

Trial against John Demjanjuk opens in Munich

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On Monday, John Demjanjuk went on trial in Munich. He is accused of helping to murder at least 27,900 Jews at the extermination camp Sobibor in Poland between March and September 1943.

Nearly 65 years after the end of the Nazi dictatorship, this could be the last major trial against a participant in the Holocaust. However, the trial, which has attracted considerable international attention, may well turn out to be a miserable failure because of the long-standing disinterest on the part of German political and legal circles in prosecuting Nazi criminals.

John Demjanjuk, born in 1920 in the Ukraine, worked as a tractor operator before being drafted into the Soviet Red Army in 1940. Two years later, he was taken captive and imprisoned by the German army. After becoming a so-called auxiliary volunteer in the prisoner-of-war camp near Chelm, he was given training in the Trawniki camp and became a member of the Nazi SS.

Demjanjuk was one of approximately 3,000 Soviet prisoners of war who were utilised by the National Socialists from 1942 onwards to assist in the mass murder of Jews in Poland. Most of the 3,000 came from the Ukraine, others came from Baltic countries, a handful came from Poland itself or were “ethnic Germans” from the Soviet Union. These prisoners of war were employed as guards in the evacuation of the Jewish Ghettos, were active in execution squads and were also responsible for herding Jewish victims into the gas chambers.

After a short term in the Majdanek concentration camp, Demjanjuk was ordered to Sobibor extermination camp in eastern Poland on March 27, 1943. At the camp, he was one of around 130 auxiliary volunteers under the command of between 20 to 30 SS members. In the middle of September 1943, Demjanjuk was then transferred to the Flossenbürg concentration camp in Bavaria as part of the “Russian Liberation Army,” which fought alongside the German army in the closing days of the war.

After detention in camps for “displaced persons,” he eventually emigrated in 1952 from Germany to the US. There he changed his first name from Ivan to John and became a US citizen in 1958. The US authorities first obtained information that Demjanjuk had been active in Sobibor in the mid-1970s.

As a consequence of this information, Demjanjuk was denied his American nationality for the first time in 1981. He was deported to Israel in 1986 following testimony identifying him as the notorious “Ivan the Terrible,” a guard in the Treblinka extermination camp. A district court in Israel then sentenced him to death on April 25, 1988.

Following the dissolution of the Soviet Union, however, investigators uncovered in local archives statements by 37 Treblinka guards who had been prosecuted in the USSR. According to these statements, the real name of “Ivan the Terrible” in Treblinka was not

Demjanjuk but Martschenko.

It then emerged that this information had been in the hands of the US “Office of Special Investigations” (OSI) prior to the withdrawal of Demjanjuk’s American citizenship. The OSI had simply held back the appropriate documents. In July 1993, the Israeli Supreme Court acquitted Demjanjuk, although the court was convinced he was a guard at Sobibor. His activities at Sobibor, however, were not the subject of his prosecution in Israel. Demjanjuk’s lawyer in Israel, Joram Scheftel, later reported that Demjanjuk had received \$380,000 as compensation for his seven-year detention. In 1998, his US citizenship was restored.

Following a second trial in June 2004, a US court decided to once again deny Demjanjuk US citizenship. Plans to deport him to Ukraine collapsed, and finally, in May of this year, he was deported to Germany at the request of the German authorities. Since then, he has been in custody.

In Germany, the public prosecutor’s office accused him of taking part during his six months at Sobibor in the execution of thousands of Jews who were transported in a total of 15 trains from the Netherlands to the gas chambers. He is alleged to have “willingly” participated in the killing of the Jews and had “absorbed the NS ideology of racial destruction.”

The Demjanjuk process, the German judiciary and the prosecution of NS crimes

The start of the trial on Monday was followed around the world, with more than 250 journalists from all over the globe attempting to fill the court’s 68 places reserved for the press. Also in attendance were a group of around 20 descendants of murdered Jews, who are appearing as co-plaintiffs.

From the start of the trial, Demjanjuk’s defence counsel Ulrich Busch argued that his client’s poor health made him unable to stand trial. Demjanjuk suffers from a preliminary stage of leukemia and has back problems, kidney stones, heart complaints and concentration difficulties. Nevertheless, doctors have assessed that Demjanjuk is capable of attending court—although only for two separate periods of 90 minutes per day. The trial is expected to last 35 days up until May 2010. On that date, Demjanjuk will be 90 years old.

In addition to claiming that his client is too ill to stand trial, Busch has also developed a second line of defence. On the first day of the trial Busch described Demjanjuk as a victim of the National

Socialists, even claiming he was “on the same level” as Holocaust survivors, and deplored the fact that Demjanjuk had been subject to deportations “across half the globe.” Busch’s comments were received with outrage and indignation by trial observers and the co-plaintiffs.

Busch went on to accuse the judges in the Munich court and the public prosecutors of bias against his client, involving a “moral and legal double standard.” The attorney was able to base his arguments in this respect on decisions previously made by German courts, which had acquitted a number of Demjanjuk’s high-ranking superiors.

In 1976, the regional court in Hamburg had acquitted the SS squad leader Karl Streibl, who had trained Demjanjuk in the Trawniki camp. The judges in Hamburg believed Streibl’s plea that he was unaware of the tasks that were to be later carried out by the men he had trained. Streibl maintained he only found out about the liquidation of the Jews at a later point.

A number of other German SS thugs who had done active duty in Sobibor were also exempted from punishment. In 1965, the regional court in Hagen tried 12 of them and acquitted 5. One of the accused, Kurt Bolender, committed suicide before the pronouncement of the verdict, while the acquitted SS man Erich Lachmann declared in court: “I feel no guilt for the death of the Jews in Sobibor because I did not gas them.”

There was never a systematic prosecution of Nazi criminals in the Federal Republic. The German judiciary has investigated more than 100,000 cases since end of war, but only 6,500 of the accused were convicted, usually receiving light sentences.

German political and judicial policy was also opposed to a genuine investigation of the role of non-Germans who assisted the Nazis. In 1982, the “Office of Special Investigations” informed the German Department of Justice that more than 100 men and women had been denied US citizenship. The German Justice Minister at the time, Jürgen Schmude (SPD), rejected a request from the US Justice Department that Germany undertake legal proceedings against the suspects and request their deportation. According to Schmude, deportation is only possible in the case of criminal offenses carried out “in the territory of the state seeking such individuals.” At the same time, the statute of limitations meant that only incidents of murder could be considered for prosecution.

For many decades, the German authorities saw no need to prosecute Demjanjuk on the basis of the evidence that he had taken part in Nazi crimes. At least by 1993, following the suspension of his death sentence in Israel, the German authorities were well aware that Demjanjuk had been a guard in the Sobibor extermination camp.

Even as late as 2003, a delegation from the German Central Office for the Investigation of National Socialist Crimes ruled out any prosecution of Demjanjuk. This followed a two-week trip to Washington, where members of the delegation inspected relevant documents. According to the report of the delegation at the time: “An accusation of culpability is not corroborated by the submitted documents.”

Only in 2008, according to *Der Spiegel*, “in time for the celebrations of its 50-year old anniversary” (i.e., the German Central Office for the Investigation of NS Crimes), did the Center begin initial prosecution proceedings. The head of the Center, Kurt Schrimm, had been urged to do so by a senior public prosecutor.

Demjanjuk’s attorney Busch is now exploiting the decades-long negligence of the German authorities. In line with the arguments used in the previous acquittals of SS men from Sobibor, Busch told the

Munich court that Demjanjuk had been assigned to Sobibor as a prisoner of war and had merely followed the orders of his German superiors.

In addition, Busch argues that Demjanjuk has already served a longer detention in Israel than most condemned Nazi criminals. Given that the public prosecutor’s office cannot prove that Demjanjuk is guilty of murder, any sentence could not be expected to exceed the seven years he has already served.

The court rejected the defence petitions and continued on Tuesday by hearing statements from the co-plaintiffs. A tearful 70-year-old witness related the fate of his relatives, who were gassed in Sobibor and Auschwitz. He broke down crying as he read out a letter from the victim’s mother.

Another 70-year-old co-plaintiff was unable to remember what took place at that time because she was a small child. The fact is that with the passing of time almost all the eyewitnesses of the Nazi crimes—if they survived the Holocaust—have now died. That is why there are now no eyewitnesses for the crimes alleged to have been committed by Demjanjuk. The former Sobibor prisoner Thomas Blatt, 82 years old, bitterly declared outside the trial: “Soon the last perpetrators and victims will die, then all that is left is history.”

Spiegel Online declared that the trial threatens to end “disappointingly.” Firstly, Demjanjuk could be declared incapable of standing trial. But secondly and more controversially, “The trial could raise uncomfortable questions, for example: Why only now? And: Why Demjanjuk and not all the others?”

The renowned professor of criminal law Christiaan F. Rüter from the University of Amsterdam has described the trial as one directed against “the smallest of the small fish.” Rüter, who has published a number of works dealing with judgments of NS crimes, stated: “High ranking officials, officers, commanders have all been able to draw their pensions in peace, now this old man is expected to take the rap for everything.”

Even if the tractor operator from the Ukraine is convicted for his crimes, it will do nothing to alter the appalling balance sheet of the ruling German elite, which in the post-war period allowed thousands of Nazi criminals to occupy responsible official positions and continues to protect them up to today.



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