Soviet Union became the main sufferer and the sole saviour of the world.<sup>31</sup> The collaboration of peoples that had lived under German occupation and Nazi crimes their representatives might have committed were placed under

<sup>27</sup> Epifanov, *Otvetstvennost' za voennye prestupleniia*.

<sup>28</sup> Prezidium Verkhovnogo Soveta SSSR. Ukaz ot 17 sentiabria 1955 goda ob amnistii sovetskikh grazhdan, sotrudnichavshikh s okkupantami v period Velikoi Otechestvennoi voiny 1941–1945 gg; Dokument no. 102. Spravka o nalichii, dvizhenii i sostave zakliuchennykh v ITL i ITK MVD SSSR za period 1953–1955 gg, *Al'manakh Rossiia. XX vek. Internet-proekt Arkhiv Aleksandra N. Iakovleva* (<http://www.alexanderyakovlev.org/>, last accessed on 12 January 2014).

<sup>29</sup> Andrew Ezergailis, *Nazi/Soviet Disinformation about the Holocaust in Latvia: Daugavas vanagi – who are they? Revisited* (Riga, 2005), p. 18.

<sup>30</sup> Nina Tumarkin, The Great Patriotic War as Myth and Memory, *European Review* 11 (2003) no. 4, pp. 595–611.

<sup>31</sup> Catherine Merridale, War, Death, and Remembrance in Soviet Russia, Jay Winter and Emmanuel Sivan (eds.), *War and Remembrance in the Twentieth Century* (Cambridge, 1999), pp. 77–83.



the magnifying glass in a new form. The tragedy that befell the Jews of Eastern Europe was employed in the service of propaganda as an example of imperialist policy. In addition to accusing Eastern European peoples, the accusation of Western countries of continuing Nazi policy after the collapse of Hitlerite Germany was adopted as part of the Soviet Union's "arsenal."

A propaganda campaign was started up in May of 1957 already under the aegis of the German Socialist Unity Party (*Sozialistische Einheitspartei Deutschlands*, SED)<sup>32</sup> against West German judges and lawyers who had worked in the service of the Hitlerite regime.<sup>33</sup> These events formed the background for the subsequent Berlin crisis caused by the Soviet Union in November of 1958 by presenting their previous allies with an ultimatum demanding that the Allies withdraw their military forces from West Berlin in six months at the latest.<sup>34</sup>

Khrushchev was on a state visit to Austria on 3 July 1959 and while visiting the former Nazi concentration camp at Mauthausen, he publicly disclosed in that symbolic place the assignment already given to the East German leadership at the beginning of the year to prepare for attacking West Germany with accusations of Nazism. The international situation was critical and the status of divided Germany was not yet unequivocally decided. The Soviet Union's aim was to use the underlying mistrust that still persisted in the international community from the time of Hitlerism and to weaken West Germany's international position with accusations of revanchism, fascism and militarism since West Germany had already managed to isolate the eastern part of the country internationally. In his speech, Khrushchev compared Chancellor Konrad Adenauer to the National Socialist dictator Hitler and warned against irredentism originating from West Germany and the spread of Nazism as long as ex-Nazis like Theodor Oberländer<sup>35</sup> were part of the government. It was decided, apparently at the end of October 1959 with the approval of the CPSU CC Politburo, to end this campaign that initially began as a propaganda operation with a public show trial. As if ordered, an anti-Semitic graffiti scandal appeared overnight and rolled across West Germany at the end of the year. This did not escape critical reaction in Western countries. The debates on this scandal that began in the Bundestag at the beginning of the new year in addition marked the end of Adenauer's "restoration policy" that had followed postwar de-nazification.<sup>36</sup>

Khrushchev's speech was the kick-off intended for public consumption for holding the judicial farce in East Berlin orchestrated by the USSR and staged by the East German SED and the Ministry of Security, which culminated with the West German governmental minister

<sup>32</sup> The SED was controlled by the Soviet Union.

<sup>33</sup> Former members of the Einsatzgruppe Tilsit were put on trial in Ulm, West Germany in 1958, attracting widespread media attention and focusing greater attention than before in West Germany on wartime Nazi crimes.

<sup>34</sup> See for instance: Hope M. Harrison, *Driving the Soviets up the Wall: Soviet-East German Relations, 1953–1961* (Princeton, 2011).

<sup>35</sup> Theodor Oberländer (1905–98) devised before World War II, plans aimed against the Jewish and Polish populations in territories that were to be conquered by Nazi Germany. During the war he supported ethnic cleansing policies and after the invasion of the Soviet Union, he served as a contact officer on the Eastern Front. After the war he served as Federal Minister for Displaced Persons, Refugees and Victims of War from 1953 to 1960, and as a Member of the Bundestag from 1953 to 1961 and from 1963 to 1965.

<sup>36</sup> Annette Weinke, *Die Verfolgung von NS-Tätern im geteilten Deutschland: Vergangenheitsbewältigung 1949–1969 oder: Eine deutsch-deutsche Beziehungsgeschichte im Kalten Krieg* (Paderborn, 2002), pp. 141–151; Philipp-Christian Wachs, *Die Inszenierung eines Schauprozesses – das Verfahren gegen Theodor Oberländer vor dem Obersten Gericht der DDR*, Wolfgang Buschfort, Philipp-Christian Wachs and Falco Werkentin (eds.), *Vorträge zur deutsch-deutschen Geschichte: Schriftenreihe des Berliner Landesbeauftragten für die Unterlagen des Staatssicherheitsdienstes der ehemaligen DDR*, vol 14 (Berlin, 2007), p. 37.

Oberländer being sentenced in absentia to life in prison in April of 1960.<sup>37</sup> The date of the trial was timed for being immediately before the summit meeting between the Soviet Union and the Western Allies (in Paris in May of 1960) in order to maximally discredit West German endeavours to integrate among democratic Western countries and vice versa: to attempt to achieve the withdrawal of USA and UK forces from West Berlin. At the beginning of the year, East German leader Walter Ulbricht had presented a proposal for holding an all-German referendum on disarming and forming a confederation and for signing a peace treaty. In April, the SED disclosed the Central Committee's action plan "Deutschlandplan des Volkes", which referred to the possibility of Germany's reunification in the light of the Camp David summit meeting.<sup>38</sup> Different social systems were not presented as an obstacle to reunification; the stumbling block was instead presented as West Germany's aggressive militarism.<sup>39</sup> Yet the Cold War gained new impetus instead when the Soviet Union shot down the American U2 spy plane over its territory on 1 May 1960. The summit meeting held in Paris a couple of weeks later became yet another of Khrushchev's performances revolving around the U2 plane and the captured American pilot regardless of events in Germany. At the end of the 1950s, the struggle against expatriate communities of peoples living under Soviet rule (predominantly consisting of people who had fled to the West during the Second World War) acquired recognisable contours. The size and influence of expatriate communities differed widely from ethnic group to ethnic group and from country to country. From the standpoint of the Soviet Union, what was taking place in the USA and more broadly in North America was definitely the most important: the USA was the main ideological enemy and notably large communities of refugees from territories of the Soviet Union (Russians, Ukrainians, Lithuanians, Latvians, Estonians, Caucasian peoples, etc.) lived there. From the standpoint of Estonia, the activity of its expatriate community in Sweden is undoubtedly also important. Over the course of the Cold War, the expatriates in question were, of course, a welcome guard on every front imaginable in the fight against communism. The expatriate theme also found its way into the domestic politics of their host countries, to say nothing of the foreign policy of those countries. In 1959, the president of the USA had enacted the annual commemoration of a week in support of the peoples made captive by the Soviet Union's communist regime. This became an important landmark in the struggle of emigrant communities that had fled from under Soviet rule against the communist regime.<sup>40</sup> After the hope that refugees would extensively repatriate was extinguished, the Soviets focused on the recruitment of agents from among the expatriates. The manipulation of information concerning the recruit's alleged collaboration with the occupying regime, participation in crimes, etc. was an important means of influence during recruitment. Additionally, the CPSU Central Committee Presidium had issued an order in 1959 to destroy

<sup>37</sup> Weinke, *Die Verfolgung*, p. 144; see further about Oberländer: Philipp-Christian Wachs, *Der Fall Theodor Oberländer (1905–1998): Ein Lehrstück deutscher Geschichte* (Frankfurt, 2000).

<sup>38</sup> A certain warming of Soviet-USA relations took place in 1959, which culminated in a tour of the USA by Nikita Khrushchev as the first Soviet leader to visit the USA (the so called Camp David meeting). This had created hope internationally for an end to the Cold War and the Paris summit meeting of 1960 was seen as the next important step in that process.

<sup>39</sup> *Deutschland im Kalten Krieg 1945–1963. Deutsches Historisches Museum* ([http://www.dhm.de/ausstellungen/kalter\\_krieg/zeit/z1960.htm](http://www.dhm.de/ausstellungen/kalter_krieg/zeit/z1960.htm), last accessed on 6 February 2014).

<sup>40</sup> Public Law 86–90. July 17, 1959. Joint Resolution. [s. J.Res. III] Providing for the designation of the third week of July as Captive Nations Week ([www.gpo.gov/fdsys/pkg/...73/.../STATUTE-73-Pg212.pdf](http://www.gpo.gov/fdsys/pkg/...73/.../STATUTE-73-Pg212.pdf), last accessed on 6 February 2014).



all emigrant centres hostile towards the Soviet Union in the next few years, which meant an active propaganda war.<sup>41</sup>

In the hope of influencing expatriate communities by way of propaganda, “societies for developing cultural ties” coordinated mainly by the security organs were set up in the Soviet Union to operate among the corresponding peoples. These societies published newspapers for circulation primarily in the host countries of expatriate communities.<sup>42</sup> The discrediting of expatriates and expatriate organisations that were hostile to the Soviet Union in their country of residence as well as in their native homeland became an important line of activity. Accusations of their connection to war crimes were mostly used for this purpose. At the same time, attempts were made to also discredit the governments of Western countries or certain political circles, accusing them of shielding alleged war criminals and conniving with them.<sup>43</sup> The latter accusation, of course, was not entirely a fabrication. People who had participated in various crimes on the side of Nazi Germany were active on both the eastern and western sides of the Iron Curtain. This was in part the conscious policy of countries where specialists in different fields were used in the interest of those countries and their background could be and was concealed to a certain extent depending on their importance. At the same time, most of these instances were simply cases of a lack of information caused by the chaos of the postwar years hindering the adequate assessment of a person’s past that the person himself concealed.

The Soviet state was supposed to overtake the Western countries not only economically, but in all aspects as Khrushchev’s grandiose plans prescribed. The judicial system after Stalin was supposed to represent a new level in the world, completely different from preceding judicial systems, a humane court that stressed the equality of the defense and the prosecution in the proceedings. The Soviet defence attorney had said at the trial of Francis G. Powers, pilot of the American U2 spy plane that had been shot down: “The Soviet court deciding the question of the punishment of the accused proceeds not only from the circumstances of the case, but takes into consideration the individuality of the defendant and the mitigating circumstances.”<sup>44</sup> A number of formal changes were indeed made but the enactment of a new criminal code did not change the nature of the system established by Stalin, which fully developed only after Stalin’s death. If viewed solely on a formal level, the Stalinist regime had managed to create a completely erroneous impression of itself, starting with the formally democratic and progressive constitution of 1936.<sup>45</sup> Stalin had monopolized criminal

<sup>41</sup> Overview of Estonian emigrants in Sweden. V. Naidenkov, Soviet embassy attaché in Stockholm, 18 December 1962, Eesti Riigiarhiivi Filiaal (Branch of the Estonian State Archives, ERAF) 1.254. 23.I, 61–125.

<sup>42</sup> The VEKSA Society (Society for Developing Cultural Ties with Estonians Abroad) was formed on 15 April 1960 for influencing Estonian expatriate communities. The newspaper *Kodumaa* (Homeland) became its mouthpiece and its publication had begun in November of 1958 already. Similar types of organisations and newspapers were started up at the same time in Latvia and Lithuania.

<sup>43</sup> See further: Indrek Jürjo, *Pagulus ja Nõukogude Eesti. Vaateid KGB, EKP ja VEKSA arhiividokumentide põhjal* (Exile and Soviet Estonia: Views Based on KGB, ECP and VEKSA Archival Documents) (Tallinn, 1996).

<sup>44</sup> Kazimierz Grzybowski, The Powers Trial and the 1958 Reform of Soviet Criminal Law, *The American Journal of Comparative Law* 9 (1960), no 3, p. 425.

<sup>45</sup> According to Soviet ideology, the Soviet Union had arrived at a significantly higher stage of social development than other countries and correspondingly, the administration of justice also had to be at a new level. Considering what has been written above, the content of the work of the Soviet judicial system could remain entirely incomprehensible, especially as viewed from the Anglo-American judicial area. The solution of a conflict between two parties did not take place in the Soviet judicial system. In the continuation of the traditions of the inquisition, as took place in Soviet courts, there was no place for argument between parties. Instead, the court was the “last instance for seeking universal truth.” Hence developed a trend to avoid the

justice for achieving political objectives: the system was designed under the conditions of ideological war and corresponded to the scheme according to which Soviet judicial power was run politically. All too often, court decisions were founded on quasi-legislation that was invisible to the defendant (and society). This quasi-legislation consisted of confidential lower level legislation that replaced or altered the intent of publicly disclosed legal acts. As such, criminal justice as it was applied in reality in the Soviet Union differed significantly from the ordinary perception of criminal justice. Regardless of the relaxation of its forms over the subsequent decades, the main contours of the scheme designed by Stalin were preserved until the 1980s.<sup>46</sup>

Over the course of about the first ten years, numerous show trials of communists who were comrades in arms of the Soviets and of leftists who had cooperated with them were held in the Soviet Union and its dependent East European countries as well as show trials of Nazi criminals. The new regime cemented its power through those show trials of communists: those who remained in official positions knew what awaited those who deviate from the main line. The last trial of this kind of Communist Party figures took place in Latvia in 1959. The following year already, show trials of persons accused of Nazi crimes became the focus of the media. They had several traits in common with earlier trials.

The amnesty of 17 September 1955 proved useful in seeking possible culprits. It released persons who collaborated with the occupying powers due to either cowardice or ignorance but did not affect persons who were convicted of murdering and humiliating "Soviet citizens." Finding collaborators, who could be accused of those charges and bringing them before court was one field of activity for the Soviet security organs over the next twenty or so years.<sup>47</sup> Criminal regimes try to hide the traces of their acts and thus the major role accorded to potential witnesses in investigating war crimes is understandable. The instructions given to the Soviet security organs for the extensive use of witness testimony originated from Andrei Vyshinskii, who became notorious during the show trials of the Stalinist Great Terror of the 1930s already:<sup>48</sup> The witness's testimony – it is one of the oldest and most widespread types of evidence in court. And it is crystal clear that since the living word of the eyewitness of events calmly and objectively informs the investigation and the court about the criminal, the circumstances of the crime, etc., it cannot fail to have immense importance in connection with the court verdict.<sup>49</sup>

Restricted access to archival materials concerning the Soviet Union's political leadership and security services prevents detailing when, how and by whose decision the staging of such trials was placed on the agenda and what specific objectives were set for them. As a result of comparison of sources, at the current stage of research, 1959 at the latest can be considered

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acquittal of accused persons brought to trial or the review of court decisions through appeals in cassation since this would have meant admission of mistakes made by investigative organs or lower courts, which, however, was not supposed to happen.

<sup>46</sup> Peter H. Solomon, *Soviet Criminal Justice under Stalin* (Cambridge, 1996), pp. 402 ff; for a treatment of the Khrushchev period, see: Yoram Gorlizki, *De-Stalinisation and the Politics of Russian Criminal Justice, 1953–1964* (PhD-thesis, Oxford, 1992).

<sup>47</sup> Boris Kovalev, *Svidetel'skie pokazaniia v ugovolnykh delakh kollaboratsionistov v Rossii*, *Vestnik Novgorodskogo Gosudarstvennogo Universiteta* 33 (2005), pp. 108–113.

<sup>48</sup> Andrei Ianuar'evich Vyshinskii (1883–1954) was a Soviet politician, jurist and diplomat. He is known as a state prosecutor of Joseph Stalin's Moscow show trials and in the Nuremberg trials. He was the Soviet Foreign Minister from 1949 to 1953 and permanent representative of the Soviet Union to the UN. In 1953 he was among the chief figures accused by the U.S. Congress Kersten Committee during its investigation of the Soviet occupation of the Baltic states. He committed suicide in 1954 while in New York.

<sup>49</sup> Kovalev, *Svidetel'skie pokazaniia*, pp. 108–113.

the beginning of preparations for show trials of Nazi crimes since they became public with Khrushchev's speech in Mauthausen on 3 July 1959. This was followed by the rapid preparation of court trials in the Party and security organs and the first show trial in 1960 in the German Democratic Republic (GDR) (which was followed by subsequent trials) and trials in the Soviet Union starting in 1961. Lack of access to the relevant documents does not permit the presentation of the particular document by which the organisation of the trial was decided but the first evidence of this appeared in October and November of 1959.<sup>50</sup>

It was clear to the security organs themselves that holding such show trials was an important prophylactic measure in the struggle against one of the main anti-Soviet "crimes" – bourgeois nationalism. This is also how such trials were considered in the confidential teaching literature used by the security organs. They were meant to provide the chance to compromise prominent figures in expatriate communities abroad. Domestically, the most effective method was considered to be the implementation of prophylactic measures concerning persons associated with bourgeois nationalism in the course of investigation. This was carried out during interrogations of persons subject to prophylactic measures as witnesses over the course of preliminary investigation.<sup>51</sup>

The use of incidents that took place during the Second World War to achieve various objectives continued with certain variations until the collapse of the Soviet Union. Viktor Cherkashin, one of the Soviet Union's most notable counterintelligence officers from the Cold War era (he served in Washington in 1979–86), has commented on the case of Constantine Warwariv, who fled from Ukraine at the end of the war and made a career in diplomacy in the USA in the 1970s. He writes: "Needless to say, we weren't interested in punishing Nazi collaborators. The entire incident concerned the KGB's operational interest – and in that, it was a great success. The State Department finally threw in the towel. Warwariv, whose continued presence in UNESCO tarnished Washington's reputation, was dismissed."<sup>52</sup>

## The Beginning of Show Trials

A number of common traits characterise the show trials of Nazi criminals that began in 1960 in the Eastern Bloc and especially in the Soviet Union.

**Temporal coordination.** The show trial of the German Federal Republic minister Theodor Oberländer and his conviction in absentia in the GDR in April of 1960 followed the speech by the Soviet leader Khrushchev in July of 1959.<sup>53</sup> Preparations began at practically the same time for show trials in the Soviet Union itself and in the countries along its western frontier (the Baltic countries, Western Ukraine) under Soviet rule, including roughly the entire territory that had been under German occupation.

Preparations for the first such trial began in **Estonia** in May of 1960. The trial was held on 6–11 March 1961,<sup>54</sup> one month before the Eichmann trial in Israel (from 2 April to 14 August

<sup>50</sup> Weinke, *Die Verfolgung*, p. 143.

<sup>51</sup> М.Г. Майоров, Некоторые особенности расследования государственных преступлений, совершаемых буржуазными националистами. Высшая Школа Комитета Государственной Безопасности при Совете Министров СССР имений Ф.Э. Дзержинского, Москва, 1964, стр 40–43.

<sup>52</sup> Victor Cherkashin and Gregory Feifer, *Spy Handler: Memoir of a KGB Officer – The True Story of the Man who Recruited Robert Hanssen and Aldrich Ames* (New York, 2005), p. 129.

<sup>53</sup> Wachs, *Die Inszenierung*, p. 48.

<sup>54</sup> Investigation file of Gerrets and others, ERAF.129SM.1.28653.

1961) that resonated worldwide.<sup>55</sup> Another four similar trials were staged in Estonia in 1961–62 and 1966–67.

Trials of this type were held in **Latvia** during the period from 1961 to 1974. In March of 1961, a group of men who had served in the 18th (Latvian) Police Battalion was convicted of participating in crimes committed against Jews in Byelorussia. Latvia's most prominent show trial (the so called Rēzekne trial) was held in October of 1965. Three Latvians living in exile were tried in absentia and convicted of crimes committed against Jews in the Rēzekne region in Latvia. In the course of this trial, the Soviet Union issued diplomatic notes to the governments of the German Federal Republic, the USA and Canada, where the persons in question lived. The trial in 1974–75 of men who had served in the 21st (Latvian) Police Battalion convicted them of killings in the Liepāja area of Latvia in 1941. A trial had been held two years earlier in Hannover in the German Federal Republic where the same events were at the centre of the charges and members of different units were ascertained as the culprits.<sup>56</sup>

Similar trials were held in **Lithuania** at the same time: Three men who had served as policemen during the German occupation were sentenced to death in Vilnius in March of 1961, for participating in the murder of over 60,000 people. Trials were held in Kaunas and Vilnius in October of 1962, where a number of men who had served in Lithuanian police battalions during the German occupation were convicted in connection with mass murders that took place in the Ninth Fort of Kaunas in October of 1941. Five Lithuanians were convicted of the mass murder of Jews in September of 1967.<sup>57</sup>

The first such show trial began in **Belorussia** in October of 1961, followed by at least five trials in 1962–63, 1966–67 and 1971.<sup>58</sup>

Analogous show trials began in **Ukraine** in April of 1963, followed by another three trials in 1966–67.<sup>59</sup>

Preparations for convicting local collaborators at show trials began in the same way in the territory of the **Russian Soviet Federative Socialist Republic** in October of 1960 (for instance in Novgorod) as was being done in “nationalist areas” in the Baltic region, Ukraine and Byelorussia.<sup>60</sup> Data on trials held in the territory of the **RSFSR** is sketchy. They began at the same time as the other trials described above but their height of activity came somewhat later. Show trials in Krasnodar in Northern Caucasia in 1963, 1965 and 1966, and in Stavropol in 1968 can be cited as examples. Other examples are trials held in Leningrad in 1966 and 1970, in Pskov in 1972 and 1973, in Novgorod in 1976 and 1978, and in Orel in 1978.<sup>61</sup>

Comprehensive statistics concerning such show trials held by the Soviet Union are not available. According to information published in 1983 by the *Ukrainian Weekly*, a newspaper published by American Ukrainians, 24 such show trials were held in the Soviet Union in the

<sup>55</sup> For the propaganda campaign in the Eastern Bloc countries associated with the Eichmann trial, see: Ruth Bettina Birn, Ein deutscher Staatsanwalt in Jerusalem: Zum Kenntnisstand der Anklagebehörde im Eichmann-Prozess und der Strafverfolgungsbehörden der Bundesrepublik, Werner Renz (ed.), *Interessen um Eichmann: Israelische Justiz, deutsche Strafverfolgung und alte Kameradschaften* (Frankfurt, 2001), p. 94.

<sup>56</sup> Lukasz Hirsowicz, The Holocaust in the Soviet Mirror, Lucjan Dobroszycki and Jeffrey S. Gurock (eds.), *The Holocaust in the Soviet Union: Studies and Sources on the Destruction of the Jews in the Nazi-Occupied Territories of the USSR, 1941–1945* (New York, 1993), p. 41; Ezergailis, *Nazi/Soviet Disinformation*, pp. 45–55.

<sup>57</sup> Hirsowicz, The Holocaust, p. 42.

<sup>58</sup> Ibid., p. 43.

<sup>59</sup> Ibid.

<sup>60</sup> Kovalev, Svidetel'skie pokazaniia, pp. 108–113.

<sup>61</sup> Hirsowicz, The Holocaust, pp. 44–46.

years 1961–65 alone: three in Estonia, three in Ukraine, four in Belorussia, two in Latvia, six in Lithuania, six in Russia, in all, 127 persons were tried and convicted, eight<sup>62</sup> of them in absentia.<sup>63</sup> Although there was strong political and ideological motivation for these show trials, it cannot be assumed that all of the defendants were innocent or that they were not connected at least to a certain extent with the crimes that were the content of the court cases.

## **Trials in Estonia**

Five examples of show trials of war criminals held during the Cold War can be cited in the case of Estonia that illustrate different aspects of this action.

### **1st Case: Mere-Gerrets-Viik**

**Historical background of the case.** Two trainloads of Jews (about 2,000 in total) were brought from Czechoslovakia and Germany to Estonia to the Jägala correctional labour camp under the jurisdiction of the German Security Police and the SD in September of 1942. About 400–500 younger persons were selected from the arrivals and sent to the camp. The remainder were executed on the day of their arrival at the nearby Kalevi-Liiva artillery range with the participation of camp staff of Estonian origin.<sup>64</sup>

An article entitled “Tragedy at Kalevi-Liiva” appeared in Estonia in a local Russian-language newspaper *Molodezh’ Estonii* on 22 May 1960.<sup>65</sup> The editorial office had added a longer description of the executions that took place at Kalevi-Liiva in 1942, already including plenty of excerpts from interviews with witnesses and details, as if the investigation had already been completed. It goes without saying that the foreign “letter to the editor” was not published in the Soviet press without being coordinated with the KGB. Thereafter writings by survivors of that camp started appearing in Canadian newspapers.<sup>66</sup> Active propagandistic reporting in the media accompanied the entire subsequent preliminary investigation period and trial in both Estonia and Canada.

On 3 June 1960, the ESSR KGB decided to initiate criminal proceedings in connection with this matter,<sup>67</sup> referring to information disclosed in the press since “the main culprits in the killings under discussion have gone unpunished thus far.” There had not been any interest in the matter until then although the basic facts of the executions that took place at Kalevi-Liiva and the identities of the camp commandant (Aleksander Laak) and his adjutant (Ralf Gerrets) had been known to Soviet state security organs since November of 1944<sup>68</sup> and this

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<sup>62</sup> The number of persons convicted in absentia should most likely nevertheless be greater since 4 people were charged in absentia during the period under consideration in Estonia alone, of whom three were also sentenced to death in absentia. One of the persons charged committed suicide before the end of his trial.

<sup>63</sup> Lydia Demjanjuk, “Nazi War Criminals”: Time for Truth to Emerge, *The Ukrainian Weekly*, 31 July 1983.

<sup>64</sup> See further: Meelis Maripuu, Annihilation of Czech and German Jews in Estonia in 1942–1943, Toomas Hiio, Meelis Maripuu and Indrek Paavle (eds.), *Estonia 1940–1945: Reports of the Estonian International Commission for the Investigation of Crimes Against Humanity* (Tallinn, 2006), pp. 705–716.

<sup>65</sup> Tragediia v Kalevi-Liiva (Tragedy at Kalevi-Liiva), *Molodezh’ Estonii*, 22 May 1960.

<sup>66</sup> For instance, in the *Toronto Daily Star*, known among newspapers for its hostility towards Nazis.

<sup>67</sup> Investigation file of Gerrets and others, ERAF.129SM.1.28653, vol. I–XIX.

<sup>68</sup> Testimony of Jägala camp manager K. Rääk, 9 November and 24 December 1944, ERAF.129SM.1.28653, vol. XIV, pp. 301–306.

information had in part even been published in a book together with narratives from witnesses in 1947.<sup>69</sup>

Ralf Gerrets was arrested as the first suspect on 10 June 1960. Investigation was initiated regarding four persons: Ain-Ervin Mere, head of the Estonian Security Police<sup>70</sup> in 1942 (lived in Great Britain); Aleksander Laak, commandant of the Jägala camp in 1942–43 (lived in Canada); Ralf Gerrets, adjutant to the camp commandant (arrested in Estonia); Jaan Viik, a camp guard (arrested in Estonia, had already been punished once along with other guards in 1946, having been sentenced to 10 years imprisonment).

In terms of the propagandistic meaning of the trial, Mere and Laak, who had escaped to the West at the end of the war, are currently of greater interest in the context of this article. There is no information among the few KGB counterintelligence materials that are currently accessible that would indicate that the KGB had tried to establish contact with Laak, who lived in Canada, during the preceding years. The prosecution of the camp commandant in absentia, however, certainly suited propaganda needs. After the in absentia charges and their disclosure in both the Soviet and the international press, Laak committed suicide in Canada on 6 September 1960.<sup>71</sup>

Mere was an air force officer from the Republic of Estonia and was recruited as an NKVD agent with the code name Müller at the beginning of the Soviet rule in 1940. After war broke out between Germany and the Soviet Union he crossed over to the German side at the front in the summer of 1941 and began serving in Estonia in the *Omakaitse* (Home Guard), a voluntary auxiliary police organisation. In December of 1941, the German occupying authorities appointed Mere head of the Estonian Political Police, which operated under the control of the German Security Police and SD. When the Estonian Security Police was formed on 1 May 1942, he was appointed its head and served in that position until 31 March 1943. Mere later served in Waffen-SS Estonian units. He went to Germany in 1944 and lived in Great Britain after the war. The USSR KGB hoped to recruit him again in 1953–57 but did not find a suitable opportunity.<sup>72</sup> The escaped agent, however, was an excellent target as a show trial defendant.

The ESSR Supreme Court sentenced Ain-Ervin Mere, Ralf Gerrets and Jaan Viik to death at the trial held on 6–11 March 1961. The government of Great Britain did not extradite Mere to the Soviet Union. The two defendants that participated in the trial were executed.<sup>73</sup>

## 2nd Case: Jüriste-Linnas-Viks

**Historical background of the case.** In July of 1941, the German occupying authorities set up a prison camp in the city of Tartu with the support of members of the local *Omakaitse*, which

<sup>69</sup> Max Laosson et al, *Saksa fašistlik okupatsioon Eestis aastail 1941–1944* (The German Fascist Occupation in Estonia in 1941–1944) (Tallinn, 1947).

<sup>70</sup> As an exception compared to other occupied territories, the German Security Police in Estonia formed a security police parallel structure employing local residents (officially the German Security Police in Estonia, Group B, unofficially known as the Estonian Security Police), which carried out most of the security police functions under the control of Group A, which was small in number and formed of Germans. See further: Ruth Bettina Birn, *Die Sicherheitspolizei in Estland 1941–1944: Eine Studie zur Kollaboration im Zweiten Weltkrieg* (Paderborn, 2006).

<sup>71</sup> As one version, Laak did not commit suicide but was instead forced to kill himself by members of an underground Jewish vengeance group who found his place of residence using reports that appeared in the press in connection with the trial. See: Michael Elkins, *Forged in Fury* (New York, 1971), p. 302.

<sup>72</sup> Ain Mere's file (agent "Müller"), ERAF.138SM.1.9.

<sup>73</sup> Investigation file of Gerrets and others, ERAF.129SM.1.28653, vol. I–XIX.



thereafter remained in operation as a “correctional labour camp” under the jurisdiction of the German Security Police. The camp also functioned during its first months as an extermination camp, where partially in response to the Red Terror<sup>74</sup> that had come to an end, up to 4,000 local residents were executed. The head of the camp for most of this time was Karl Linnas, who lived in the USA after the Second World War.<sup>75</sup>

On 25 November 1960, the ESSR KGB initiated criminal proceedings to ascertain and bring to justice the culprits of the executions carried out at the Tartu camp during the years of German occupation. The preceding media coverage was more reserved compared to the previously described trial. Within the framework of the criminal proceedings, charges were brought against Juhan Jüriste (the first head of the Tartu concentration camp in the summer of 1941, arrested in Estonia), Ervin Viks (served for a short time in the Tartu concentration camp special department, later served as head of Department IV of the Estonian Security Police, lived in Australia) and Karl Linnas (the second head of the Tartu concentration camp in 1941–1942 when mass executions took place, lived in the USA).

All the defendants were sentenced to death at the public trial held on 16–20 January 1962, Viks and Linnas in absentia. The dates of the court sessions were postponed to later dates just before they were to begin. The postponement made the court’s decorative role public knowledge as the court verdict and the report from the court session appeared in *Sotsialisticheskaia zakonnost’*, the periodical published by the Soviet Union’s Prosecutor’s Office, already before the actual start of the court sessions. Public disclosure, however, was in this case relative: the departmental periodical of the Prosecutor’s Office was not distributed in mass circulation and most copies were probably successfully gathered back together from libraries and the periodical’s domestic subscribers. The author of this current article is not aware of any evidence indicating that this information had become public knowledge more broadly or that it had leaked from the Prosecutor’s Office at all. Information on the mishaps of the Soviet court system first came to light in the USA in connection with the Linnas case.<sup>76</sup> Viks, who lived in Australia, was not extradited to the Soviet Union. USA authorities revoked Linnas’s citizenship in 1981, after which a new campaign was started up to demand his extradition upon the recommendation of the ESSR KGB. Linnas was extradited to the Soviet Union in April of 1987. The court verdict from 1962 had expired. Linnas died in prison hospital in the summer of that same year without being brought to trial again.<sup>77</sup>

### 3rd Case: Evald Mikson

**Historical background of the case.** Estonian forest brothers operated in Estonia in the vicinity of the Soviet-German front line in July of 1941<sup>78</sup> in support of the German forces. When the front line advanced beyond Estonia, the paramilitary Omakaitse organisation was

<sup>74</sup> Here Red Terror refers to the mass arrests and the deportation campaign carried out by the Soviet regime in Estonia in 1940–41 culminating with the terrorisation of the local population by Soviet destruction battalions in the summer of 1941 after war broke out between Germany and the Soviet Union.

<sup>75</sup> See further: Riho Västriku, Tartu Concentration Camp 1941–1944, Hiio, Maripuu, Paavale (eds.), *Estonia 1940–1945*, pp. 689–704.

<sup>76</sup> The periodical *Sotsialisticheskaia zakonnos* (Socialist Legality), January 1962, pp. 73–74; see: S. Paul Zumbakis, *Soviet Evidence in North American Courts: an Analysis of Problems and Concerns with Reliance on Communist Source Evidence in Alleged War Criminal Trials* (Chicago, 1986).

<sup>77</sup> Investigation file of Jüriste, Linnas and Viks, ERAF.130SM.1.28195, vol. I–X.

<sup>78</sup> The Forest Brothers (Estonian: *metsavennad*) were Estonian partisans who waged guerrilla warfare against Soviet rule during the Soviet invasion and occupation of the three Baltic states during and after World War II.

formed on the basis of those forest brother units. In the initial phase of the German occupation, lynchings were carried out by members of the Omakaitse against persons accused of perpetrating Red Terror. The Omakaitse also participated in executions perpetrated by the German authorities. Evald Mikson was one of the leaders of the local Omakaitse unit in Võnnu Rural Municipality in Tartu County in Southern Estonia. Starting in the autumn of 1941, he joined the Political Police in Tallinn yet was himself arrested, apparently accused of appropriating the property of persons who were being held in custody. At the end of the war, he escaped from Estonia and settled in Iceland.<sup>79</sup>

On 5 June 1961, criminal proceedings were initiated by the ESSR KGB to investigate Evald Mikson's (he went by the name Edvald Hindriksson in Iceland) activity during the years of German occupation. His place of residence in Iceland was also indicated.<sup>80</sup> Specific grounds for initiating criminal proceedings are not indicated in the file (there is a reference to "published materials"), yet materials that compromised Mikson that had already been published in *Thjodviljinn* (*Þjóðviljann*), the voice of Iceland's Socialist Party were included in the file. These materials reached the newspaper by way of an Icelander who studied in Moscow and operated at the same time as the paper's Soviet Union correspondent.<sup>81</sup>

There is no accessible information concerning any possible earlier interest that the state security organs may have had concerning Mikson's person, although his name figured in 1948 investigation files of other individuals in connection with arrests and executions that took place in 1941.<sup>82</sup> The preliminary investigation was carried out from June through August of 1961, in the course of which a number of testimonies were collected concerning Mikson's activity as a leader of the forest brothers and later of Omakaitse units in the summer of 1941. According to the statements of witnesses, Mikson participated personally in the execution of persons arrested by the forest brothers and the Omakaitse. On 24 August, the investigator nevertheless requested an extension of the deadline from the prosecutor for completing the preliminary investigation in order to acquire testimony from family members of the executed persons. On 19 September 1961 however, the ESSR KGB investigation department announced the suspension of the preliminary investigation since the exact place of residence of the suspect was reportedly not known. The file was sent to Moscow to the USSR KGB.<sup>83</sup> Recall that six months earlier, his address was in the file and there were no references concerning any change of address.

#### 4th Case: Pärnu's Omakaitse

**Historical background of the case.** Much like the previous case, forest brothers and Omakaitse units later formed out of them operated in Pärnu County from July of 1941 onward. The participation of members of the Omakaitse in repressions carried out by the German authorities connects them with several crimes.

No noticeable campaign preceded this case in the media. Materials associated with this criminal case begin with the statement drawn up in 1961 in the security organs: "It is evident

<sup>79</sup> Valur Ingimundarson, The Mikson Case: War Crimes Memory, Estonian Identity Reconstructions, and the Transnational Politics of Justice, Annette Vowinckel, Marcus M. Payk and Thomas Lindenberger (eds), *Cold War Cultures: Perspectives on Eastern and Western European Societies* (New York, 2012), pp. 321–346.

<sup>80</sup> Investigation file of Mikson, ERAF.129SM.1.28654, vol. I, II.

<sup>81</sup> The first materials on Mikson appeared on the pages of *Thjodviljinn* on 14 March 1961 already. The newspaper is accessible in the digital collection of the National and University Library of Iceland, Landsbókasafn Íslands – Háskólabókasafn ([http://timarit.is/search\\_init.jsp?lang=en](http://timarit.is/search_init.jsp?lang=en), last accessed on 13 February 2014).

<sup>82</sup> Investigation file of Koolmeister and Luha, ERAF.129SM.1.1442.

<sup>83</sup> Investigation file of Mikson, ERAF.129SM.1.28654, vol. III, 111–113, 114–115, 116.

from existing compromising materials concerning persons who were active assistants, etc. of the Germans in Pärnu and other places during the German occupation /.../ that a special 30-man detachment also known as a "hunting detachment" led by Captain Villem Raid and Arkadi Valdin was formed to carry out death sentences handed down by the Political Police. According to incomplete information available to the Extraordinary State Commission, over 1,000 people were shot in the city and county of Pärnu."<sup>84</sup> In March and April of 1962, wartime members of the Pärnu Omakaitse Edmund Kuusik, August Reinvald, Julius Viks and Teodor Kaldre were arrested. Raid and Valdin figure continuously alongside other persons as leading figures in the explanations of the arrested persons and of witnesses that were questioned. Charges were brought and Kuusik, Reinvald, Viks and Kaldre were sentenced to death at the trial held on 11–15 December 1962.<sup>85</sup> The matter no longer concerned Raid and Valdin, even though they were both on the list of persons in July of 1962 for whom searches were to be initiated on the basis of materials gathered over the course of preliminary investigation.<sup>86</sup>

### 5th Case: Lääne County Omakaitse and Ago Talvar

**Historical background of the case.** Much like the two previous cases, the background of events is the forest brothers who operated in the summer of 1941 and the Omakaitse units that they later formed, this time in Lääne County. Ago Talvar was an organizer of a group of forest brothers in Lääne County in the summer of 1941 and was the head of the Lääne County Omakaitse from 31 August 1941 until 1 March 1942. Thereafter he served as head of the Omakaitse Headquarters Administrative Department in Tallinn until the end of the German occupation.

Ago Talvar lived in Sweden and was wanted by the KGB from 1947. From his correspondence with his wife and relatives who remained in the Soviet Union his whereabouts were ascertained in 1958.<sup>87</sup> A trial had already been held in 1945 concerning executions carried out by the Lääne County Omakaitse and four men had been sentenced to death.<sup>88</sup> In July of 1967, four men were on trial: Roland-Rudolf Rand, Ants Tinniste, Harri Paisu and Ago Talvar. A letter from the Estonian SSR Prosecutor Valter Raudsalu was sent to Ago Talvar in Sweden on 13 May 1967 informing him that criminal proceedings had been initiated against him and of his rights in this regard. If he did not appear, the verdict would be handed down in absentia. He was to contact the Soviet Embassy in Sweden to obtain a visa and to cover his travel expenses. Talvar informed the Soviet journalist sent to check whether he had received the letter that he refused to participate in this subsequent Soviet propaganda undertaking.<sup>89</sup> Rand and Tinniste, and Talvar in absentia, were sentenced to death on 13 July 1967. Paisu was declared mentally incapable and was sent to a psycho-neurological hospital for coercive treatment. Talvar was accused of organizing and supervising the shooting of over 100 people in Haapsalu and Lääne County.<sup>90</sup> The real battle – propaganda battle – was still to come for

<sup>84</sup> ERAF.133SM.1.19, 1–10.

<sup>85</sup> Investigation file of Kaldre and others, ERAF.129SM.1.28668.

<sup>86</sup> ERAF.133SM.1.19, 142–144.

<sup>87</sup> ERAF.133SM.1.13, 69–70.

<sup>88</sup> Investigation file of Aavasaar and others, court verdict, ERAF.129SM.1.18262-jv. Court verdict.

<sup>89</sup> ERAF.133SM.1.15, 130–131.

<sup>90</sup> Investigation file of Talvar and others, court verdict, ERAF.129SM.1.29004, vol. V, court verdict.

Talvar, sentenced to death in absentia, and his family that remained in Estonia, and it lasted until the end of the 1980s.<sup>91</sup>

## Public Preparation of Trials

The prescriptive documents of the trials under consideration are represented sporadically in archives accessible to historians. The most relevant documents are preserved in Estonian archives concerning the earliest trial (Mere-Gerrets-Viik). Using information concerning the organization of analogous trials, it is possible to obtain a general idea of what took place which does not necessarily correspond exactly to the circumstances of each individual trial. In addition to the trials held in Estonia, the trial of Theodor Oberländer and members of the Nachtigall Battalion initiated by Soviet security organs and held in the GDR, and its preparation in Ukraine, is also used as an analogue.<sup>92</sup> The preparation of such trials and the carrying out of the related investigations was part of the jurisdiction of the security organs.<sup>93</sup> When it was essentially decided to initiate a particular criminal proceeding and who made the decisions currently remains concealed from our view.

In the case of show trials, it was characteristic that the dissemination of targeted information began through the press along with a propaganda campaign prior to the official initiation of criminal proceedings. Recall at this point the speech by Soviet leader Khrushchev in July of 1959, which preceded the trial against German Federal Republic minister Theodor Oberländer in East Germany. The Soviet regime presented itself as the power of the people and thus the initiation of criminal proceedings as an initiative from below, so to speak, was particularly suitable: on the basis of materials published in the press and according to the demands of the working people.

Public attacks against Estonia's leading figures from the time of the German occupation began in the press in early 1959 as well. Estonian Self-Administration Director of Internal Affairs Oskar Angelus was the first target: an excellent target since the Omakaitse, the Estonian Security Police and most penal institutions, all of which were more or less associated with committed crimes, were formally subordinated to him during the war. This kind of formal delegation of responsibility was the shrewd policy of the German occupying authorities, yet Angelus's actual power over the above-mentioned institutions and his direct connection to executions were nevertheless nonexistent. This was so even in the view of Soviet investigative organs since attacks against Angelus remained limited to only

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<sup>91</sup> The documentary film *Lemmi rakkaus* (Lemmi's Love) focuses on the story of Talvar's wife Lemmi and their children who remained in Estonia and were repressed on two occasions by the Soviet authorities because of her husband. The existence of Ago Talvar, sentenced to death in absentia, in Sweden affects the story of this family left behind on the Soviet side for decades. Ville Mäkelä (director), *Lemmi rakkaus* (Finland, 2011) ([http://ses.fi/fileadmin/dokumentit/Finnish\\_documentary\\_films\\_2011.pdf](http://ses.fi/fileadmin/dokumentit/Finnish_documentary_films_2011.pdf), last accessed on 5 January 2015).

<sup>92</sup> The preserved portion of GDR confidential documents that became accessible after the reunification of Germany and the Ukrainian security service archive, which was partially accessible during the intervening years, provide important additional information concerning the organizational side of show trials.

<sup>93</sup> The Estonian SSR Criminal Procedure Code specified institutions that are considered investigative organs (§ 99), including state security organs, and the jurisdictional limits of their authorisation for investigation (§105). In preparation for show trials, the suspects were presented with charges of betrayal of the Soviet fatherland (ESSR Criminal Code § 62), in which case the Prosecutor's Office and the state security organs were assigned to carry out the preliminary investigation.

publications related to current affairs, in which he was equated with Hans Globke<sup>94</sup>, for instance, who had been targeted in East Germany.<sup>95</sup>

Prior to the Mere-Gerrets-Viik trial, the article "Tragedy at Kalevi-Liiva" was published on 25 May 1960 in Estonia in *Molodezh' Estonii*, a local Russian-language newspaper. A letter from Czechoslovakia provided the formal impetus for this article.<sup>96</sup> The author of the letter was Gita Kleinerova, one of the few Jewish inmates to survive the Jägala camp. A choir from Estonia had visited her home town, which had motivated her to write a letter of thanks and also to recall her camp years in wartime Estonia.

On 3 June 1960, the ESSR KGB decided to initiate criminal proceedings, referring to information published in the press, since the main culprits in the killings under consideration had not been punished thus far.<sup>97</sup> This disclosure was seconded by articles in the North American press in the name of six former Jägala prisoners who lived in New York and one who lived in Toronto.

The local public was prepared for the show trial during the preliminary investigation and "voices from among the people" demanded the punishment of the accused. All the relevant archival material in Estonia was under the control of the security organs and it was according to their instructions that thematic articles and radio broadcasts were prepared. Since the authorities had a monopoly on the relevant information, they could present absurd accusations and connections, and nobody had the chance to check the information presented. The background information presented was for the most part limited to information from the Extraordinary State Commission of 1944, which is limited to summarising repressions from the period of German occupation and assessment of the role of various institutions. The ascertainment of the exact circumstances was not the objective of the forthcoming trials. The materials being disclosed in the press were first and foremost supposed to create a suitable emotional atmosphere.

During the media campaign preceding the Mere-Gerrets-Viik trial, the demand was made to prosecute Hjalmar Mäe, who then lived in Austria and had served as the head of the Estonian Self-Administration during the German occupation, in addition to Mere as the head of the Estonian Security Police. Mäe was accused through the utterances of his brother, who lived in Estonia, of the deaths of tens of thousands of people and other such crimes. Apart from the prominent role he had played under German occupation, Mäe was undoubtedly a considerable propaganda object since he served as an expert on the Soviet Union to the Austrian government. In commenting on Mäe's activity in Austria, it was equated with the continuation of fascist policy in Austria.<sup>98</sup> Documents of the security organs in Estonia do not

<sup>94</sup> Hans Globke participated as a lawyer in working out Nazi German legislation in the 1930s. After the war, he was as close advisor to the West German Chancellor Adenauer. In 1963, he was sentenced in absentia to life imprisonment at a show trial held in East Germany. Completely irrelevant witnesses and experts from the Soviet Union, including 3 representatives from Estonia, were employed in the trial. The historian and former Minister of Foreign Affairs of the ESSR Hans Kruus testified as an expert. Listen to: The trial of H. Globke (interview with H. Kruus), Estonian National Broadcasting Corporation audio archive (arhiiv.err.ee/vaata/41397, last accessed on 3 February 2014). About Globke: Erik Lomatsch, *Hans Globke (1898–1973). Beamter im Dritten Reich und Staatssekretär Adenauers* (Frankfurt, 2009).

<sup>95</sup> Reeturil ei ole kodumaad: Hitlerlik landesdirektor Angelus teeskleb demokraati (Traitors Have No Homeland: Hitlerite Landesdirektor Angelus Pretends to be a Democrat), *Kodumaa* (1959), no. 4; Ervin Martinson, Ühe perekonna tragöödia (One Family's Tragedy), *Sirp ja Vasar*, 19 July 1963.

<sup>96</sup> Tragediia v Kalevi-Liiva.

<sup>97</sup> Investigation file of Gerrets and others. ERAF.129SM.1.28653, vol. I, 2–3.

<sup>98</sup> Austria was occupied by the Soviet Union and the Allied powers at the end of the war, and was a hostage of the Cold War until 1955, suffering primarily from the ambitions of the Soviet Union. It was not until the death

indicate whether other steps were taken against Mäe other than threats broadcast over the radio or for what reason they were abandoned.<sup>99</sup>

Immediately before the start of the court sessions of the Mere-Gerrets-Viik trial, the brochure *Mõrvarid maskita* (Murderers Unmasked) was published, written by Ants Saar, a writer who was a loyal Party confidant.<sup>100</sup> This sheds some light on the events that were to follow. The following notation is on the brochure's title page: "Compiled by Ants Saar on the basis of materials and documents published in the press".<sup>101</sup> "Investigative journalism" did not exist in the Soviet conditions of that time and thus this is a presentation of materials prepared in popular form by the security organs for propagandistic purposes. Information on this subject matter was not published in the press anyway without the approval of the security organs, to say nothing of documents to which access was under the direct control of the security organs.

The brochure outlines the events of the war and the main groups of persons targeted by the show trials that had been launched on the one hand, and on the other hand the domestic and foreign policy objectives of the Soviet Union, the achievement of which such trials were supposed to support. The outlined aims were:

- the activity of the Estonian Security Police: brought to fruition as show trials, Mere and Viks as the accused (1st and 2nd cases)
- what took place at the Jägala camp/Kalevi-Liiva: brought to fruition as a show trial (1st case, Mere-Gerrets-Viik);
- what took place in the Tartu camp: was realised as a show trial (2nd case, Jüriste-Linnas-Viks trial), even though the central figures changed to a certain extent. The later central figure Linnas is mentioned only once in the brochure;
- activity of the Tartu County Omakaitse: culminated with the preliminary investigation of Evald Mikson (3rd case), which was discontinued without the bringing of charges;
- activity of the Estonian Self-Administration headed by Hjalmar Mäe: limited to the publication of propagandistic publications;
- Figures that stood out in Waffen-SS Estonian units: limited to the publication of propagandistic materials (Johannes Soodla, Alfons Rebane, Harald Riipalu).

The following stands out in the publication as political objectives:

- branding expatriates as the "henchmen of fascists who fled from the Estonian homeland", including figures from the National Committee of the Republic of Estonia<sup>102</sup> who worked against the German occupying authorities;

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of Stalin in the Soviet Union and the end of the Korean War that political tensions eased to the point where Austrian politicians succeeded in achieving a compromise and restoring national independence.

<sup>99</sup> Recordings of the radio broadcasts The Hills of Kalevi-Liiva Accuse, I–V. 22 September, 3 October, 9 October, 16 October, 30 October 1960. Estonian National Broadcasting Corporation audio archive.

<sup>100</sup> Ants Saar (1920–89) had joined the Komsomol in 1940, fought in a Soviet destruction battalion in 1941 and thereafter in the Red Army. He became a member of the Communist Party in 1943, studied at the VKP(b) Central Committee Higher Party School after the war in 1950–53 and worked at responsible positions in the press and later in the ECP CC *apparat*. Served as the editor of the cultural newspaper *Sirp ja Vasar* (Sickle and Hammer) in 1953–61. Consistently represented the Communist Party's orthodox line.

<sup>101</sup> Ants Saar, *Mõrvarid maskita* (Tallinn, 1961).

<sup>102</sup> The National Committee was formed by Estonian politicians and their supporters in February and March of 1944 as a proxy parliament, the highest authority in Estonia until constitutional institutions were put in place. The Committee's activities were paralysed by the arrest of hundreds of Estonian activists by the German security police SD. Some Committee members were arrested, while others went underground. Due to the activities of the National Committee, the formation of a legitimate government succeeded in Estonia in August



- discrediting expatriate organisations in the eyes of the governments and population of their host countries by accusing them of “fascism”;
- discrediting the governments or politicians of Western countries that maintained contacts with expatriate organisations, accusing them of “conniving with fascists and war criminals”, continuing Hitlerite policy, etc. The policy of the USA, Canada,<sup>103</sup> Great Britain and Sweden was accused along with West German revanchism (with reference to Hans Globke);
- Drawing parallels between the show trials being prepared in Estonia and the Eichmann trial that was starting in Israel.

The staging of justification for initiating criminal proceedings against Evald Mikson by way of *Thjodviljinn*, the voice of Iceland’s Socialist Party is particularly blatant: they had materials published in that newspaper that had previously been disclosed in the brochure *Murderers Unmasked* in February of that same year according to the directions of the KGB itself. In the chapter on Mikson entitled *Murderer and Spy under a False Name*, even his address in Reykjavik was already provided.<sup>104</sup> The brochure devoted more attention to the defendants in the Mere-Gerrets-Viik trial that was held in March of the same year (see 1st case), yet also to several other persons who were not brought to trial but were used by Soviet propaganda. In the case of Mikson, the material to be disclosed was, of course, meant to influence readers in Iceland but primarily to affect the accused himself. The campaign in the Icelandic press was extensive: over the course of two and a half months from 14 March 1961 to the formal initiation of criminal proceedings in Estonia at the beginning of June, Mikson was written about 11 times in *Thjodviljinn*. Additionally, articles defending Mikson appeared in right-wing papers.<sup>105</sup> Propagandistic articles on Mikson were also published in parallel in the Estonian press, although to a lesser extent.<sup>106</sup> It is noteworthy that Mikson was accused of arresting and murdering communists in the first articles concerning his actions (appearing in March). Starting in April, when the Eichmann trial began in Israel, the Jewish origin of Mikson’s victims was stressed. Both categories of victims were considered in the same article so that the comparison would be comprehensible to the reader beyond any doubt. The articles that appeared in May focused first and foremost on criticism of the Icelandic authorities that were said to have not manifested any initiative in dealing with Mikson.<sup>107</sup> Even when writing specifically about Holocaust victims, it was customary in the Soviet Union not to highlight the Jewish origin of the victims but instead to fuse victims into a single mass of “Soviet people.” A temporal parallel with the Adolf Eichmann trial in Israel gave occasion to connecting Mikson to the “Jewish question,” to which at this time a lot of international

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of 1944. This formed the basis for the legal continuity of the Republic of Estonia until the end of the Soviet annexation.

<sup>103</sup> Sharp rebukes aimed at Canada’s Prime Minister John Diefenbaker, who met representatives of the Estonian expatriate organisation.

<sup>104</sup> Saar, *Mörvarid maskita*, pp. 85–90.

<sup>105</sup> Materials implicating Mikson were published in Iceland in *Thjodviljinn*, the voice of the country’s Socialist Party that operated on the remains of the preceding Communist Party. The activity of the party was coordinated by the CPSU. The author of the articles concerning Mikson was the newspaper’s Moscow correspondent of that time and its later editor-in-chief Árni Bergmann, who was at that time studying Russian literature in Moscow. The newspaper is accessible online ([http://timarit.is/search\\_init.jsp?lang=en](http://timarit.is/search_init.jsp?lang=en), last accessed on 13 February 2014).

<sup>106</sup> For instance: Ervin Martinson, *Roimar Mikson ja tema kaitsjad* (Mikson the Criminal and his Defenders), *Rahva Hääl*, 17 May 1961.

<sup>107</sup> *Thjodviljinn*, 14 March, 16 March, 17 March, 18 April, 19 April, 20 April, 22 April, 23 April, 16 May, 18 May, 31 May 1961. Many thanks to Sigurdur Emil Palsson for summarising the articles in Icelandic.

attention was devoted. This might have been seen as a suitable opportunity for adding greater weight to the news concerning Mikson.

Further comparing the scheme outlined in the brochure *Murderers Unmasked* and the subsequent events, it can be seen that the Soviet regime had prepared systematically for holding the show trial. Most of the relevant institutions were inundated with accusations and individuals who could potentially be accused were located. Measures adopted later concerning the Estonian Self-Administration that operated as the executive organ of the German occupying authorities and persons who stood out in Waffen-SS Estonian units were limited to propagandistic measures or at least there is no contradicting information in currently accessible archives. The Tartu County Omakaitse with Evald Mikson as the central character was initially selected for the “illustrative execution” of the Omakaitse as a local paramilitary organisation, which tied in well with the actions of the Tartu concentration camp that operated in parallel. After the Mikson trial was abandoned, the investigation of the activities of the Pärnu County Omakaitse and somewhat later that of Lääne County as well was quickly initiated.<sup>108</sup> Persons who served in the leadership of the Estonian Security Police (Ain-Ervin Mere and Ervin Viks) were included in two show trials, each of which focused on the activity of one concentration camp (Jägala/Kalevi-Liiva and Tartu). Changes took place in the persons compromised in the brochure and the persons actually brought to trial (or targeted in propagandistic literature). For instance, Karl Linnas, who was mentioned only once in the brochure in the case of the Tartu camp, later became the main figure in the case. Articles about him started appearing in the USA in May of 1961. At the same time, graphic accusations were made in the brochure against the former policeman Aksel Luitsalu, who had emigrated to Canada, although the Soviet security organs themselves later admitted that he had been an official in the criminal police and that no charges could be brought against him.

### **Attempts to recruit the accused to collaborate with Soviet intelligence organisations?**

Soviet state security organs mainly used two approaches in the 1950s to attempt to recruit persons who had escaped to the West from territories that remained under Soviet control. Some of the targeted individuals had for various reasons collaborated with Soviet intelligence services during the first year of Soviet rule in 1940–41. Contact with them was severed during the war and these persons had escaped to the West. In the new situation, attempts were made to re-recruit such persons using threats to leak information on their previous cooperation with Soviet intelligence services to the expatriate community and/or to repress family members who remained in the Estonian homeland.

The other option was to use relatives of the refugees who remained in Estonia and try to approach the “object” through them. In the 1950s, threats of repressing those relatives could still simply be made but by the beginning of the 1960s, the period of mass repressions had nevertheless passed. As the time spent away from Estonia grew ever longer, the chances to emphasise the emotional side, stressing the chance to meet long-lost family members

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<sup>108</sup> Members of the Omakaitse from other counties were also put on trial over the following years and in those trials as well, most of the defendants were sentenced to death. In the case of those trials, however, minimal press coverage was devoted to them in the newspapers *Kodumaa* or *Rahva Hääl*. For instance: members of the Omakaitse in Valga County in 1966; members of the Petseri Omakaitse in Pskov oblast in the Russian Federation in 1970 and 1974; members of the Omakaitse in Viru County in 1974.

once again (or once more) increased. When this approach was selected, the security organs first attempted to recruit family members living in Estonia. Their own possible cooperation with the German occupying authorities was a suitable pretext for applying pressure to them, as was simply the fact that their relative lived abroad, which was definitely the kind of information that was considered compromising in the Soviet Union and a hindrance in many different kinds of situations in life.<sup>109</sup>

The situation emerged in the 1960s where it turned out to be advantageous to resort to releasing material that compromised emigrants living in the West concerning cooperation with the German occupying authorities. The prosecution of Nazi war crimes was entering a new stage at the international level. Genocide against the Jews in wartime Europe was highlighted ever more emphatically and the Eichmann trial along with its accompanying media coverage had significantly contributed to this. In addition to the judicial system, the Holocaust as an historical event started evolving into a separate field of research for historians and in this way as well affecting literature and art, and the attitudes of society in general.

Finding documentary evidence of the recruitment or attempted recruitment of an individual into the service of Soviet intelligence is exceptional as a rule and in such cases, the question inevitably arises of whether the materials concerning recruitment accessed by historians<sup>110</sup> were facilitated by an error in someone's work or deliberately made available instead.

Soviet intelligence services had relatively long-term relations with Ain-Ervin Mere (1st case). He had served as the head of the Estonian Armed Forces' Headquarters Mobilisation Department and after the occupation of Estonia by the Soviet Union, he was incorporated into the Red Army along with other Estonian officers. Mere was recruited as an NKVD agent with the code name Müller on 10 October 1940 and within a short period of time, he had managed to provide valuable information. After war broke out between Germany and the Soviet Union, he crossed over to the German side at the front in the summer of 1941 and at the end of the war, he escaped to the West. The KGB became active in regard to Mere in 1956 when his postwar place of residence in England had been ascertained, where he was one of the leading figures in England's Estonian Association. The plans for his re-recruitment called for using persons who had been in contact with him as an agent in 1940–41 already but for various reasons these plans were not implemented. Approaching him by way of relatives also did not succeed because Mere did not have close relatives that stayed behind in Estonia and he was not in close contact with his more distant relatives. The KGB appears to have abandoned plans to re-recruit Mere in 1957.<sup>111</sup> According to their operating principles, agents who defected abroad and could not be re-recruited were to be compromised, and Mere's cooperation with the Germans provided plenty of opportunity for this. It was logical in every respect to tie his activity as the head of the Estonian Security Police to the Jägala camp that was under his jurisdiction and the mass murder that was carried out there. Mere was sentenced to death in absentia but the British government did not extradite him to the Soviet Union.

<sup>109</sup> Jürjo, *Pagulus ja Nõukogude Eesti*, pp. 53–76.

<sup>110</sup> Among the materials of the Estonian SSR's KGB, 18 files compiled mostly on Estonians that lived in exile and in isolated cases contain documents extending to the end of the 1960s are preserved in the National Archives collection ERAF .138SM (collection of ESSR State Security Committee foreign intelligence files). On the basis of other materials, it can be said that this is a small portion of the files that were kept on Estonians who lived in exile or in the Estonian homeland.

<sup>111</sup> Ain Mere's file (Agent "Müller"). ERAF.138SM.1.9; Jürjo, *Pagulus ja Nõukogude Eesti*, pp. 57–58.

There is no information available concerning contacts between Evald Mikson as a former official of the Political Police of the Republic of Estonia and the Soviet Union's NKVD in 1940–41. As a policeman dismissed from his post by the Soviet authorities, Mikson had good reason for going into hiding and thanks to this, he succeeded in surviving the first year of Soviet rule without being arrested. His activities during the German occupation are somewhat obscured. In addition to fighting against the Red Army, the actions of the forest brothers and the Omakaitse could also be accompanied by lynching incidents. The general situation can be characterized by the fact that quite shortly, the German occupying authorities prohibited the Estonian Omakaitse and other such groups from carrying out death sentences without court verdicts, and all detained persons had to be handed over to the German authorities. Mikson's career in the Political Police under German rule, where he among other things participated in interrogating the apprehended leading Estonian communist Karl Säre, turned out to be very brief. He was arrested, apparently under the accusation of appropriating the property of persons being held in custody or who had been executed.<sup>112</sup> His captivity nevertheless did not last long and he allegedly even found work in the service of the Abwehr, the German military intelligence, before escaping to Sweden before the end of the war. In Sweden, other Estonian expatriates accused him of wrongdoing committed while he served in the police during the German occupation. He was found guilty of war crimes and was to be extradited to the Soviet Union. Mikson nevertheless achieved a situation that culminated with his expulsion from the country to Norway and from there he continued on to Iceland.<sup>113</sup> According to the evidentiary material gathered by the KGB, the people arrested and executed by the Omakaitse and the police were for the most part local Soviet activists, fighters from the destruction battalions (or at least persons accused of being part of those battalions), and Jews. Knowing Soviet practice from that time in bringing similar charges, this would have been more than sufficient to sentence Mikson to death. Why did the KGB nevertheless decline to bring this case to court? The Icelandic researcher Valur Ingimundarson has speculated that the leaders of the Socialist Party of Iceland could have discouraged that idea, believing that the political timing was not ripe, or that they believed that the government of Iceland would not extradite him anyway, or perhaps they feared that they did not have sufficient evidentiary material. Ingimundarson dismisses the possibility that the Soviet Union recruited Mikson by referring to Mikson's anticommunist views.<sup>114</sup>

Considering how the Soviet Union treated other persons and countries, whether they be for instance Sweden, Great Britain, Australia, Canada or the USA, it is hardly likely that political relations with Iceland could have deterred them. People can be convicted and their extradition can take years. Soviet show trials were not hindered by a lack of evidence, which we will see on the basis of the examples of Oberländer and Talvar below. The situation concerning extradition was such that in terms of propaganda, it was even more useful if the convicted person was not extradited because thus the question could be brought up again and again if it was politically expedient and not only the particular criminal but also the country that was shielding him could also be accused. Extradition itself could instead later lead to an uncomfortable situation, which we will consider below in connection with the cases of Linnas and Talvar.

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<sup>112</sup> Mikson's investigation file covering the period of German occupation has not been preserved in the archives.

<sup>113</sup> Ingimundarson. *The Mikson Case*, pp. 324–325.

<sup>114</sup> *Ibid.*, p. 326.

In considering the possibilities for recruitment, we can only analyse the potential considerations of the Soviet side and the options available to them since researchers do not have access to any evidentiary material whatsoever. Mikson's anti-communist views naturally would not have made his recruitment any easier but in such cases, other means of leverage were found to influence people.

Evald Mikson's son Atli has recalled that the attacks by Iceland's communists in 1961 against his father lasted six months (from March to August) and that Mikson kept a constant eye on his son. He did not allow his son to go with his friends to the port to see the Soviet tanker because he was afraid that they might try to kidnap his son.<sup>115</sup> Mikson, of course, was not an opponent for the Soviet Union in the same category as Stepan Bandera, a leading controversial figure in the Ukrainian exile community, whom KGB agent Bohdan Stashynsky (Bogdan Stashinskii) poisoned in Munich in October of 1959, or the West German governmental minister Theodor Oberländer, whom the East German intelligence service tried unsuccessfully to kidnap after he was convicted in absentia. Yet it was not difficult for them to give someone a little scare!

In any case, the ESSR KGB discontinued the preliminary investigation in September of 1961 on the pretext that Mikson's place of residence could allegedly no longer be ascertained and his file was sent to Moscow for reasons not known to us, from where it was returned in April of 1962.<sup>116</sup> Only one further report concerning Mikson appeared (on 6 October 1961) in Iceland in Moscow's local mouthpiece *Thjodviljinn* after the silence that had lasted since May and had ensued when the preliminary investigation was discontinued, and even that article focused primarily on settling accounts with local right-wing publications regarding the Mikson issue.<sup>117</sup> The ensuing silence was not broken even by Mikson's death in 1993. Mikson, however, opened a popular Estonian sauna in Reykjavik on 17 September 1962. And as his son recalls: "All sorts of people went there – from ordinary people to employees of the Soviet Embassy and members of the Icelandic government."<sup>118</sup> With the passage of time, the KGB stated in 1971 and 1983 that they still did not have specific information on Mikson's place of residence.<sup>119</sup>

What can we make of all this? It is reasonable to assume, that if the Soviet Union wanted to find suitable contact persons for itself in a small isolated NATO member state like Iceland, it would be relatively difficult, aside from local communists and socialists. They would have been the first to be suspected by the USSR's Western opponents. A need could nevertheless have emerged for even a neutral site near the USA's Naval Air Station Keflavik where people could meet discreetly.

Villem Raid and Arkadi Valdin figured in the investigation of the activity of the Pärnu Omakaitse in connection with executions that had been carried out. According to Soviet investigative organs, they had been the commanders of the execution detachment and were declared wanted in the summer of 1962.<sup>120</sup> Both men had escaped to Sweden at the end of the war and this was in any case known to the Soviet security organs. Captain Villem Raid had served with distinction in the summer of 1941 and was active in the Omakaitse during the war. At the end of the war, he allegedly served as the deputy head of one of the *Waffen-*

<sup>115</sup> Saatan ei uinu kunagi (Satan Never Sleeps), *Luup* (1998), no. 12. Interview with Evald Mikson's son Atli Edvaldson.

<sup>116</sup> Investigation file of Mikson, ERAF.129SM.1.28654, vol. III, 108–119.

<sup>117</sup> *Thjodviljinn*, 6 October 1961.

<sup>118</sup> Saatan ei uinu kunagi.

<sup>119</sup> Investigation file of Mikson, ERAF.129SM.1.28654, vol. III, 119; ERAF.129SM.1.28654, jv, 20.

<sup>120</sup> ERAF. 133SM.1.19, 1–10, 142–144.

SS *Jagdverband* schools for training sabotage units. We have no access to documents concerning any possible previous interest or activity on the part of the KGB in regard to Raid. Charges were not brought against him during this trial. Yet about a year later on 13 September 1963, the article "Hauptsturmführer Villem Raid and Others" appeared in the cultural weekly *Sirp ja Vasar*, comparing him to Adolf Eichmann. The article was disseminated among expatriates as well. The KGB writer Ervin Martinson continued with the same theme in 1970 in his book *Elukutse – reetmine* (Occupation – Betrayal). The search for Arkadi Valdin should not have been difficult for the KGB either. For 10 years after the end of the war, the KGB had engaged in intelligence and radio games across the sea with Valdin, who had worked for the Swedish, USA and British intelligence services. By 1956, it became clear to the Western intelligence services that the KGB had the upper hand in those games for years already and intelligence games in that form were abandoned. Thereafter the KGB set as its aim the recruitment of Valdin into its service. His brother, who lived in Estonia, was used for this purpose and contact was made through him. We do not have access to documents that may indicate what came of that attempt at recruitment.<sup>121</sup> As with Mikson, charges were not brought against Valdin within the framework of the trial. He was also not publicly pilloried along with Villem Raid in the KGB's later propaganda campaigns.

## Evidentiary Material and its Credibility

Actual crimes formed the background of all the show trials currently under consideration here: mass murders of local residents of Estonia and of prisoners brought from other countries to Estonian territory. The way evidence was gathered, however, and its use in show trials brings up numerous questions that cast doubt on the direct connection between the defendants in a particular trial and the events under consideration, thus bringing into question their possible personal culpability.

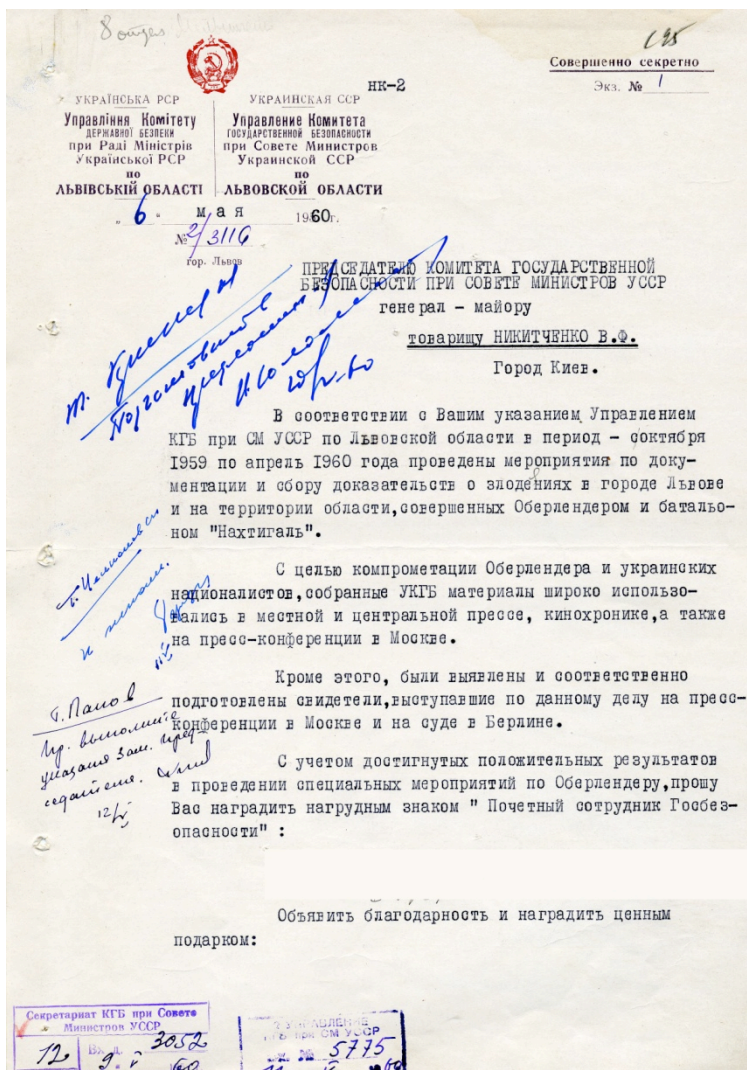
We do not have access to archival documents concerning the preparation of evidentiary materials in the security organs for the show trials held in Estonia. Let us consider for the sake of comparison the trial of Theodor Oberländer held in East Germany at the same time according to the instructions of the Soviet Union. The historical background and propagandistic raw material for the trial was the bloodbath that took place in Lviv in Western Ukraine in the course of wartime events in 1941, where over the course of a week, Ukrainian nationalists, thousands of Jews and among others, 38 well-known Polish professors and politicians fell victim to one or another of the belligerents. Oberländer served at the time in question as a political officer in the Nachtigall German battalion formed of Ukrainian volunteers and this unit had been the first to enter Lviv. Oberländer later served in the Bergmann unit formed of Caucasians and the activities of this unit were also added to the charges. He was referred to as "Mass-murderer Oberländer" in propagandistic publications, accusing him of the murder of hundreds of thousands of people. The Soviet side had already repeatedly described the crimes committed in Lviv but Oberländer's possible participation in them had not come to light until then. This error had to be corrected. The Soviet Union's KGB went to a great deal of trouble from the autumn of 1959 onward to construct the necessary evidentiary material and to prepare witnesses.<sup>122</sup> Regarding the events in Caucasia, three former combatants from that unit, two officers of

<sup>121</sup> Jürjo, *Pagulus ja Nõukogude Eesti*, pp. 134–135.

<sup>122</sup> Upravlenie Komiteta gosudarstvennoi bezopasnosti pri Sovete Ministrov Ukrainskoi SSR, 6 May 1960 (<http://memorial.kiev.ua/images/stories/2008/02/nachtigal/007.jpg>, 24 November 2014).



Georgian origin and one German national, were prepared in the Soviet Union as the chief witnesses. One of the witnesses who continued to serve his sentence in the Soviet Union for “betrayal of the Soviet fatherland” earned his release by providing suitable testimony. The alleged German national who was also to be a witness did not even appear before the public and it is possible that this was a so called phantom witness.<sup>123</sup> Oberländer was ultimately convicted of killing the professors executed in Lviv on the strength of the testimony of a Polish witness who in 1959 claimed to recognize Oberländer in a photograph.<sup>124</sup> Later research has shown that in the turbulent conditions of that time, it cannot be ruled out that some soldiers from the Nachtigall battalion participated in crimes but the responsibility for this does not fall to Oberländer. There is, however, clear evidence that the Einsatzkommando that arrived in Lviv was responsible for the murder of the 38 professors. After the end of the Soviet regime and the reunification of Germany, Oberländer requested the review of this court decision and his rehabilitation due to lack of evidence (*durch Freispruch wegen mangelnden Tatverdachts*). He was rehabilitated in 1998 one week after his death.<sup>125</sup> The Oberländer case shows that evidence in Soviet show trials can not be considered historically reliable.



<sup>123</sup> Wachs, *Die Inszenierung*, pp. 30–56.

<sup>124</sup> Weinke, *Die Verfolgung*, p. 149.

<sup>125</sup> Wachs, *Die Inszenierung*, pp. 51–56.

Declassified document of KGB special actions against Theodor Oberländer<sup>126</sup>

Of the trials that were held in Estonia, we will take a closer look at the Mere-Gerrets-Viik trial, which is better documented, relatively speaking. The primary content of the accusation here was the executions at Kalevi-Liiva in September of 1942 of Czech and German Jews that had arrived in two trainloads at the Raasiku railway station near Tallinn and what was done with the surviving Jews at the Jägala concentration camp (officially named AEL no. 3). The Soviet side found out in detail about these events in November and December of 1944, when the former financial manager of the camp was interrogated as a witness. The person of the camp commandant was ascertained: Aleksander Laak, the dates of the mass executions committed in September of 1942, that the executed persons originated from Czechoslovakia and Germany, and the number of executed persons – about 1,500.<sup>127</sup> The ESSR's Extraordinary Commission established the number of victims of the two executions at 3,000 in its report on the executions that took place at Kalevi-Liiva, and in addition to these, further victims executed in the same place over the subsequent years, arriving at a total number of victims of "about 5,000".<sup>128</sup> A book based on the work of that same commission established the corresponding number as "over 5,000".<sup>129</sup> The carrying out of executions in the same location in 1943–44 when Aleksander Laak served as head of Tallinn's central prison is possible but the likely number of persons executed should be an order of magnitude smaller.<sup>130</sup> There is no concrete information concerning continued executions at Kalevi-Liiva after the closure of the Jägala camp in the summer of 1943.

Henceforth we will not delve into the details of the materials and testimony gathered over the course of the preliminary investigation. Instead we will follow the development of the trial as such. On 10 June 1960, a week after criminal proceedings were initiated, Ralf Gerrets, the former adjutant of the camp commandant who had lived reclusively in Estonia in the postwar years, was arrested. The security organs knew that he was living in Estonia, a fact that was not "suddenly" discovered as a result of the investigation, which is the impression left by the investigation file. In addition to him, for some incomprehensible purpose, the former camp guard Jaan Viik was also arrested, even though he had already been sentenced to 10 years imprisonment in 1946 for serving as a camp guard and had served his sentence.<sup>131</sup> Charges were also brought in the same case against the former head of the Estonian Security Police Ain-Ervin Mere and the camp commandant Aleksander Laak, both of whom lived abroad. After the charges were publicly disclosed, Laak committed suicide in Canada in September of 1960.

Gerrets confessed over the course of the investigation that he compiled a card file in 1943 on 2,100–2,150 Czech and German Jews that had arrived in Estonia. About 450 of them initially survived and some of them were sent to other detention centres in Estonia while

<sup>126</sup> Upravlenie Komiteta gosudarstvennoi bezopasnosti pri Sovete Ministrov Ukrainskoi SSR, 6 May 1960 (<http://memorial.kiev.ua/images/stories/2008/02/nachtigal/007.jpg>, last accessed 24 November 2014).

<sup>127</sup> Witness Kristjan Rääk, 9 November – 5 December 1944, ERAF.129SM.1.28653, vol. XIV, 301–306.

<sup>128</sup> Overview of war crimes and damages caused by fascists in the Estonian SSR according to separate categories, ERA.R-364.1.33, 14.

<sup>129</sup> Laosson et al, *Saksa fašistlik okupatsioon*, p. 512.

<sup>130</sup> Indrek Paavle, *Eesti rahvastikukaotused II/1 Saksa okupatsioon 1941–1944: hukatud ja vangistuses hukkunud* (Estonian Population Losses II/1 German Occupation 1941–1944: Executed Persons and Persons who Perished in Imprisonment) (Tartu, 2002). Mass executions took place in Estonia in the latter half of 1941, thus considerably earlier than the events at Kalevi-Liiva.

<sup>131</sup> Jaan Viik, appeal for clemency. ERA.R-3.6.8192, 2–3.

others were executed during the subsequent months at the Jägala camp. The summary of charges drawn up against Gerrets and the others considers the size of each of the arrived trainloads to be “around 1.500”. At the same time, the overall number of people executed at Kalevi-Liiva is given as “over 5,000 citizens of the Soviet Union, Czechoslovakia and other countries” with reference to the materials of the Extraordinary State Commission.<sup>132</sup> The numbers of victims were set out in the text of the court verdict in general conformity with the confession by Gerrets, only rounded slightly upward: “nearly 1.500” and “over 1,000.”<sup>133</sup> The information gathered during the preliminary investigation relied first and foremost on the statements of the persons under investigation themselves or the testimony of witnesses. On the basis of archival documents, it was possible to demonstrate the connection of Ain-Ervin Mere as the head of the Estonian Security Police to the incident (the camp was under his jurisdiction) and to prove the appointment of Laak and Gerrets to their positions in the camp. The carrying out of the crime and the basic circumstances (the arrival of the trains at Raasiku station, the selection of prisoners and the execution of most of them somewhere nearby) are also established in other sources in addition to the materials of this trial. Descriptions of the executions and of numerous incidents in the camp were founded only on the testimony of witnesses. There is no documentary evidence in connection with this case indicating that the KGB specially prepared the witnesses but at the end of the 1990s, the recollection of older employees of the archives reached the author of this article as oral history. They recalled that in the early 1960s, there was a separate room at the ESSR October Revolution and Socialist Development State Central Archives<sup>134</sup> where KGB employees introduced archival documents to witnesses who were to take the stand at show trials and prepared them to provide testimony. In reading the statements of witnesses and listening to the explanations of witnesses in radio interviews and recordings of court sessions, the clear structure, repeated key words and details of what is said stand out, creating the impression of memorised testimony, so to speak.<sup>135</sup> Photographs of the executions where Czech witnesses recognized their family members were presented as additional evidence. The photographs actually originate most likely from mass executions that took place in the Liepāja area of Latvia. The same photographs were used repeatedly in the Soviet Union (also in Lithuania and Latvia) as evidence of different mass executions. These photographs have also misleadingly made their way into the publications of other countries by way of Soviet sources.<sup>136</sup>

Nowadays it can be confirmed that 2,051 prisoners arrived in Estonia in the two trains under consideration, of whom about 1,600 were executed immediately after arrival. Some of the survivors were executed in small groups during the subsequent months at Jägala camp and some were forwarded to other camps. Over 70 of them managed to survive the war.<sup>137</sup> In addition to Jews, local Roma were executed in the same place. Including the Roma, the

<sup>132</sup> Investigation file of Gerrets and others. ERAF.129SM.1.28653, vol. XVIII, 204, 211, 221; Laosson et al, *Saksa fašistlik okupatsioon*, p. 512.

<sup>133</sup> Investigation file of Gerrets and others. ERAF.129SM.1.28653, (II) jv, 137–145.

<sup>134</sup> Currently the Estonian State Archives.

<sup>135</sup> Explanations of witnesses on the radio: Estonian National Broadcasting Corporation archives, key word “sõjakuriteod” (war crimes): <http://arhiiv.err.ee/marksona/4144/0/date-asc/2>.

<sup>136</sup> Birn, *Die Sicherheitspolizei in Estland*, pp. 232–233.

<sup>137</sup> Monica Kingreen and Wolfgang Scheffler, *Die Deportationen nach Raasiku bei Reval*, Wolfgang Scheffler and Diana Schulle (eds.), *Buch der Erinnerung. Book of Remembrance, Vol 2: Die ins Baltikum deportierten deutschen, österreichischen und tschechoslowakischen Juden / The German, Austrian and Czechoslovakian Jews deported to the Baltic States* (München, 2003), p. 866.

overall number of persons executed at Kalevi-Liiva is about 2,000.<sup>138</sup> But one cannot simply stop the effect of Soviet propaganda literature. The memorial stone opened in September of 2002 to mark the 50th anniversary of the mass execution that took place at Kalevi-Liiva is a memorial to 6,000 Jews who perished there.

An analogous number of victims canonized through the Soviet judicial system is in circulation in connection with the Tartu concentration camp (2nd case). In 1944, the Extraordinary Commission of that time conducted sample excavations at the place where the executed persons from the Tartu concentration camp were incinerated and from the thickness of the layer of ash at a particular spot, it determined the arbitrary number of victims as being 12,000. This became an accepted figure.<sup>139</sup> In the course of the preliminary investigation carried out and the trial of the functionaries from the Tartu concentration camp, no attempt to ascertain the actual number of victims was made. As the result of research work carried out after access was allowed to Soviet archives, it can be said that it is not possible to ascertain the exact number of victims, yet it can be estimated that between 3,000–4,000 persons who were killed.<sup>140</sup>

## Organization of Trials

The USSR constitution stipulated that:

According to § 111, the deliberation of cases was public in all of the Soviet Union's judicial bodies to the extent that exceptions are not prescribed, whereas the defendant is guaranteed the right to defence;

§ 112 stipulated the independence of judges and that they are subject only to the law;

§ 117 stipulated that organs of prosecution carry out their functions independently of whatever local organs, subject only to the Soviet Union's Chief Public Prosecutor.

Thus according to the constitution, it could be claimed that formally speaking, the principle of separation of powers applied in the Soviet Union.

The exclusive leading role in society of the Communist Party that ruled the Soviet Union is not explicitly laid out in the constitution. Yet it is said in § 126 (Chapter X. Fundamental rights and fundamental duties of citizens): “/.../ the most active and aware citizens from the ranks of the working class, the working peasantry and the working intellectuals join together voluntarily in the Communist Party of the Soviet Union, which is the foremost detachment of the workers in their struggle for building up a communist society, and the leading nucleus of all organisations, both social and state, of the working people.”

Concerning Estonia, primarily the ECP CC Bureau can be seen as the “leading nucleus” mentioned in the constitution since it was the local collective organ of power that ensured the implementation of guidelines coming from Moscow. The Party's direct intervention in the work of the judicial branch was significant.

In conducting the show trials under consideration, the ESSR KGB and the Prosecutor's Office first presented their proposals for holding the trials to the ECP CC Bureau. In connection with

<sup>138</sup> Maripuu, *Annihilation of Czech and German Jews*, pp. 705–716.

<sup>139</sup> The total number of victims in Estonian territory was presented as 125,307 in the Extraordinary Commission's summary, which is an arbitrary result, arrived at without concrete source material. At the end of the Soviet period, even the security organs were unable to explain to themselves what this figure is based on. This number of victims figures to this day in Russian-language publications.

<sup>140</sup> Västriik, *Tartu Concentration Camp 1941–1944*, pp. 689–704.

the Mere-Gerrets-Viik trial, the ECP CC under the direction of 1st Secretary Johannes Käbin handed down the decision on 3 December 1960:

1. To assign the ESSR Supreme Court the task of carrying out the public trial,
2. To organise a press bureau (which included journalists employed by the KGB among others) to shed light on the progress of the trial, which would also see to the filming of the trial,
3. To assign the union republic's prosecutor the task of participating in the trial as the state prosecutor and to select the public prosecutors in cooperation with the ECP CC.
4. To request permission from the CPSU CC to introduce the summary of charges to the public in the press and to hold a public trial.<sup>141</sup>

The subsequent preparation of the trial also took place in accordance with the guidelines of Party organs. On 6 December 1960, the ECP CC Secretariat required the Estonian State Publishing House to compile and publish a collection of materials concerning the events at Kalevi-Liiva by 25 December in cooperation with the press group that had been formed. The publication was to appear in both Estonian and Russian with a print run of 10,000.<sup>142</sup> On 6 January 1961, ESSR Prosecutor Valter Raudsalu submitted a proposal concerning the lawyers participating in the trial to the head of the ECP CC Department of Administrative, Financial and Trade Organisations.<sup>143</sup> The candidates were coordinated between the Prosecutor's Office, the KGB and the Supreme Court. One of the three proposed lawyers was left out and replaced.<sup>144</sup>

On 3 February 1962, the ECP CC 1st Secretary J. Käbin turned to the CPSU CC with the request to allow the disclosure of the summary of charges of the case under consideration and to hold a public trial in Tallinn. The application already refers to the investigation materials published in the Soviet Union as well as in Western countries, and to the suicide of one of the accused (A. Laak) which has helped weaken the positions of Estonian emigrant organizations in Western countries. The entire trial is also tied in with the general foreign policy interests of the Soviet Union since it undermines the footing of the leaderships of countries that support anti-Soviet emigrant organisations.<sup>145</sup> On 9 February 1962, the ESSR Deputy Prosecutor Karl Kimmel presented a recommendation (!) to Käbin to approve the public prosecutor. The candidate was agreed upon in advance with the ESSR KGB.<sup>146</sup> A factory worker was approved as the public prosecutor instead of the proposed candidate, Major General Rihard Tomberg<sup>147</sup>, a former fellow officer of the accused Ain-Ervin Mere.

<sup>141</sup> ERAF.1.4.2508, 20–21; ERAF.1.4.2509, 91.

<sup>142</sup> Vladimir Raudsepp, *Inimesed, olge valvsad! [materjale kohtuprotsessist A. Mere, R. Gerretsi ja J. Viigi kriminaalasjas / ajakirjanduses ilmunud materjalide ja dokumentide põhjal*. Tallinn, 1961 ; English language version: *People, be watchful! Documents and materials on the trial of the fascist murderers A. Mere, R. Gerrets and J. Viik*. Compiled by Raul Kruus. Tallinn, 1962.

<sup>143</sup> Among his other tasks, the head of the ECP CC Department of Administrative, Financial and Trade Organisations was also responsible for supervising state security organs, the Prosecutor's Office and the courts.

<sup>144</sup> ERAF.1.218.5, 1.

<sup>145</sup> Ibid., 2–3.

<sup>146</sup> Ibid., 5.

<sup>147</sup> Major General Rihard Tomberg (1897–1982) served as the head of Estonian air defence since 1930. He was incorporated into the Red Army in 1940 together with the entire Estonian Army but was dismissed from active service in 1941. He was arrested in 1944 and sentenced to 25 years imprisonment plus 5 years of exile, but was released in 1956 by way of amnesty. He was the only Estonian general who was not killed or did not die in the GULAG camps.



The accused were charged in accordance with § 1 of the act *Concerning criminal responsibility for state crimes* adopted on 25 December 1961. The ESSR Criminal Code went into effect in 1961 and accordingly, the basis for the charges became ESSR Criminal Code § 62 Section 1. This remained the case after 1965 as well when the Supreme Soviet Presidium enactment “Concerning the penalisation of persons guilty of crimes committed against peace and humanity and war crimes regardless of when the crimes were committed” was adopted.<sup>148</sup> This enactment was taken into account but only in terms of the non-applicability of statutory limitations to the crime. Crimes committed against peace and humanity and war crimes did not constitute the necessary elements of a criminal offence in the ESSR Criminal Code or in other criminal codes in the Soviet Union. All of the persons accused in the show trials<sup>149</sup> were convicted of “betrayal of the Soviet fatherland”, to which other sections of the code could be added, for instance the same activity in organizational form.

Based on the continuity of Estonian statehood, which is the basis for the international recognition of the Republic of Estonia, the accused persons in this case were citizens of the Republic of Estonia, not of the Soviet Union that had occupied and annexed Estonia.<sup>150</sup> Thus these convicted persons, along with all other persons convicted under similar charges proved to be automatically rehabilitated according to the act rehabilitating extrajudicially repressed and groundlessly convicted persons that went into effect in the Republic of Estonia in 1992, and verdicts handed down concerning them are null and void from the moment of their proclamation.<sup>151</sup>

The death penalty was done away with as a punishment in the Soviet Union in 1947–50. Based on § 6 of the principles of criminal legislation, the death penalty could not be applied in the later period, when the death penalty for the corresponding crime was restored in the Soviet Union, as punishment for crimes committed earlier (including 1941–44). It was instead to be replaced by the lesser term of punishment that was in effect in the meantime, meaning imprisonment. Thus current legislation and general judicial practice would have precluded the death penalty in determining the penalty at the time when these trials were held. A way was found to make an exception in the case under consideration as well as in the analogous trial held the following year (4th case: Edmund Kuusik, August Reinvald, Julius Viks and Teodor Kaldre). A regulation passed by the USSR Supreme Soviet Presidium on the basis of applications made separately in each case by the KGB allowed the ESSR Supreme Court by way of exception to waive the application of the provisions mitigating the penalty.<sup>152</sup>

State prosecutor at the Jüriste-Linnas-Viks trial and later ESSR State Prosecutor Karl Kimmel later characterised the situation described above as follows: “This is why the USSR Supreme

<sup>148</sup> USSR Supreme Soviet act Concerning criminal responsibility for state crimes, 25 December 1958; as of 1 April 1961, according to § 62 of the ESSR Criminal Code. On 4 March 1965, the USSR Supreme Soviet Presidium passed the enactment Concerning the penalisation of persons guilty of crimes committed against peace and humanity and war crimes regardless of when the crimes were committed.

<sup>149</sup> This applied to all similar charges regardless of whether the trial was public or in camera.

<sup>150</sup> After it occupied and annexed Estonia in the summer of 1940, the Soviet Union declared all citizens of the Republic of Estonia citizens of the Soviet Union by way of a unilateral act of legislation. This is contrary to the principle of the continuity of Estonian statehood, according to which Estonia’s citizenry continued to exist throughout the Soviet period.

<sup>151</sup> Act concerning the rehabilitation of extrajudicially repressed and groundlessly convicted persons, 19 February 1992 (<https://www.riigiteataja.ee/akt/22216>, last accessed on 13 March 2014).

<sup>152</sup> Investigation file of Jüriste and others, ERAF.130SM.1.28195, vol. X, 172–173; investigation file of Gerrets and others. ERAF.129SM.1.28653, vol. XIX, 503; investigation file of Kaldre and others, ERAF.129SM.1.28668, vol. VIII, 140.



Soviet Presidium adopted a special decision prior to this trial based on a petition from our republic according to which the court was granted the right to waive the law concerning statute of limitations in this particular case if it was found that the defendants were guilty of the savage mass destruction of innocent people. This was confirmed beyond the shadow of a doubt.”<sup>153</sup> Concerning Kimmel’s commentary, it must nevertheless be noted that in the case of the centrally planned trials in the Soviet Union at that time, the petition that was submitted was definitely not an initiative of the Estonian SSR but rather a measure decided upon by the authorities in Moscow.

Documents accessible to researchers do not help to answer the question of when and by whom the penalties were actually determined. The existing source materials, however, clearly point to the conclusion that the penalty (the death penalty in all cases under consideration) was already decided before the trial. The Jüriste-Linnas-Viks trial in January of 1962 serves as an explicit confirmation of this when an “overview” of the progress of the trial and the already predetermined court verdict were as a mistake published in the USSR Prosecutor’s Office periodical *Sotsialisticheskaia zakonnost’* before the beginning of the trial.<sup>154</sup> Nevertheless State Prosecutor Kimmel recalled in 1987: “I want to point out that the trial was widely publicised. All evidence was very carefully examined with all the objectivity characteristic of our work and in strict conformity to the law – archival documents, the statements of witnesses.”<sup>155</sup> Professor Ilmar Rebane, who participated in the trial as Linnas’s defence lawyer later commented on the methodology of defence at that time. He stated, among other things: “Defense lawyers are patriots of their fatherland and cannot undertake the path of justifying a crime.”<sup>156</sup> /.../ In such trials, it would in my opinion be incorrect to focus attention on minor questions and details. /.../ The defence does not consider it possible to divert the attention of the court from the main question of the trial.” The main argument of the defence was that “Linnas was not a central political figure but rather a tool in the hands of Estonia’s more principal bourgeois-nationalist figures”<sup>157</sup>.

The minutes of the court sessions do not leave the impression that the defense lawyers – which were appointed by agreement between the Communist Party, the Prosecutor’s Office, the KGB and the Supreme Soviet – represented in earnest the interests of their clients. Here and there, one is left with the impression that the defense lawyer competed with the prosecutor in presenting “juicier” charges. Unfortunately one can only speculate whether the defense lawyers at that time knew about the court verdict “leaked” by the above-

<sup>153</sup> Arvo Kallas, *Sõjaroimarile ei saa andestada: Eesti NSV prokuröri intervjuu* (War Criminals Cannot Be Forgiven: Interview with the Estonian SSR State Prosecutor), *Noorte Hää*, 14 May 1987.

<sup>154</sup> *Sotsialisticheskaia zakonnost’*, January 1962; see: Zumbakis, *Soviet Evidence*, 13–14 On the role of the defence in Soviet show trials see Juri Luryi, The Role of Defence Counsel in Political Trials in the U.S.S.R., *Manitoba Law Journal* 7 (1977), no. 4, pp. 307–324.

<sup>155</sup> Kallas, *Sõjaroimarile ei saa andestada*.

<sup>156</sup> The charges were presented on the basis of the section of the criminal code concerning the particularly dangerous state crime “Betrayal of the fatherland.”

<sup>157</sup> The abstract term “bourgeois nationalism” was the most important type of (domestic) enemy in the Soviet Union which combined the figure of the class enemy with the ethnic enemy. As a rule, “bourgeois nationalists” had to have both attributes. In the context of the Cold War, most expatriates could be considered bourgeois nationalists, especially if they had occupied a more prominent governmental or social position in the independent Republic of Estonia. In connection with the subject matter of the war, any sort of clear dividing line between bourgeois nationalists and “fascists” (the Soviet Union’s common term for persons who had cooperated with Germany) disappeared.

N. Grigorjeva, *Karistusest ei pääse* (Punishment Cannot Be Escaped), *Rahva Hää*, 27 May 1987.

Professor Rebane participated as a defence lawyer at a total of three show trials of that time.

mentioned periodical or not. Aside from this extraordinary circumstance, it can be asked to which extent defense lawyers did have a real chance to defend their clients. A trial against members of the Viru County Omakaitse some ten years later can serve as an example. This trial concerned similar charges but was not turned into a show trial. The accused had already been convicted and served his sentence on the basis of similar charges. Here, the presentations by the defense lawyers give a different impression – even though this probably did not actually affect the court verdict. The defence lawyer stressed the principle that it is not possible to penalize someone a second time for one and the same crime since no new decisive circumstances had actually emerged in the course of the investigation and the new charge was even weaker than the previous one.<sup>158</sup>

Based on this example, there are grounds for concluding that the question of citizenship already mentioned above, which from the standpoint of the Soviet Union did not exist, was not the only problem regarding the legality of the court verdict. Since the court verdict was not decided by the members of the court itself, the principle of the confidentiality of holding trials had been violated, etc., the given court verdict was null and void based on the legislation of the Soviet Union itself and this was so from the very moment that the verdict was announced.<sup>159</sup>

§ 3 of the legislation states that the Supreme Court of the Republic of Estonia has the right to declare persons guilty of genocide or other crimes against humanity, etc. ineligible for rehabilitation and that the Supreme Court will review the criminal cases of such persons as prescribed by procedure for review of court verdicts on the basis of applications submitted by citizens, their organisations, local governments or national governmental institutions.<sup>160</sup>

This means that the Supreme Court must rely on the materials of criminal cases and assess the evidence for the charges. Yet do the confessions and given statements in investigation files make it possible to assess this? In 1987, even the Soviet KGB did not trust the materials it had itself gathered enough to go before the court once again!

In 1990, just before the restoration of the independence of the Republic of Estonia, the ESSR Supreme Soviet Presidium passed the enactment “Concerning the rehabilitation of extrajudicially repressed and groundlessly convicted persons,” according to which it was possible to submit the appropriate application and the ESSR Supreme Court was obliged to hand down the corresponding decision.<sup>161</sup> A family member of at least one defendant who was sentenced to death in 1962 at a show trial submitted an application in 1990 for rehabilitation. The ESSR Prosecutor’s Office took the position that the actions of the person in question cannot be viewed only as counterterror for the acts of terror and groundless repressions committed by the Soviet regime in 1940–41 and, therefore, the rules for rehabilitation do not apply.<sup>162</sup>

Exhaustive answers cannot be given to the questions that emerge here. On the basis of the materials described above, it is clear that crimes that had actually taken place formed the basis for the investigations and trials that have been considered here. These crimes have

<sup>158</sup> Defence lawyer H. Levin’s rebuttal at a court session on 5 April 1974. Investigation file of Ojaveri and others, ERAF.129SM.1.29070, vol. X, 307–308.

<sup>159</sup> ESSR Criminal Procedure Code, § 261. Determination of court verdicts in chambers.

<sup>160</sup> Concerning the rehabilitation of extrajudicially repressed and groundlessly convicted persons, 19 February 1992 (<https://www.riigiteataja.ee/akt/22216>, last accessed on 13 March 2014).

<sup>161</sup> ESSR Supreme Soviet Presidium enactment, 19 February 1990, Concerning the rehabilitation of extrajudicially repressed and groundlessly convicted persons ([www.estlex.com/tasuta/?id=savedoc&aktid...1](http://www.estlex.com/tasuta/?id=savedoc&aktid...1), last accessed on 13 March 2014).

<sup>162</sup> Investigation file of Kaldre and others, ERAF.129SM.1.28668, vol. VIII, 185.

been qualified in the international judicial area as crimes against humanity or war crimes and the accused persons were connected with them in one way or another. But, investigation results and court verdicts are not acceptable under present legal norms. Judicial practice in the show trials did not even meet the legal standards of the Soviet Union itself. The judiciary was in no way independent. Court sessions were first and foremost court performances and the ascertainment of the personal guilt or innocence of the defendants was not the objective.

The court performance held in East Germany against Theodor Oberländer shows that these examples are not exceptions but rather usual procedure in the case of the show trials held by the Soviet Union at that time. Considerably more of the preparatory documentation of the Oberländer trial has reached historians and we can read the whole script of the court session with the participants and naturally also the court verdict fully in place, all of which was approved by the SED.<sup>163</sup>

## Propaganda and Extradition

After the conclusion of judicial formalities, the propagandistic life of such trials began as the Communist Party had decided. The books *Inimesed, olge valvsad* (People, be Watchful) about the executions at Kalevi-Liiva, and *12,000* about the Tartu concentration camp were published.<sup>164</sup> The translations of both books into English<sup>165</sup> appeared in 1962 already and they were distributed through the Estonian SSR State Security Committee's 1st Department abroad until the end of the 1980s.<sup>166</sup> The trials were considered in several other propaganda books and in numerous newspaper articles in Estonia and abroad. The publication of the newspaper *Kodumaa* (Homeland) began at the end of 1958 to spread propaganda aimed at Estonian expatriates.<sup>167</sup> As decided by the Party, a propaganda documentary film entitled *Kalevi-Liiva süüdistab* (Kalevi-Liiva Accuses) was made about the Mere-Gerrets-Viik trial.<sup>168</sup> The above-mentioned hackneyed propaganda film is but one example of how the art of film was employed to create an image of the peoples of the Baltic republics as fascists. Estonian, Latvian and Lithuanian actors assigned as a rule to play the roles of Nazis became an inseparable part of the countless war films produced by the Soviet movie industry.<sup>169</sup>

In addition to film and literature, the trial provided an impulse for the development of a sort of foreign tourism in Soviet Estonia. Already in 1961, a memorial stone was erected at the Kalevi-Liiva execution site in memory of the "over 5,000" executed "Soviet citizens". That same summer, the ECP CC and ESSR Council of Ministers secret joint regulation no. 259-25 was passed, approving the objects that foreign tourists were allowed to visit. Alongside the

<sup>163</sup> Wachs, Die Inszenierung, pp. 51–56.

<sup>164</sup> Raudsepp, *Inimesed, olge valvsad!*; K. Lemmik and E. Martinson (eds.), *12 000: Tartus 16. –20. jaanuaril 1962 massimõrvarite Juhan Jüriste, Karl Linnase ja Ervin Viksi üle peetud kohtuprotsessi materjale* (Tallinn, 1962).

<sup>165</sup> Raul Kruus (ed), *People, be watchful! Documents and materials on the trial of the fascist murderers A. Mere, R. Gerrets and J. Viik* (Tallinn, 1962); K. Lemmik and E. Martinson (eds.), *12,000: Materials from the Trial of the Mass Murderers Juhan Jüriste, Karl Linnas and Ervin Viks, Held at Tartu on January 16–20 1962* (Tallinn, 1963).

<sup>166</sup> ERAF.133SM.1.12, 30–34.

<sup>167</sup> Analogous newspapers were started up at the end of the 1950s for influencing Latvian and Lithuanian expatriates as well.

<sup>168</sup> Vladimir Parvel and Ülo Tambek (directors), *Kalevi-Liiva süüdistab* (Tallinnfilm Studio, 1961).

<sup>169</sup> Arbo Tammiksaar (director), documentary film, *Fritsud ja blondiinid* (Jerrys and Blondes) (2008) ([www.efis.ee/et/filmiliigid/film/id/819/](http://www.efis.ee/et/filmiliigid/film/id/819/), last accessed on 20 February 2014).

more than 100 progressive kolkhozes and sovkhoses, schools and industrial enterprises, the Kalevi-Liiva memorial stone was the only “historical site” aside from Tallinn’s museums. By way of explanation, it should be noted that foreign tourism was still a very new phenomenon in Soviet Estonia and completely under KGB control. In 1958, 53 foreign delegations had visited Estonia – 175 persons from socialist countries and 215 from capitalist countries. The KGB recorded 46 contacts between local residents and foreign tourists in the course of these visits.<sup>170</sup>

In addition to propaganda aimed at the broad masses, materials from the show trials reached the work desks of the investigative offices in Western countries. In the first wave, the informative materials and copies of documents distributed at the trials under consideration arrived in the hands of investigative offices in Western countries by way of journalists from Western countries accredited to Moscow who were invited to Estonia to observe the court sessions. In this way, the materials from the Mere-Gerrets-Viik trial were passed on to the Central Office of the State Justice Administrations for the Investigation of National Socialist Crimes (*Zentrale Stelle der Landesjustizverwaltung zur Aufklärung nationalsozialistischer Verbrechen*) in West Germany. In the 1960s, this organisation was also active in researching the execution of Jews carried out in Estonian territory with the participation of the German Security Police and SD. The number “6,000” acquired via Moscow also figured in its research materials as the possible number of victims executed at Kalevi-Liiva yet in the course of investigation, they soon arrived at more realistic data.<sup>171</sup> In the early 1960s, the Soviets started rendering direct “legal assistance” to investigative institutions of other countries: first to the countries of the Eastern Bloc, starting from 1964 to West Germany, and later to the USA (primarily in connection with the case of Karl Linnas) and other Western countries.<sup>172</sup> Soviet evidence, however, was viewed quite critically as it was evident that trials in the Soviet Union were staged. The staged nature of trials held in the Soviet Union conditioned an extremely critical attitude towards evidence provided by the Soviet side.

According to Soviet security organs themselves, 80 persons were convicted in the German Federal Republic in 1968–1973 with the help of the evidence that they provided. At the same time, they also admitted the major problem that there was no legal basis in West Germany for convicting anyone of “Nazi crimes.” Instead, “premeditated killing” had to be proved and that required particularly thorough proof. In this respect, the greatest shortcomings of the Soviets themselves were admitted, which had also been used in anti-Soviet propaganda.<sup>173</sup> The judicial system in the USA and in all Western countries differed significantly from the Soviet system. Evidence sent from the Soviet Union caused numerous justified suspicions and arguments over whether they proved guilt or not.

An important part of the process following the show trials was the demand for the extradition of defendants convicted in absentia from their host countries. As a rule, Western countries refused to do so and the Soviet side quite likely did not really expect their demands to be met. Refusal to extradite defendants convicted in absentia and the presentation of new demands from time to time made it possible for the Soviet Union to

<sup>170</sup> Jürjo, *Pagulus ja Nõukogude Eesti*, pp. 192–193.

<sup>171</sup> Der Massenmord an der jüdischen Bevölkerung Estlands während der Jahre 1941/42, Bundesarchiv, Außenstelle Ludwigsburg AR-Z 246/59, vol. VIII.

<sup>172</sup> Materials associated with legal assistance provided through the ESSR KGB are preserved in Estonia in the National Archives: Collection of inquiries from foreign countries connected to the investigation of war crimes, ERAF.133SM, archival records 1–24.

<sup>173</sup> ERAF.133SM.1.5, 141–147.

present “accusations of fascism” time and again in the press against the governments of those countries. In terms of demands for extradition, the Karl Linnas case (2nd case) turned out to be the most noteworthy, which combined within it first the tug of war between the Soviet Union and the USA, and thereafter the domestic court saga in the USA for extraditing Linnas, the key question of which was the USA citizenship that Linnas had acquired.<sup>174</sup> The Soviet Union began demanding the extradition of Linnas during the preliminary investigation (11 November 1961). It made a second attempt in 1962, without success. By the end of the 1970s, USA-Soviet relations had become somewhat more open. As consequence of international developments, the attitude in the USA towards punishing Nazi crimes had changed. Legislation also changed somewhat in the USA in 1978, making it easier to extradite figures like Linnas.<sup>175</sup> The Soviet Union had passed some of the materials concerning Linnas to the USA in 1976 and a certain exchange of information began taking place. The Soviet side had to prove the authenticity and validity of the evidentiary materials that it had provided. Among other things, the questioning of some of the witnesses in the presence of American representatives and defence attorneys was requested, or even permission for them to be brought to the USA to appear in court. The Soviet side was prepared to receive American representatives in Estonia from October of 1980 onward but they refused to conduct a new preliminary investigation. Charged with providing false information (he concealed his service in a concentration camp on his application form) concerning his activities during the war, Linnas was stripped of his American citizenship in 1981.<sup>176</sup> After that important change, the Soviet Union presented another demand for his extradition and a true propaganda war on both sides against the protests of Linnas began. One of the main counterarguments posed by Linnas was the absence of due process in the Soviet Union: recall that the verdict handed down in absentia concerning Linnas was not made by the court! Opposition and various court actions continued for years, becoming part of domestic political argument in the USA.<sup>177</sup> After going through all stages of appeal, Linnas was extradited from the USA on 24 April 1987 and brought to the Estonian SSR, thus being the first person accused of war crimes to be handed over from the USA to the Soviet Union against his own will.<sup>178</sup> Times had changed compared to the early 1960s and new trends in the Soviet Union led by Mikhail Gorbachev had apparently contributed to the making of this kind of decision.

At the same time as the Soviet demand for the extradition of Karl Linnas, the Soviet Embassy began a propaganda campaign in Canada and Sweden as well. Rodionov, the Soviet

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<sup>174</sup> The court cases of Karl Linnas and his extradition from the USA to the Soviet Union has been considered in several publications. See for instance: Jerome S. Legge, Jr, The Karl Linnas Deportation Case, the Office of Special Investigations, and American Ethnic Politics, *Holocaust and Genocide Studies* 24 (2010), no. 1, pp. 26–55; Theresa M. Beiner, Due Process for All – Due Process, the Eighth Amendment and Nazi War Criminals, *Journal of Criminal Law and Criminology* 80 (1989), no. 1, pp. 293–337.

<sup>175</sup> Holtzman Amendment to the Immigration and Nationality Act in 1978.

<sup>176</sup> ERAF.133SM.1.5; translation of the diplomatic note from the US Embassy, 26 October 1979, ERAF.133SM.1.8, 37; ESSR KGB letter to Volkov, ERAF.133SM.1.8, 87–88; USA New York Circuit Court memorandum 31 July 1981 (translation into Russian), ERAF.133SM.1.9, 103–121.

<sup>177</sup> Legge, The Karl Linnas Deportation Case, pp. 40–44.

<sup>178</sup> Fyodor Fedorenko was extradited from the USA in 1984 for concealing his wartime activities yet he himself had agreed to being sent to the Soviet Union. There was no court verdict concerning Fedorenko at that time. He was arrested in the Soviet Union in 1985 and sentenced to death in 1986. He was executed in July of 1987. Felicity Barringer, Soviet Reports it Executed Nazi Guard U.S. Extradited, *New York Times*, 28 July 1987 (<http://www.nytimes.com/1987/07/28/world/soviet-reports-it-executed-nazi-guard-us-extradited.html>, last accessed on 2 February 2014).

Ambassador in Canada complained about the activities of Baltic emigrants in Canada and the reaction to it by the Canadian government. As a countermeasure, he asked for information on potential war criminals including those that could be compromised. There was nobody in Canada that was very well suited for this but Ago Talvar had settled in Sweden. He had been sentenced to death in absentia in 1967 already. Immediately after the extradition of Karl Linnas to the Soviet Union in April of 1987, the Soviet Union's Prosecutor's Office and the KGB set about considering the possibilities for demanding Ago Talvar's extradition from Sweden. The relevant organs in the Estonian SSR had to present their positions. Karl Kortelainen, the head of the ESSR KGB had to admit that demanding Talvar's extradition was not to be recommended because regardless of the death sentence handed down, his participation in executions lacked the necessary proof, the holding of a new trial was not possible on the basis of the evidence currently available, and so any action would have to be restricted to the use of currently existing material for propaganda purposes. In February of 1988, Kortelainen no longer considered the transfer to the embassy of materials and trophy documents concerning Talvar advisable, even for propaganda purposes. It must be noted that the KGB kept this conclusion to itself. Articles were released into the press just in case where Sweden was reproached for not extraditing Talvar in 1967.<sup>179</sup>

It is unclear why the KGB discussed the possibility for holding a new trial when a valid court verdict existed concerning Talvar. One possibility is that they had in mind future court actions in Sweden in the event that the Soviets demand for his extradition would lead to hearings in court, similar to what happened in the case of Linnas in the USA. The way the Linnas court case unfolded alludes to the second possibility. When he was brought to Estonia, Linnas was offered the opportunity to submit an appeal for clemency but on 23 April, he refused to sign any document whatsoever without the participation of a lawyer. A defense lawyer was appointed for him in Estonia on 28 April and on the following day, Linnas submitted his appeal for clemency in which he referred to the expiration of the court verdict that had been handed down.

In connection with the extradition of Linnas and his subsequent fate, an interview with the USSR First Deputy Chief Prosecutor N. Bazhenov is instructive, which was published on 8 May, and in which Bazhenov confirmed that Linnas would be given the opportunity to appeal the court verdict handed down in 1962.<sup>180</sup> Some ten days later, an interview of Estonian SSR State Prosecutor Karl Kimmel appeared in which Kimmel thoroughly analysed the situation that had developed around the Linnas case – at least to the extent that this could be done publicly – and outlined four different solutions that the law would have allowed. First of all, Linnas could have submitted a petition for clemency, which he had done by way of the only document presented at this point.

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<sup>179</sup> ESSR Minister of Foreign Affairs Arnold Green's letter to Kortelainen, 3 April 1985, ERAF.133SM.1.12, 41; On 5 March 1987, the head of the Estonian SSR KGB Kortelainen wrote to Leonid Barkov in connection with war criminals in exile among other things: "Ago Talvar lives in Sweden – he was sentenced to death in absentia in 1967. The necessary proof of his direct participation in the killings had not been found." ERAF.133SM.1.13, 55; Kortelainen to the ESSR Prosecutor's Office, 19 June 1987, ERAF.133SM.1.13, 136–138; Kortelainen to Barkov, 29 February 1988, ERAF.133SM.1.15, 11.

<sup>180</sup> V. Lapski, Pärast väljasaatmist [intervjuu NSVLiidu peaprokuröri asetäitja N. Baženoviga. Seoses Karl Linnase väljaandmisega Nõukogude Liidule] (After extradition [in connection with the extradition of the war criminal Karl Linnas to the Soviet Union, Izvestiia correspondent V. Lapski spoke with USSR First Deputy Chief Prosecutor N. Bazhenov]), *Rahva Hääl*, 8 May 1987.

The second option, according to the prosecutor, was for Linnas to file an appeal in agreement with the judicial supervisory procedure.<sup>181</sup> Allegedly, the document referred to as Linnas's appeal for clemency was this in essence. The same document also referred to the expiration of the limitation period.

Referring to the request of the defense to apply the limitation period, Kimmel pointed out the nuance that only the court can decide on the expiration of death sentences. If the court does not find it possible to apply the limitation period, the death penalty would be commuted to imprisonment, meaning that Linnas would have had to be sentenced to 15 years imprisonment.<sup>182</sup> As a third option, the review of the court verdict could have been considered but only in the event that new circumstances of essential importance are found which had not been known to the court at the time the verdict was handed down.<sup>183</sup> The fourth option that Kimmel outlined was the principle that was ordinarily applied, that a sentence is not carried out if more than fifteen years have passed since the verdict was handed down and no new crimes were committed in the meantime.<sup>184</sup> Yet the prosecutor claimed that this kind of situation would most likely give rise to the justified objections of "the relatives of the people that had been killed and of the broad masses".<sup>185</sup> The "voice of the masses" resounded in the form of numerous letters to the editor in the columns of the newspaper *Rahva Hää* (The People's Voice), it was a well orchestrated mass chorus. The Soviet regime had practiced for decades how to organize these "spontaneous" outbursts of public opinion. Taken together with contemporaneous reports on sentiments favouring the restoration of Estonia's independence that were already gathering steam among the population and were becoming more and more prominent in the pages of newspapers, this "voice of the masses" is unconvincing.

On 18 May 1987, the lawyer submitted an application to the court to consider the court verdict on Linnas handed down in 1962 to be expired due to the long period of time that had passed since then and the fact that steps had not been taken in that period to carry out the sentence. This appeal was made possible by a nuance in USSR legislation: the non-applicability of statutory limitations regarding "persons guilty of crimes committed against peace and humanity and war crimes" had indeed been established in 1965,<sup>186</sup> but not the

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<sup>181</sup> This refers to the ESSR Criminal Procedure Code, Chapter Thirty. Proceedings in the Supervisory Instance (§§ 340–351). A convicted offender or the lawyer defending him could not directly file an appeal on their own concerning court verdicts that had already entered into force in order to apply for initiation of judicial supervisory procedure. The right to file appeals in accordance with judicial supervisory procedure belonged to the organs of the court and prosecutor's offices of the union republic and of the Soviet Union, to which the convicted offender or the lawyer representing him submitted the corresponding application. A court organ higher than the court that had handed down the court verdict reviewed the appeals.

<sup>182</sup> ESSR Criminal Code § 54. Expiration of the execution of judgements of conviction. The Code prescribed only the principle that the death penalty was to be replaced by incarceration but did not stipulate the duration of incarceration. The 15 year penalty is the position stated by the Prosecutor in regard to Linnas.

<sup>183</sup> ESSR Criminal Procedure Code § 352. The basis for reopening a criminal case.

<sup>184</sup> ESSR Criminal Code § 54 (2). Expiration of the execution of judgements of conviction

<sup>185</sup> Kallas, Sõjaroimarile ei saa andestada.

<sup>186</sup> It came to light in the 1960s that according to German Federal Republic legislation, all manner of crimes expire in 20 years so that the penalization of war criminals in West Germany would have had to be completed by 1965 at the latest. Poland protested against this at the UN and received support in this from the UN International Justice Codification Commission in 1965. The UN General Assembly unanimously decided that the punishability of war crimes must not be discontinued. The convention on the non-applicability of statutory limitations was completed by 1968. The enactment Concerning the non-applicability of statutory limitations for crimes committed against peace and humanity was adopted in the Soviet Union previously already in 1965.

non-applicability of statutory limitations on the carrying out of a court conviction.<sup>187</sup> The ESSR Criminal Code edition with commentary had in fact taken the position that the expiration of the execution of judgements of conviction prescribed in the Code was not applicable to *Nazi crimes*. The commutation of sentences handed down (including in absentia) for the death penalty to prison sentences was also not considered to be applicable.<sup>188</sup> Yet the commentaries provided in this volume were nevertheless not law but rather recommendatory interpretations of the intent of the law by relevant lawyers. This provided defence lawyers with a certain amount of room for manoeuvring. The defence lawyer was also guided in filing the appeal by § 336 of the ESSR Criminal Procedure Code, which among other things prescribed the participation of the convicted offender in the court deliberation.<sup>189</sup> Acceptance of the appeal would have required a court verdict.

It is not known what discussions took place in the KGB and the court organs regarding this issue. It is clear that it would have been politically impossible to grant Linnas clemency or to consider the limitation period of his court verdict to have expired because in both cases, such a decision would have meant his release from detention.<sup>190</sup> It is also possible that the Soviets did not want to take the risk of reviewing the court verdict in new political situation. The last option would have been to commute Linnas's death sentence to 15 years imprisonment but would this have looked like a defeat as well after all those years of struggle?

The casual remark made by the prosecutor may shed some light on the considerations of the organs of power. On that same day on 18 May, when the defense lawyer submitted the petition to the court to acknowledge the expiration of the death sentence, ESSR Prosecutor Kimmel and Minister of Internal Affairs Marko Tibar visited Linnas in prison. Kimmel has claimed that what transpired was merely a conversation with no judicial implications whatsoever. To Linnas's question: "When will the court's final decision be made? Your laws apparently no longer allow the death penalty to be carried out?" replied Kimmel: "Not so fast. The decision will be made in due course and it will be in harmony with the law. By the way, the law can be changed."<sup>191</sup> This may mean that the option was considered of once again intervening in resolving the court case as was done in 1962 by way of the USSR Supreme Soviet Presidium in order to prevent the application of some particular legal provision in the resolution of this case.

The situation in the Soviet Union in 1987 was not comparable to 1962 – the political atmosphere was simmering, it was the highpoint of Gorbachev's glasnost and the USA or Sweden would certainly have closely followed new trials. Previously the Soviets had refused to conduct a new preliminary investigation regarding the Linnas question in response to an inquiry from the USA. A couple of weeks after the appeal had been submitted, the detention center disclosed that Linnas's health had deteriorated and that he was being sent to a medical institution. Linnas died in Leningrad on 2 July after an operation performed in a

<sup>187</sup> Investigation file of Jüriste and others, ERAF.130SM.1.28195, vol. X, 175, 182, 186, 187–188, 225.

<sup>188</sup> ESSR Criminal Procedure Code. Edition with commentary Tallinn, 1972, § 54(3), commentary 5. Expiration of the execution of judgements of conviction.

<sup>189</sup> ESSR Criminal Procedure Code § 336. Resolution of questions arising from the execution of court verdicts.

<sup>190</sup> ESSR Criminal Code § 54. Expiration of the execution of judgements of conviction. The wording of Section (3) of the Code leaves the theoretical possibility open that if the court applies expiration in regard to death sentences, the convicted offender may escape punishment altogether.

<sup>191</sup> Confidential statement from ESSR Prosecutor K. Kimmel to the ECP CC, 9 June 1987, ERA.R-1038.13c.576, 22–28.



Ministry of Internal Affairs Hospital.<sup>192</sup> Instead of the courts, death resolved the delicate situation that had developed for the Soviet authorities.

## Summary

A series of common attributes characterise the show trials of Nazi criminals held by the Soviet regime in the 1960's. Show trials started being held in the occupied Baltic countries in parallel in 1961. Analogous events followed immediately in Ukraine and Byelorussia, and somewhat later in the western part of Russia. In addition to their temporal coordination, a common organizational outlook is obvious: Communist Party organs made a political decision and issued the necessary instructions to the security organs, which prepared evidentiary material and formulated charges. The court organ had only a formal role in presenting the charges to the accused and formulating the convicting court verdict approved by the political leadership. The entire course of investigation and judicial proceedings was under the control of Party organs, which also coordinated the dissemination of information in parallel (propagandistic coverage in the press, publications on current affairs).

Show trials of persons accused of Nazi crimes were multi-layered in terms of their objective. Both foreign and domestic policy goals had an impact. As a Cold War foreign policy objective, expatriate communities living in Western countries (or the east-west relationship in Germany) were targeted and attempts were made to discredit them both in their annexed homeland and in the host countries. The leaderships of Western countries were accused of closing their eyes to Nazism ("fascism" in Soviet usage) due to their political support for the expatriates. The shaping of the reception of the Great Patriotic War was a priority: the "Soviet people" as the main and greatest victim of the Second World War and the Soviet Union as the sole saviour of the world and opponent to the policy of Western countries, which was depicted as the continuation of the aspirations of Nazi Germany. Show trials were put to use in domestic politics in the struggle that began in the Soviet Union against "bourgeois nationalism."

Media coverage of the show trials was conspicuously propagandistic. The propaganda campaign began in conjunction with (or already even before) the beginning of the investigation and was of an international nature. In addition to the domestic media, the Soviet side launched articles through their confidants among Western journalists and left-wing publications in Western countries that were meant to incline public opinion in the necessary direction for the Soviet regime. Show trials held by the Soviet Union coincided temporally with the trial of Adolf Eichmann held in Israel, which in many respects became a pivotal and pioneering case. The media coverage of the Eichmann trial (press conferences, widespread international coverage, and television) has been seen as setting an example for Soviet show trials as well.<sup>193</sup> The temporal coincidence of these trials is by chance and the Soviet trials had been prepared before the beginning of the Eichmann trial. The first show trial held in Estonia that brought the most extensive propaganda campaign of all the show trials conducted in Estonia took place a month before the beginning of the Eichmann trial.<sup>194</sup>

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<sup>192</sup> Investigation file of Jüriste and others, ERAF .130SM.1.28195, vol. X, 263–264. The specific reasons and circumstances of the death of Karl Linnas have left a number of questions and suspicions unresolved.

<sup>193</sup> Hirszowicz, *The Holocaust in the Soviet Mirror*, p. 39.

<sup>194</sup> The trial of Gerrets and others was held in the ESSR Supreme Court on 6–11 March 1961; the trial of Eichmann began in Israel on 2 April 1961.

The basis for the accusations was war crimes and crimes against humanity that actually happened. Owing to the nature of the events (the carrying out of the crimes was not documented or the evidence was destroyed), indirect evidence and especially the testimony of witnesses was of particular importance. The manipulation of witnesses was relatively easy and widespread under the conditions of totalitarian regimes.

The key figures in the show trials were members of expatriate communities of peoples living under Soviet rule who were connected with crimes committed during the period of German occupation. Additionally, there were local residents among the accused persons who were actually present in court and available for punishment. The form of show trials provided the opportunity for influencing accused persons and suspects living in exile by way of the press and this could be accompanied by attempts to convince accused persons (suspects) to cooperate with Soviet intelligence organisations. The Communist Party (in the form of the ECP CC in Estonia) coordinated the organisation of the trials while the ESSR KGB, Prosecutor's Office and court institutions fulfilled the political task assigned to them. Witness testimony and the materials of the so called Extraordinary State Commission that operated in the Soviet Union in 1944–45 played a major role as evidential material in the course of the investigations and trials. Information on actual crimes was often presented but the details, their context and extent (number of victims) were distorted and have not found confirmation in the course of subsequent research. There is practically no documentary evidence. Testimony provided by the accused themselves, the objectivity of which can be questioned, served as the primary evidence in proving the personal guilt of individuals. The testimony of co-defendants played a major role in verdicts handed down in absentia.

Legal norms and proceedings, concerning crimes, which were internationally not under a statute of limitations, were put to use in the service of the achievement of the political aims of the Soviet regime. In terms of domestic politics, they formed part of the creation of the myth of the Great Patriotic War and the formation of a new policy on nationalities (as a practical result, the image of fascist peoples along the Soviet Union's western border took root among the Russian-speaking population). In terms of foreign policy, the conviction of Estonian expatriates and those from other occupied western regions in absentia made it possible to discredit expatriate communities and the Western countries that supported them. Changes that took place at the same time on an international scale (the Eichmann trial and the conviction of Nazi criminals in Western Europe) supported the steps taken by the Soviet Union and made it possible for them to make accusations aimed at the West concerning the shielding of war criminals and cooperation with them.

It was not the objective to ascertain which crimes were committed and who the culprits were. This meant that what took place in the courts turned into a farce. There are grounds for considering the announced court verdicts as quasi-verdicts behind which stood not the decision of a judge, based on the facts of the accusation but rather a politically and propagandistically motivated administrative order. Therefore, the convictions of potential perpetrators of war crimes and crimes against humanity, which undoubtedly had taken place, have to be considered null and void according to international legal standards.

The number of persons accused in show trials we discussed was not large.<sup>195</sup> The ESSR's Supreme Court passed sentence on a total of 14 persons: five of these accused persons lived outside of the Soviet Union and were sentenced to death in absentia; eight of these persons

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<sup>195</sup> Considerably more persons were put on trial with analogous accusations and convicted in the 1960s and 1970s but since these trials lacked the conspicuous attributes of show trials, they have not been considered within the framework of this article.

were arrested in Estonia and sentenced to death, and the sentences were carried out; one person was sent to psychiatric coercive treatment. The principle is far more important than the number of convicted persons! Given what has been described above, these verdicts can not be accepted at face value. But how can they be critically assessed?

If the case of a person, who has been rehabilitated, but was connected to Crimes against Humanity or War Crimes, were to be challenged now in the Estonian Supreme Court, it would be practically impossible to come to a decision that would meet present-day legal standards. While most suspects or accused were associated with the crimes they were tried for, the unreliability of the evidence does not allow deciding on their guilt or innocence.