

# Nazi war crime trial in Neubrandenburg threatens to collapse

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Following a protracted struggle over a period of months, the trial of elderly former SS member Hubert Z. in the city of Neubrandenburg threatens to collapse. Another court now has to make a decision on a bias petition against two of the judges in the local court. Witnesses, surviving relatives and journalists from all over the world had made plans to attend the trial of Hubert Z., which will probably be one of the last trials of individuals who took part in the Holocaust.

Hubert Z. was a member of the paramedic unit at the Auschwitz-Birkenau death camp at the time when 14 trains full of deportees arrived and 3,681 people were murdered. The public prosecutor's office argues that Z. assisted in these killings because he "supported the cooperative camp procedure as a whole." It holds that he contributed to the mass extermination in carrying out his daily work.

Among their responsibilities, paramedics killed prisoners with lethal injections and doused the gas chambers with the poison gas Zyklon B. However, the accused has made outrageous claims contesting his own guilt. He claims he only administered first aid and knew nothing about trains full of prisoners. He also claims never to have seen a ramp and that he believed that the vent of the crematoria in which bodies were burned at night, and out of which the flames and smoke rose ten meters high, belonged to a heating plant.

Z. is represented by the attorney Peter-Michael Diestel, who was interior minister in the last government administration of the Stalinist-ruled German Democratic Republic before reunification. Diestel claims that the trial is a violation of "human rights," because his client suffers from dementia and "depressive symptoms." These claims were confirmed by an evaluator brought in by the attorney for this purpose. The district court in Neubrandenburg wanted to discontinue the trial in June 2015 as a consequence, but the higher regional court in Rostock

refused.

Now the state court has set February 29 as the start date, but it is highly questionable whether the trial will take place, since witnesses have not been summoned and no evidence has been presented. Only three days have been set for the entire trial. Only two expert witnesses have been called to decide on the ability of the accused to stand trial.

A document written by Public Prosecutor Schwerin makes serious accusations against two of the three professional judges, including the president, and has asked that they be rejected on account of bias. Attorney General Förster fears that the scheduled hearing will only serve to halt the trial as quickly as possible.

The joint plaintiffs, concentration camp survivors, are also considering a plea to reject the judges. They complain that their lawyers have still not been provided with complete access to relevant documents.

The court did not want to allow the concentration camp survivor, Walter Plywaski—who arrived in Auschwitz with his family as a 15-year-old boy on August 15, 1944—to be a joint plaintiff because the indictment only covers transport starting on August 16. The court wrote to Plywaski and informed him that it would not provide any evidence covering this date, but would leave it to him to do so.

Plywaski's lawyer, Cornelius Nester, who also represented joint plaintiffs in the Demjaniuk trial, reacted to this suggestion with indignation. Senior Public Prosecutor Förster also asked whether the court wanted to create the impression with this action that the elucidation of the facts is the responsibility of the survivors.

The proceedings against Z., as in several other cases, began 69 years after the last inmates were freed from the Nazi concentration camps. Both perpetrators and victims are at very advanced ages, making a full revelation of the murderous activities of the perpetrators and the extent of

their individual participation no longer possible.

This situation arises as a consequence of the scandalous history of the federal German judiciary after the Second World War. It did everything it could to allow as many perpetrators as possible to escape without any punishment. Only 900 out of 500,000 perpetrators were sentenced. This is not surprising if one considers the fact that almost the entire Nazi judicial apparatus continued its existence in the post war German Federal Republic. Only very few of the Nazi judges and state attorneys—who were responsible for brutal punishments and countless death sentences—lost their posts. The great majority were able to continue their careers unscathed.

At the end of 1949, the newly elected German parliament had already passed an amnesty law for minor crimes committed during the time of Nazi rule. The majority of the documents about the Nazi past were kept under lock and key in the Berlin Document Center of the U.S. occupation. These documents include Nazi Party membership cards, personnel documents of SS and SA members, and documents of the Reich Main Security Office, Gestapo offices and people's court.

Following the Nuremberg trials against leading Nazi war criminals and during the Cold War, neither the federal government and its judiciary, nor the U.S. had an interest in taking perpetrators of the second or third rank to court. On the contrary, they did not want to do without their “expert knowledge” in the ministries, security agencies or the police and judicial apparatus.

When there was enough evidence and sufficient witnesses with fresh memories of the misdeeds, practically no trials took place. In 1954, a law was even passed on behalf of Nazi criminals who had gone underground, which gave them amnesty and allowed them to take their old names once again. After that, no one asked why they had thought it necessary to go underground and change their names.

The statute of limitations on murder in the Federal Republic was originally 20 years and the danger arose in 1965 that no more Nazi murderers could be put on trial. It was only after the extensive debates on the statute of limitations between 1969 and 1979 that this limit was extended by ten years and then completely suspended.

However, in the case of murder or accessory to murder, the individual participation of the accused still had to be proven with exactness, a hurdle that every year became harder to overcome.

Even during the large Auschwitz trials of the 1960s and 1970s in Frankfurt, numerous perpetrators were taken to

court and sentenced, but since witnesses often could no longer remember the details of the progression of events very precisely and scarcely any other evidence was available, many got away with relatively minor punishments.

German jurisprudence changed for the first time with the Demjaniuk trial between 2010 and 2011. The 91-year-old former Ukrainian volunteer in the Sobibor extermination camp in occupied Poland was sentenced to prison for five years on account of his assistance in the murder of 28,000 Jews. The jury came to the conclusion that the accused, a Red Army prisoner of war, voluntarily made himself available to the Nazi thugs for the business of extermination.

After this trial, for the first time, the Ludwigshafen Central Authority for the Pursuit of National Socialist Criminals took up the task of finding the last surviving perpetrators and making it possible for them to be put on trial. The only trial that has concluded since then has been the trial against Auschwitz accountant Oskar Gröning, who was sentenced to prison for four years last year. The decision has been appealed and is not yet final.

Several other elderly Nazi perpetrators are currently being investigated and examined to see if they are able to stand trial.

It is important that these trials are still taking place today, even if it is not possible to imprison many of the perpetrators because they are not fit to undergo detention. Given the enormous shift to the right of German official politics and the resurrection of German militarism, these trials help keep alive the historic crimes of German imperialism and its accomplices, and sensitise a new generation to this history.



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