

## Post-War Trials

### 1. An Overview of Post-war Trials in Germany.<sup>1</sup>

After the war, the top surviving German leaders were tried for Nazi Germany's crimes, including the crimes of the Holocaust. Their trial was held before an International Military Tribunal (IMT) in Nuremberg, Germany. Judges were from the Allied powers—Great Britain, France, the Soviet Union, and the United States.

In all, 199 defendants were tried at Nuremberg, 161 were convicted and 37 were sentenced to death. The defendants generally acknowledged that the crimes they were accused of occurred but denied that they were responsible, as they were following orders from a higher authority.

Since 1949, over 900 proceedings trying defendants of National Socialist era crimes have been conducted by the Federal Republic of Germany (i.e., West Germany before the fall of the Berlin Wall in 1990 and united Germany afterwards). These proceedings have been criticised because most defendants were acquitted or received light sentences. In addition, thousands of Nazi officials and perpetrators never faced trial, and many returned to the professions they had practised under the Third Reich. For example, former Nazi officials comprised the majority of judges in West Germany for several decades after the war.

### 2. Extracts from Subsequent Nuremberg Proceedings: The *Einsatzgruppen* Case (Case #9) – The United States of America v. Otto Ohlendorf et al.

The following extracts are taken from the court judgment given in the trial of Otto Ohlendorf, the former commandant of *Einsatzgruppe D* (German special duty squad, composed primarily of SS and police personnel). He was sentenced to death for the murder of about 90,000 Jews, Roma, and Sinti after admitting that he had ordered his men to kill children as well as adults. His defence was that he was just following orders.

“[...] we have here participation in a crime of such unprecedented brutality and of such inconceivable savagery that the mind rebels against its own thought image and the imagination staggers in the contemplation of a human degradation beyond the power of language to adequately portray.

[...]

Let it be said at once that there is no law which requires that an innocent man must forfeit his life or suffer serious harm in order to avoid committing a crime which he condemns. The threat, however, must be imminent, real, and inevitable.

<sup>1</sup> United States Holocaust Memorial Museum, *Holocaust Encyclopaedia: Post-war Trials* <<https://encyclopedia.ushmm.org/content/en/article/war-crimes-trials>> and *Nuremberg Trials* <<https://encyclopedia.ushmm.org/content/en/article/the-nuremberg-trials>> [accessed 13 June 2022].

## Handout 2

# Activity 9: Rethinking Responsibility

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[...]

In fact Ohlendorf himself declared [...] “In two and a half years I had sufficient occasion to see how many of my Gruppe [group] did not agree to this order in their inner opinion. Thus, I forbade the participation in these executions on the part of some of these men, and I sent some back to Germany.”

Ohlendorf himself could have got out of his execution assignment by refusing cooperation with the army.

[...]

The witness Hartel testified that Thomas, Chief of Einsatzgruppe B, declared that all those who could not reconcile their conscience to the Fuehrer Order, that is, people who were too soft, as he said, would be sent back to Germany or assigned to other tasks, and that, in fact, he did send a number of people including commanders back to the Reich.

[...]

No soldier or officer attempting escape from such a task would be pleading avoidance of a military obligation. He would simply be requesting not to be made an assassin. And if the leaders of the Einsatzgruppen had all indicated their unwillingness to play the assassin's part, this black page in German history would not have been written.”<sup>2</sup>

The *Einsatzgruppen* trial was the ninth of 12 American-run trials held at the Palace of Justice in Nuremberg, Germany. The trial was officially titled ‘The United States of America v. Otto Ohlendorf et al’. It lasted from 29 September 1947 to 10 April 1948.<sup>3</sup>

For more information:

United States Holocaust Memorial Museum, *Holocaust Encyclopaedia*: [Subsequent Nuremberg proceedings. Case #9, the Einsatzgruppen case.](#)

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<sup>2</sup> Allied Control Council, No.10, ‘The Einsatzgruppen Case’, in *Trials of War Criminals Before the Nuernberg Military Tribunals Under Control Council Law No. 10* ("Green Series"), Volume 4, October 1946-April 1949 (Washington: U. S. Government Printing Office, 1950) pp. 1-596 (pp. 412, 480-82, 485) <[https://tile.loc.gov/storage-services/service/ll/lmlp/2011525364\\_NT\\_war-criminals\\_Vol-IV/2011525364\\_NT\\_war-criminals\\_Vol-IV.pdf](https://tile.loc.gov/storage-services/service/ll/lmlp/2011525364_NT_war-criminals_Vol-IV/2011525364_NT_war-criminals_Vol-IV.pdf)> [accessed 13 June 2022].

<sup>3</sup> John Wear, *The Einsatzgruppen trial* (2018) <<https://codoh.com/library/document/the-einsatzgruppen-trial/en/>> [accessed 13 June 2022].