

SECRET

# DRAFT WORKING PAPER

DOJ/OSI

Chapter Twenty-One

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## An Enduring Legacy (U)

The collapse of the Soviet Union and the end of the Cold War marked the biggest development in the Nazi war criminal investigations since the Nuremberg trials. For the first time since the end of World War II, tensions between East and West no longer complicated the pursuit of justice. As a result, the scope of the investigations dramatically increased. Neal M. Sher, who succeeded Allan A. Ryan, Jr., as the director of the Office of Special Investigations in 1983, declared ten years later, "people expected this office would have been out of work years ago, but we're busier now than we've ever been."<sup>1</sup> (U)

As the former Warsaw Pact countries experienced the first taste of democracy, US investigators gained entree into many of the Russian and other Eastern European archives that had never been accessible. The records provided bountiful new leads on Eastern European collaborators, who had committed atrocities and later had immigrated to the United States.<sup>2</sup> By 1999, OSI's investigations had resulted in the denaturalization of 63 individuals, and the deportation of 52 war criminals from the United States. The

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<sup>1</sup>Michael Isikoff, "Nazi-Hunting Office is Busier than Ever," *Washington Post*, 3 May 1993, p. A17. (U)

<sup>2</sup>Jane Mayer, "With Cold War Over, More Escaped Nazis Face US Deportation," *Wall Street Journal*, 16 April 1991, pp. A1 and A4. The opening of the STASI files in East Germany is also a bonanza for war criminal investigators. See Michael Shields, Reuters, "East German Files Cast Light on Nazi War Criminals," 1 May 1996. (U)

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Department of Justice's "watch list" had also prevented the entry of 150 suspected Nazis at American ports. (U)

Public interest in the Nazi war criminal investigations experienced a worldwide rejuvenation with the commemoration of the 50th anniversary of World War II. In the United States, the opening of the US Holocaust Memorial Museum in 1993 told the horrors of the Third Reich to a new generation, and the museum quickly became one of Washington's most popular tourist sites.<sup>3</sup> The prospects of "ethnic cleansing" in the Balkans and elsewhere raised painful memories of how the world had failed to stop the Nazis before the outbreak of world war. As the 20<sup>th</sup> century came to a close, students of the Holocaust as well as the surviving victims themselves grew concerned that the lessons of mass murder were being lost. As the Holocaust survivors died in increasing numbers, the Jewish community grappled with the need to obtain a final accounting of the material losses while fighting to preserve the memory of the Holocaust.<sup>4</sup> (U)

## **Confronting Painful Pasts: France (U)**

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<sup>3</sup>In addition, the Holocaust Museum offered scholars a first-rate library and research institution with records collected from countries throughout the world. The museum promised to spark renewed historical interest in the World War II period. See Sybil Milton, "Re-Examining Scholarship on the Holocaust," *The Chronicle of Higher Education*, 21 April 1993, p. A52.

<sup>4</sup>Marc Fisher, "Fragments of Memory," *Washington Post*, 7 April 1998, pp. D1 and D2. (U)

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Klaus Barbie's trial resurrected the controversial subject of collaboration between the Nazi occupiers and their Vichy sympathizers.<sup>5</sup> In 1993, the murder of Rene Bousquet clearly highlighted the difficulty that France had in facing its own past, despite its longstanding efforts to emphasize France's resistance activities.<sup>6</sup> In early 1994, the French Government finally charged Paul Touvier with crimes against humanity for the execution of seven Jews in 1944. A year later, Jacques Chirac, France's president, openly discussed how France had facilitated the deportation of the Jews to Nazi concentration camps.<sup>7</sup> In 1996, France launched a highly public trial of Maurice Papon, a senior French Government official in the 1970s and the former chief of police in Paris. Papon faced charges of deporting nearly 2,000 French Jews, including children, to Germany where the Nazis killed them. The case, in its twists and turns, attracted international attention as late as 2003.<sup>8</sup> (U)

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<sup>5</sup>The French finally took steps to have Barbie extradited after years of efforts by Serge and Beate Klarsfeld. See Charles Truehart, "A Nation's Nagging Conscience," *Washington Post*, 17 April 1997, pp. C1 and C4. Marcel Ophuls's 1970s documentary, "The Sorrow and the Pity," also highlighted the underside of France during World War II. (U)

<sup>6</sup>The French president in the early 1990s, Francois Mitterand, had also worked in the Vichy regime following his release from a German prisoner of war camp. See Alan Riding, "Vichy Aide Accused of War Crimes is Slain in France," *New York Times*, 9 June 1993, p. A3. (U)

<sup>7</sup>Alan Riding, "France Confronts its Past in a Collaborator's Trial," *New York Times*, 16 March 1994, p. A3. Marlise Simons, "Chirac Affirms France's Guilt in Fate of Jews," *New York Times*, 17 July 1995, pp. A1, 3. (U)

<sup>8</sup>Anne Swardson, "French Ex-Official Faces War Crimes Trial," *Washington Post*, 19 September 1996, p. A23. In 1997, Archbishop Olivier de Berranger apologized for the Roman Catholic Church's silence on the deportation of French Jews. See Charles Truehart, "A Wartime Scar Heals; Another is Reopened," *Washington Post*, 1 October 1997, p. A19. The Papon case took a new turn in 1999 when Papon fled from France in an effort to avoid his ten-year prison sentence after being found guilty in 1998 of helping to transport Jews to Nazi death camps. Suzanne Daley, "Facing Jail, Vichy Aide Says He'll Go into Exile," *New York Times*, 21 October 1999, p. A11. Papon later returned to France and was jailed, only to be released because of poor health.

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## Confronting Painful Pasts: The Baltic Countries (U)

Other countries throughout the world also confronted their own Nazi legacies with some surprising results.<sup>9</sup> For the new nations in Eastern and Southern Europe, the war's memory was indeed entangled as the Baltic countries, Estonia, Latvia, and Lithuania, have all learned since the 1990s. Scores of individuals from these countries had collaborated with the Nazis during the war and later fled to the West; in some cases, Western intelligence recruited former Nazi collaborators to work against the Soviets. In the spring of 1991, the Office of Special Investigations examined records pertaining to Bronislovas Ausrotas, a Lithuanian, ☐

☐ Ausrotas, it turned out, had served in the Lithuanian army before that country's invasion by the Soviets. Fleeing to Germany, he worked as an interpreter and then in the German military.<sup>10</sup> OSI did not file suit against Ausrotas because he had died, and it closed the case in December 1993. (S)

In September 1994, OSI filed suit against Aleksandras Lileikas for commanding the Vilnius province element of the Lithuanian Security Police, known as the *Saugumas*,

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See Alan Riding, "European Court Says Nazi Ally was Denied Fair Trial by France," *New York Times*, 26 July 2002, p. A5; Elaine Sciolino, "French Free Top Civilian Official Jailed for War Crimes," *New York Times*, 19 September 2002, p. A3; and "France: Vichy Official Will Stay Free," *New York Times*, 14 February 2003, p. A8. (U)

<sup>9</sup>Over the years, reports had pinpointed Alois Brunner as living in Syria. Brunner, an SS captain and aide to Eichmann, remains the most notorious war criminal still at large. Elliot Welles, "Where is Brunner?," *Washington Times*, 20 September 1995, p. A21. (U)

<sup>10</sup>☐ ; ☐, IMS/Litigation Support Staff to OGC, "Nazi War Crimes Investigation—Bronislovas Ausrotas," 10 June 1991, XAN-2147, (S), in OGC, Nazi war criminal files. (S)

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which had participated in the roundup and murder of thousands of Jews. While OSI initially reviewed Lileikas's DO file in 1983, it took 11 years for the Department of Justice to take the case to court until it located corroborating evidence in newly opened files in Eastern Europe. Lileikas, while still in Germany, had worked briefly for CIA during the 1950s. A Federal court stripped him of his American citizenship in 1996, but he fled to his native land before immigration authorities could deport him.<sup>11</sup> (U)

The Lithuanian Government proved to be slow in taking any action against Lileikas. Even before he had escaped from the United States, the Lithuanian Government declined to take any action against Lileikas.<sup>12</sup> He was greeted with a hero's welcome, and the Lithuanian state prosecutor's interrogations were friendly despite his well-documented background. The Lithuanians still took no action against Lileikas and, in fact, reversed Soviet-era court convictions of other Lithuanians charged with collaboration with the Nazis as "frame-ups."<sup>13</sup> It was, as the head of the Boston Anti-Defamation League stated, "the glorification of the war criminal as the victim. There's strong forces for denial in Lithuania," Leonard Zakim told the American press.<sup>14</sup> (U)

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<sup>11</sup>Pierre Thomas, "US Seeks to Deport Immigrant, 87, For Role in Deaths of Lithuanian Jews," *Washington Post*, 22 September 1994, p. A3; Kevin C. Ruffner, CIA History Staff to J. Kenneth McDonald, "Aleksandras Lileikis," 26 September 1994, (S), in DCI/HS Records, Nazi war criminal files. "Accused of Aiding Nazis, Man Returns to Lithuania," *New York Times*, 20 June 1996, p. A7; Judy Rakowsky, "Alleged Collaborator is Called Hero in Lithuania," *Boston Globe*, 12 November 1996, p. B3. (S)

<sup>12</sup>Associated Press, "No Prosecution of Alleged War Criminal," *Washington Post*, 10 February 1995, p. A16. (U)

<sup>13</sup>Daniel Williams, "Lithuania Vows to Speed Up Nazi-era Prosecutions," *Washington Post*, 27 January 1998. (U)

<sup>14</sup>Judy Rakowsky, "Alleged Collaborator is Called Hero in Lithuania," *Boston Globe*, 12 November 1996, p. B3. (U)

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Efraim Zuroff at the Simon Wiesenthal Center in Israel charged in 1998 that “Lithuania continues to live in denial” while refusing to take responsibility for its role in the murder of over 200,000 Jews. Valda Adamkus, the new president of Lithuania and an American emigre who had returned after a 50-year absence, proclaimed, “the crimes were individual acts. The Lithuanian nation did not commit them.” While Adamkus promised to take steps against Lithuanian war criminals, the Lithuanian Government, in reality, took few steps.<sup>15</sup> In 1999, Eli M. Rosenbaum, the director of OSI, accused the Lithuanians of lacking the political will to tackle prosecutions for wartime crimes. When Rosenbaum learned that a Lithuanian court had declared that Lileikas was medically unfit to stand trial, the OSI director exclaimed, “this is an outrage. The US Government has specific, verified information that Lileikas has been feigning illness. He is fit to stand trial.”<sup>16</sup> (U)

Facing the threat that the United States would move to block Lithuania’s entry in NATO over its dearth of Nazi investigations, the country’s parliament changed its trial code to allow for prosecutions to continue even if the defendants were too sick to be physically present in court.<sup>17</sup> By this time, the US Government had deported four members of the *Saugumas*, to Lithuania: Aleksandras Lileikis in 1996, Kazys Gimzaukskas in 1996, Adolph Milius in 1997, and Aloyzas Balsys in 1999.<sup>18</sup> As it

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<sup>15</sup>Ibid. (U)

<sup>16</sup>“US Blasts Lithuania for Delay in WWII Trial,” *Washington Times*, 1 February 1999, p. A6. (U)

<sup>17</sup>“Nazi Trials to Resume in Lithuania,” *Washington Post*, 16 February 2000, p. A18. (U)

<sup>18</sup>Reuters, “Alleged Nazi Ally Departs US in Deal,” *Washington Post*, 31 May 1999, p. A10. (U)

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turned out, a Lithuanian judge indefinitely suspended charges against Lileikis because of his health in 2000.<sup>19</sup> A year later, a Lithuanian court also lifted the sentencing of Lileikis's deputy, Kazys Gimzaukskas, because he suffered from Alzheimer's disease.<sup>20</sup>

(U)

Despite appeals from the Jewish community to speed up indictments of war criminals in Lithuania, indictments were slow in coming. The war crimes trials appeared to have gotten nowhere in post-Soviet Lithuania.<sup>21</sup> (U)

The same proved true for Latvia, which found itself involved in an acrimonious dispute over the veterans of World War II. Latvians had fought on both sides during the war, with large numbers serving in the Red Army or as partisans. A substantial number of Latvians, however, supported the Nazis, including a large contingent of members of the Latvian SS Legion. During the Cold War, the Soviets branded the Latvian Legionnaires as fascists and repressed those who remained in the country. With Latvia's freedom, however, the pro-German, anticommunist Latvians turned the books against the pro-Russian Latvians. (Latvia has a large ethnic Russian population.) In March 2000, a

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<sup>19</sup>Associated Press, "Judge Halts Lithuanian War Crime Trial," *Washington Post*, 4 July 2000, p. A16. (U)

<sup>20</sup>Michael Wines, "Lithuania: Conviction in Death of Jews," *New York Times*, 15 December 2001, p. A6. See also FBIS translation, "US Hunter Praises Lithuania for 'Historic Victory' in War Crimes Trials," Vilnius *Lietuvos Rytas*, 19 February 2001. (U)

<sup>21</sup>FBIS translation, "Lithuania's Jews Urge Prosecutors to Investigate Early WWII Mass Murder Case," Vilnius *Lietuvos Zinios*, 11 September 2002. (U)

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Latvian court convicted a Soviet Latvian partisan of war crimes in the deaths of six villagers in 1944.<sup>22</sup> (U)

The case quickly became a test of how Latvia viewed its wartime role. Veterans of the Latvian Legion took to the streets to proclaim their vindication for fighting the Soviets. Images of former Nazi veterans marching in Riga, the Latvian capital, became a public relations nightmare as Latvia wanted to join NATO and the European Union. "The West," a reporter wrote, "is uncomfortable with the rehabilitation of men who fought with the Nazis." The Latvian undersecretary of state assured Western reporters that Latvia planned to take on cases against Nazi war criminals. Armands Gutmanis announced, "we have no trouble dealing with the Holocaust . . . . What worried Latvians is that our friends pay little attention to Soviet crimes."<sup>23</sup> (U)

Estonia, like its neighbors Latvia and Lithuania, also had trouble in coming to terms with its divided past. In 1995, the Estonian government ended its investigation of Harri Mannil, an Estonian emigre and wealthy businessman in Venezuela, suspected of

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<sup>22</sup>Daniel Williams, "In Latvia, World War II Isn't Quite Over," *Washington Post*, 20 March 2000, p. A13; Michael Wines, "Latvians Can't Escape Cold War's Divisive Legacy," *New York Times*, 20 May 2001, p. 3. (U)

<sup>23</sup>Ibid. At the time, the Latvian Government had one pending Nazi war criminal case. KonrDC Kelejs, an alleged member of the wartime Latvian *Arajs* militia that murdered Jews, had fled from Great Britain to Australia to avoid investigators in 2000. A Latvian prosecutor claimed that the government was investigating charges against Kelejs before pressing for his extradition. The Latvian Government, however, expected that DCditional trials of Nazi collaborators in Latvia were unlikely due to the number of cases prosecuted by the Soviets in the aftermath of the war. For background information on the Kelejs case, see FBIS translation, "UK: Witness Reports on War Crimes Suspect," 3 January 2000. A bounty program sponsored by the Simon Wiesenthal Center to identify Nazi war criminals in Latvia brought only one response. See FBIS translation, "Only One Latvian Replies to Invitation to Inform on Nazi War Criminals," *Riga Leta*, 11 September 2002. (U)



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participating in war crimes while he was a member of the Estonian Political Police during World War II. A year earlier, the Office of Special Investigations had placed Mannil's name on the "watch list" to prevent him from entering the United States. In 2001, the Estonians reopened its investigation of Mannil after an Estonian commission examining wartime activities in that country declared that as a general policy, it was reasonable to hold members of the Estonian Security Police responsible for war crimes. Shortly later, Efraim Zuroff, the director of the Simon Wiesenthal Center in Israel, visited Estonia, claiming to have new evidence in the Mannil case.<sup>24</sup> (C)

Consequently, the Estonians reopened its investigation of Mannil, but expressed concern that it lacked sufficient evidence to press for his extradition from South America. In 2002, the Estonians turned to the United States for assistance in pursuing the Mannil case and requested that two investigators join OSI in interviewing witnesses in the United States. The Estonians claimed that it "attaches great importance to investigating all crimes against humanity, and the Holocaust in particular." The Simon Wiesenthal Center, on the other hand, noted in its 2002 report that Estonia had yet to prosecute anyone for war crimes. The Estonian police claimed that its investigations were handicapped because the Soviets had already prosecuted Nazi collaborators. "Thus," the State Department reported in 2002, "there was little likelihood that persons who committed war crimes were still alive in Estonia."<sup>25</sup> (C)

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<sup>24</sup>Cable, Tallinn to State, "Suspected Nazi Persecutor Harri Mannil-GOE Request for Participation in US-Based Investigation," 2 May 2002, Tallinn 00513. (C)

<sup>25</sup>Ibid. In 2002, the State Department's Special Envoy for Holocaust Issues, Randolph Bell, spent one day in Tallinn where he met with the Estonian officials to discuss the country's efforts

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## Confronting Painful Pasts: Croatia (U)

Even more so than the Baltic countries, the new nations of the Balkans were hard-pressed to deal with the horrors of World War II. Born out of the violence that accompanied the breakup of Yugoslavia, Croatia played a notorious role in World War II as an Axis partner. After its independence in 1991, the Croatian Government, under President Franjo Tudjman, had celebrated the wartime Croatian fascist regime known as the Ustashe. Tudjman vehemently denied that the Ustashe had committed atrocities during the war, and he appointed surviving Ustashe to high-level government posts. The Croatian fascists, under Ante Pavelic, murdered thousands of Jews and even greater numbers of Serbs. After the war, many of the Ustashe escaped from Croatia and settled in Argentina.<sup>26</sup> (U)

In April 1998, the Argentine Government deported Dinko Sakic to Croatia to stand trial as the commander of the infamous Jasenovac and Stara GrDCiska concentration camps. From 1942 until 1944, Sakic earned a bloody reputation for his ruthless murder of Jews, Serbs, and others who opposed the Ustashe regime. Sakic, who had escaped after the war to Argentina and headed up Ustashe emigre activities in the Latin American country, remained defiant about his role as did his wife, Nada Luburis

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to broDCen awareness of the Holocaust. See Cable, Tallinn to State, "Holocaust Special Envoy Visit to Estonia," 4 September 2002, Tallinn 01009. (C)

<sup>26</sup>Andrew Borowiec, "Croatian-run Death Site Remains Dark Secret," *Washington Times*, 5 July 1994, p. A10. (U)

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(she later changed her first name to Esperanza), who reportedly headed the women's section of the camps. In June 1998, Sakic arrived in Zagreb and was taken to prison, but outside observers feared that the Tudjman government would take no action against him.<sup>27</sup> Later in November, the Argentines also expelled Sakic's wife, and the Croats placed her under arrest. (U)

The trials of Nada Sakic and Dinko Sakic attracted attention as one of the last trials of those who ran concentration camps during the war.<sup>28</sup> A Croatian court dismissed charges against Nada Sakic in February 1999, because no witnesses could confirm that she participated in the torture, terror, and intimidation of female prisoners at Jasenovac.<sup>29</sup> In a surprise ruling, the Croatian court found Dinko Sakic guilty of carrying out and condoning the torture at Jasenovac, the worst of some 20 camps run by the Ustashe. Sentencing Sakic to the maximum term of 20 years in prison, Chief Judge Drazen Tripalo said, "we hope that the sentence—mDcE 55 years after the events — will be a warning that all those who committed crimes in the near or distant past will not escape justice. We also hope," the court stated, "that the verdict will be a warning for the future." Foreign observers hailed Sakic's conviction as a landmark development for postwar Croatia. "Today should be a proud day for Croatia," said Tommy Baer, former

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<sup>27</sup>Chris Hedges, "War Crimes Horrors Revive as Croat Faces Possible Trial," *New York Times*, 2 May 1998, pp. A1 and A4; Anthony Faiola, "Extradition—to a Hero's Welcome?" *Washington Post*, 6 May 1998, pp. A21 and A26. (U)

<sup>28</sup>Guy Dinmore, "Croatia Confronts Its Past as War Crimes Suspect Returns," *Washington Post*, 19 June 1998, p. A35. (U)

<sup>29</sup>Associated Press, "Croatian Suspect in World War II Torture is Freed," *New York Times*, 2 February 1999, p. A3. (U)

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president of the Jewish group B'nai B'rith. "Croatia has shown that it does not fear facing its past and learning a lesson from the painful chapter of its history."<sup>30</sup> (U)

### **Confronting Painful Pasts: Argentina (U)**

Perhaps even more surprising than Croatia or the Baltic States, Argentina in the 1990s took several major steps to exorcise the ghosts of its Nazi past. In 1991, Argentina announced that it planned to open its files to determine how many Nazi war criminals and collaborators had sought refuge in that South American country. Two years later, researchers concluded that they had accumulated some 1,000 names, including dozens of Ustashe supporters of Ante Pavelic, the leader of the pro-Nazi regime in Croatia.<sup>31</sup> In 1998, Argentinean researchers reported that they had discovered that most Nazis who had fled to Argentina after the war had arrived in Argentina with passports issued by the International Red Cross in their real names. This information contradicted previous reports stating that the Peron regime had given passports to the former Nazis using false names.<sup>32</sup> (U)

Yet, some still regarded Argentina's steps as insufficient. Elan Steinberg, the executive director of the World Jewish Congress, called for the release of all Argentine

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<sup>30</sup>Snjezana Vukic, Associated Press, "Croat, 78, Gets 20 Years for Crimes at Death Camp," *Washington Times*, 5 October 1999, p. A16. (U)

<sup>31</sup>Nathaniel C. Nash, "Argentina Files Show Huge Effort to Harbor Nazis," *New York Times*, 14 December 1993, p. A10. (U)

<sup>32</sup>"Nazis Entered Argentina Under Own Names," *Washington Post*, 10 March 1998, p. A12. (U)

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bank records to follow the Nazi money trail. "We're asking for both moral and material restitution," Steinberg declared.<sup>33</sup> Some Jewish groups, on the other hand, praised the Argentine Government for its efforts to release information on the Nazis and their collaborators in that country. President Carlos Saul Menem's establishment of a "truth commission" in 1997 was hailed as a step forward.<sup>34</sup> (U)

Argentina continued to make progress as it reexamined its past. In December 1998, Argentina's Minister of the Interior said that Pres. Menem planned to propose that other South American countries, including Bolivia, Brazil, and Chile, establish their own Nazi investigating commissions. The Simon Wiesenthal Center wanted to take Menem's idea one step further to create a regional commission with members from various countries.<sup>35</sup> Just before Menem's call, the Commission for the Clarification of Nazi Activities in Argentina (known by its Spanish abbreviation as CEANA), issued the first report of its findings in November 1998. Perhaps the most controversial finding was the Commission claim that only 150 war criminals entered Argentina, a figure immediately disputed by Jewish organizations.<sup>36</sup> (U)

In June 2000, Argentina's new president, Fernando de la Rúa, came to Washington to meet with President Bill Clinton. At a ceremony at the Holocaust

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<sup>33</sup>Ann Louise Bardach, "Argentina Evades Its Nazi Past," *New York Times*, 22 March 1997, p. 25. (U)

<sup>34</sup>Calvin Sims, "Argentina, Once Nazi Haven, Now Hailed by Jews," *New York Times*, 19 April 1997, p. 6. (U)

<sup>35</sup>David Haskel, Reuters, "Wider Campaign of Nazi Hunting in Latin America Sought," *Seattle Times*, 4 December 1998. (U)

<sup>36</sup>Uki Goni, "Argentina Confronts Links with Nazis," *Manchester Guardian Weekly*, 29 November 1998. (U)

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Museum, de La Rúa apologized for Argentina's role in the Holocaust.<sup>37</sup> Later that summer, the Argentine Foreign Minister asked Secretary of State Madeleine Albright for US assistance in tracking down documents about the immigration of Nazis to Argentina after the war. The Argentine Foreign Minister hoped to coordinate American efforts with CEANA. The American press hailed these moves as a means of solidifying the Jewish community's support in Argentina, the largest Jewish population in Latin America.<sup>38</sup> (U)

The outlook changed dramatically by 2003 when a new government clamped down on openness. "It's an embarrassment," said Sergio Widder, the Latin America representative of the Simon Wiesenthal Center. Argentina refused to declassify its records relating to Nazis who came to Latin America and how they were aided by the government and the Roman Catholic Church.<sup>39</sup> (U)

### **Confronting Painful Pasts: Italy (U)**

Measures taken by Argentina to expel war criminals from its shores in the 1990s reopened old cases throughout Europe. In 1994, four years before Argentina deported Dinko Sakic and his wife, Nada Sakic, to Croatia, the Argentine Government arrested Erich Priebke, a German SS officer accused of murdering 335 Italians in 1944 in

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<sup>37</sup>Hugh Bronstein, Reuters, "Argentine to Apologize for its Role in Hiding Nazis," *Seattle Times*, 13 June 2000, p. A9. (U)

<sup>38</sup>Gilbert Le Gras, Reuters, "Argentina Asks US for Help in Search for Nazis," *Washington Times*, 18 August 2000. (U)

<sup>39</sup>Larry Rohter, "Argentina, a Haven for Nazis, Balks at Opening Its Files," *New York Times*, 9 March 2003. (U)

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retribution for partisan actions. Priebke claimed that he escaped from Italy in 1948 and moved to South America through the assistance of the Catholic Church.<sup>40</sup> After some debate, Argentina deported Priebke to Italy where a military judge ordered the 82-year old man to stand trial in April 1996, the first such trials in that country since 1948.<sup>41</sup> This trial brought new surprises, including the reemergence of Karl Hass, the former SD major who had worked for the Counter Intelligence Corps in Italy after the war. When the CIA rejected using him in the 1950s, Hass had dropped out of sight. His extradition from Switzerland to testify at Priebke's trial in Rome raised new questions and harkened shades of Klaus Barbie.<sup>42</sup> (C)

At the end of July, a military appeals court rejected a motion by lawyers of the relatives of the victims to dismiss the three-judge panel for alleged judicial bias in favor of Priebke.<sup>43</sup> A day later, the military appeals court found Priebke guilty of the charges, but released him on the grounds that the statute of limitations on wartime murder had expired. That decision shocked the Italian people and protesters quickly seized the

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<sup>40</sup>Paul Holmes, "Captured Nazi Says Vatican Helped Him Escape from Italy," *Washington Times*, 11 May 1994, p. A10, and Reuters, "Italy Asks Argentina to Extradite Ex-Nazi," *New York Times*, 8 June 1994, p. A15. For earlier discussion of the Vatican's role, see Ralph Blumenthal, "Vatican is Reported to have Furnished Aid to Fleeing Nazis," *New York Times*, 26 January 1984, pp. A1 and A14. For a discussion of the execution of Italian civilians in 1944, see Robert Katz, *Death in Rome* (New York: MacMillan Company, 1967). (U)

<sup>41</sup>Georg Bonisch, "His Name is Priebke," *Der Spiegel*, 3 September 1995, pp. 98-101; Calvin Sims, "In Nazi's Hiding Place, the Stain Won't Wash Away," *New York Times*, 30 October 1995, p. A4; Daniel Williams, "Nazi Horror Still Haunts Eternal City," *Washington Post*, 22 November 1995, pp. A19, 23; John Tagliabue, "Ex-Nazi Faces Trial in Italy in Cave Killings," *New York Times*, 5 April 1996, p. A9; and Daniel Williams, "Ex-Nazi's Trial, Book on Gassing Brings Facism Back into Focus," *Washington Post*, 7 May 1996, p. A14. (U)

<sup>42</sup>"The Nazi and the Protection Racket," *The Independent*, 13 June 1996. (U)

<sup>43</sup>Reuters, "Court Denies Dismissal Motion," *Washington Post*, 31 July 1996, p. A28. (U)

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courthouse and blocked Priebke from leaving.<sup>44</sup> International reaction to the verdict was also swift. Germany demanded Priebke's extradition, and Argentina refused to allow him to return to that country.<sup>45</sup> (U)

A few hours after his release, the Italian justice minister rearrested Priebke on charges that he had killed 14 other political prisoners in June 1944.<sup>46</sup> At the same time, the Italians also arrested Hass, who had been confined to an Italian military hospital after he had attempted to escape in June 1996 and suffered a broken pelvis. The Italians felt that Hass had not been as forthright about his role in the Ardeatine caves massacre.<sup>47</sup> Using the Priebke case as a justification, the Italians also reopened a long-forgotten case against two other German SS officers, Karl Titho and Hans Haage, for executing Italian military personnel and civilians at a concentration camp near Fossoli di Carpi near the northern Italian city of Modena.<sup>48</sup> (U)

In the meantime, Priebke remained in a cell at the Regina Coeli jail—the same prison where he had collected his hostages in 1944. He bemoaned his fate and told an Italian legislator that he recognized his mistake. “Do you know what my mistake was?”

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<sup>44</sup>The New York Times, for example, discussed the Priebke case in an editorial. See “A Nazi's Flawed Trial,” *New York Times*, 8 August 1996, p. A26. (U)

<sup>45</sup>Vera Haller, Reuters, “Rome Atrocity Panel Frees Ex-Nazi Officer,” *Washington Post*, 2 August 1996, p. A16; Celestine Bohlen, “Italian Court Throws Out Case in 1944 Rome Massacre,” *New York Times*, 2 August 1996, p. A3; Reuters, “Germany Seeks Extradition of Ex-Nazi,” *Washington Post*, 14 August 1996, p. A22. (U)

<sup>46</sup>Associated Press, “Ex-Nazi Faces Inquiry in Hero's Killing,” *Washington Post*, 8 August 1996, p. A24. (U)

<sup>47</sup>Hass testified on Priebke's behalf and said that Priebke would have been killed if he had not obeyed the order to kill the Italians in retribution for the partisan attack on the German troops. See “Ex-Nazi Backs Up Comrade,” *Hartford Courant*, 13 June 1996. (U)

<sup>48</sup>John Tagliabue, “Italy Reopens Old Inquiry into 2 Ex-Nazis in Killing of Prisoners,” *New York Times*, 11 August 1986, p. 6. (U)



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he asked. "To be the last." In October 1996, Italy's highest court overturned the verdict of the military tribunal and ordered the German to be held for a new trial. Observers worried that the Italians, however, lacked the impetus to convict Priebke for his role in the murder of Italian civilians, despite the flood of new evidence against the German SS officer. "All of this information is coming out at a point when it is too late for the war crimes trials, too late for the families of the victims," commented Shimon Samuels, a member of the Simon Wiesenthal Center. "The Priebke case is the last push, which is why I am worried that it could get bogged down."<sup>49</sup> (U)

In April 1997, the Italians opened a new trial against Erich Priebke and Karl Hass. Priebke attended the first day of court at the Rebibbia prison, but claiming that he was in poor health, the Italians allowed him to remain in house arrest at a Franciscan monastery outside of Rome. Hass, whom the Italians also charged with shooting two Italians, did not appear in court as he was still recovering from his injury the previous summer.<sup>50</sup> By July, the three member civilian court found both Priebke and Hass guilty of the charges that they had killed civilians. Priebke was sentenced to 15 years in prison with 10 years suspended under an amnesty law. Hass, in turn, received a suspended 10-year, eight month sentence. Rome's mayor proclaimed that "after the terrible and painful events which followed the first trial, the fact that the court affirmed there is no statue of

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<sup>49</sup>Celestine Bohlen, "Nazi's Case Forces Italy to Revisit Sore Subject," *New York Times*, 20 October 1996, p. 4; Reuters, "Rome Court Orders Retrial of Ex-Nazi in WWII Atrocity," *Washington Post*, 16 October 1996, p. A17. See also Robert Katz, "The Last Nazi Trial," *MHQ: The Quarterly Journal of Military History* 8 (Summer 1996), pp. 74-79. (U)

<sup>50</sup> Candice Hughes, Associated Press, "Nazi's Second Trial Sparked by Ire over Results in First," *Washington Times*, 15 April 1997, p. A15; Vera Haller, "Retrial of Ex-SS Officer Opens with 2<sup>nd</sup> Defendant," *Washington Post*, 15 April 1997, p. A20. (U)

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limitations for war crimes in Italy is very important for civil justice in the world, because it applies to all war criminals like those in the former Yugoslavia and the Great Lakes region of Africa.”<sup>51</sup> (U)

Following the second trial, the Italian Government placed Priebke in a military hospital to serve his sentence, while Hass would be confined to the Castel Gandolfo clinic.<sup>52</sup> In early 1998, an Italian military appeals court upheld the convictions of both Priebke and Hass and upgraded their sentences to life imprisonment. Priebke’s lawyers announced that they would take his case to the European Court of Human Rights to fight the new prison term.<sup>53</sup> The Italian Court of Cassation, the highest court in the land, upheld the tougher terms for both men later in November 1998.<sup>54</sup> In the meantime, the Italians relented, and said they would allow Priebke to serve the remainder of his sentence under house arrest.<sup>55</sup> Hass was also released from a military prison hospital and permitted him to stay in a private clinic in Rome.<sup>56</sup> (U)

As late as 2002, the Italians continued to fight with Priebke. In April, the Court of Cassation rejected Priebke’s request for a pardon following a similar move in July

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<sup>51</sup>Vera Haller, “2 Ex-Nazis Convicted of War Crimes,” *Washington Post*, 23 July 1997, p. A18. (U)

<sup>52</sup>Reuters, “Court Moves War Criminal,” *Washington Post*, 7 August 1997, p. A29; see also Xinhua News Agency, “Italy Transfers Convicted Ex-Nazi Officer to Military Jail,” 19 November 1998. (U)

<sup>53</sup>Associated Press, “Former Nazi to Appeal a Life Sentence in Italy,” *New York Times*, 9 March 1998, p. A5. (U)

<sup>54</sup>Xinhua News Agency, “Italy Maintains Life Sentences for Ex-Nazi Officers,” 19 November 1998. (U)

<sup>55</sup>“Nazi Under House Arrest,” *Stars & Stripes*, 10 February 1999. (U)

<sup>56</sup>Reuters, “Aus Gesundheitlichen Gruenden Ex-SS-Officier Hass aus Haft Entlassen,” *Sddeutsche Zeitung*, 22 February 1999. (U)

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2001 by the military court of appeals. Priebke's lawyers had hoped that the Italian Government would release the now 88-year old German officer under the provisions of a 1966 amnesty for Italians who had supported the fascist regime during the war. The court rejected the appeal because the terms of the amnesty applied only to Italians and not to members of the German military.<sup>57</sup> (U)

## **Confronting Painful Pasts: Germany (U)**

While the pursuit of Nazi war criminals in the United States became an issue of public interest in the 1980s and the subject of intense media and political attention, investigators in West Germany found themselves increasingly isolated. The unification of the two Germanies raised hopes that the Nazi war criminal investigations would be infused with new resources and information. While the East German Ministry of Interior's files proved to be a bonanza of information on Nazis, the German Government took few steps to mine this new information. The Stasi's Nazi files, reportedly if put together would stack some five miles high, provided leads to only 30 suspects. By 1995, the Federal Republic of Germany had failed to prosecute anyone for war crimes from information derived from the Stasi files.<sup>58</sup> (U)

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<sup>57</sup>Rome ANSA, "Italian Court Rejects Pardon for Nazi War Criminal," 25 April 2002. (U)

<sup>58</sup>Rick Atkinson, "Nazi Hunters are Still at War, Fighting a Losing Battle," *Washington Post*, 27 August 1995, pp. A1 and A22. (U)

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At the same time, the German Government reduced its efforts to hunt Nazis. The Central Office for the Investigation of Nazi Crimes in Ludwigsburg had dropped to 28 people from a peak strength of some 140 staff members, including attorneys, in the 1970s. Alfred Streim, the director of the Central Office, blamed the individual German states for being unwilling to support the Nazi war criminal investigations and prosecutions. In Streim's opinion, Germany had given a "backdoor amnesty" to war criminals who were now well advanced in age. One prosecutor on the Central Staff was appalled at Germany's negligence. "I believe no culprit should be allowed to climb into his grave without being unmasked." Ursula Solf added, "he should be at least told: You were the one, you were the pig who did this."<sup>59</sup> (U)

The publicity surrounding the Priebke case brought to light Nazis that had lived in Germany for decades. In 1995, Hans Schwerte, an authority on German literature and a highly acclaimed professor at the Aachen Technical University, was exposed as Hans-Ernst Schneider, a SS officer. Schneider joined the SS in 1938 and the Nazi party a year later. As a SS captain, Schneider served in the East, and it was believed that he may have played a role in obtaining medical equipment in the Netherlands that was later used to conduct horrible experiments at Dachau. At the end of the war, Schneider mysteriously disappeared and his widow remarried Hans Schwerte. Only in the 1990s did an American researcher reveal Schwerte's true identity. Although he admitted to having served in the SS, the German professor denied any role in the medical experiments. The

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<sup>59</sup>Ibid. See also Michael Shields, Reuters, "East German Files Cast Light on Nazi War Criminals," 1 May 1996. (U)

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German Government subsequently stripped him of his high honors, and he died in 2000.<sup>60</sup> (U)

The Italians pursued another major case in the aftermath of the Priebke/Hass trials. Friedrich Engel, who as an SS officer in Italy became known as the "Butcher of Genoa," was convicted in absentia in 1999 by the Italian Government for the wartime murder of 246 Italian civilians. Two years later, German television reporters uncovered Engel in Hamburg where he had lived since the war. Piero Fassino, the Italian minister of justice, pressed for Engel's arrest despite the fact that German law prevented him from being extradited. Fassino continued to ask his German counterpart to charge Engel for his war crimes on Italian soil.<sup>61</sup> (U)

According to the Italian justice minister, the pursuit of Engel was "achieved thanks to the determination of the victims' relatives, who had never resigned themselves and have always pressed for the culprits to be punished."<sup>62</sup> In early 2002, the Hamburg prosecutor's office announced that Engel, now 93, had been arrested to face charges of

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<sup>60</sup>Alan Cowell, "German Scholar Unmasked as Former SS Officer," *New York Times*, 1 June 1995; Eric Pace, "Hans Schwerte, 90, Ex-SS Man Who Hid Identity," *New York Times*, 10 January 2000, p. A17. (U)

<sup>61</sup>FBIS translation, "Italian Justice Minister Calls on Germany to Arrest, Try World War II Criminal," Milan *Corriere Della Sera*, 15 April 2001, p. 6; FBIS translation, "Minister Says SS Man Found in Hamburg Must Not Go Unpunished," Rome RAI radio interview, 17 April 2001; FBIS translated report, "Justice Minister Fassino Appeals to German Opposite Number in Engel Case," Milan *Corriere Della Sera*, 20 April 2001, p. 15; Georg Bonisch, Carsten Holm, and Hans-Jurgen Schlamp, "Schrank der Schande," *Der Spiegel*, 23 April 2001, pp. 56-57. (U)

<sup>62</sup>FBIS translated report, "Italian Justice Minister Calls on Germany to Arrest, Try World War II Criminal," Milan *Corriere Della Sera*, 15 April 2001, p. 6. (U)

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the murder of 59 prison inmates in retaliation for a partisan attack on German troops.<sup>63</sup> Engel was subsequently found guilty and sentenced to seven years imprisonment. He told the judge, "I have two wars behind me, and in my youth I learned that toughness is good for you. I have learned my whole life to react with toughness."<sup>64</sup> (U)

### **Confronting Painful Pasts: Canada, Great Britain, and the United States (U)**

The pursuit of Nazi war criminals and collaborators in the West had been an on and off process since the 1980s. In Canada, two undercover reporters from the *Jerusalem Post* posed as researchers and interviewed suspected war criminals in 1996. The paper's articles led to a television special in Canada the following year discussing what Bernie M. Farber called Canada's "dirty little secret." According to the Simon Wiesenthal Center, Canada had become the home of as many as 3,000 war criminals, half of whom were still alive in the late 1990s. The Canadian Government had a poor record in terms of investigating and prosecuting these individuals, many of whom had Eastern European backgrounds. By 1997, the Canadians had only brought charges against one man for killing more than 8,000 Jews; the case dissolved when the suspect died just as deportation

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<sup>63</sup>Rome ANSA, "Germany to Prosecute Ex-Nazi Convicted In Italy," 12 February 2002; "Former SS Officer Faces Massacre Trial," *Washington Times*, 31 March 2002, p. A9. (U)

<sup>64</sup>Steven Erlanger, "Former Nazi Convicted of Ordering Executions," *New York Times*, 6 July 2002, p. A5. (U)

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hearings commenced in British Columbia. Only two other men had been deported from CanDca for war crimes in 1982 and 1993.<sup>65</sup> (U)

In the early 1980s, the Canadian Government had launched a major effort to identify war criminals in the country. Delays in the legal procedures doomed that effort and not until the mid-1990s did Canada embark upon a reinvigorated strategy, including toll-free telephone numbers, to pinpoint war criminals.<sup>66</sup> Budget cuts in the Canadian office responsible for war crimes investigations also undermined that effort.<sup>67</sup> In 1997, the Canadian Government announced that it had employed Neal M. Sher, OSI's former director, to beef up Canada's War Crimes Unit.<sup>68</sup> Five years later, in May 2002, Canadian authorities arrested Michael Seifert, who had been convicted by an Italian court in 2000 for his participation at a German concentration camp near Bolzano, Italy. Justice officials, however, warned that extradition proceedings could be quite lengthy.<sup>69</sup> (U)

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<sup>65</sup>Anthony DePalma, "Canada Called Haven for Nazi Criminals," *New York Times*, 3 February 1997, p. A6. (U)

<sup>66</sup>Howard Schneider, "Canadians Asked to Dial 'N' for Nazi," *Washington Post*, 22 March 1997, p. A28. (U)

<sup>67</sup>Clyde H. Farnsworth, "Canada Plans Bid to Punish War Crimes," *New York Times*, 9 April 1995, p. 9. (U)

<sup>68</sup>Reuters, "Ottawa Says it Hired a Nazi-Hunter," *New York Times*, 12 December 1997. In September 2002, Denis Coderre, the Immigration Minister, asked for a review of Canada's policy of deporting elderly Nazi war criminals. A subsequent review stated, "despite the increasing difficulty of pursuing World War II cases, there is no strong rationale at this point in time for either eliminating or formally reducing the priority of the World War II component of the program." See Robert Fife, "Ottawa May End Effort to Expel Nazis; Policy Has Never Led to Actual Deportation; Jewish Groups Fear Creation of 'Sympathy,'" *Toronto National Post*, 20 September 2002, and Stewart Bell, "Don't Ease Up On Nazi War Criminals, Review Says," *Toronton National Post*, 11 October 2002. (U)

<sup>69</sup>Rome ANSA, "Canada Extraditing Nazi War Criminal to Italy," 8 May 2002. (U)

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Efforts to track down war criminals and collaborators in the United Kingdom have also met with mixed results. Until the passage of a controversial War Crimes Act in 1991, the British Government could not prosecute individuals who were not British subjects if they had committed crimes outside of Great Britain. Consequently, war criminals lived peacefully in the United Kingdom until the first case in 1995.<sup>70</sup> By that time, the Simon Wiesenthal Center had identified some 17 war criminals, but Scotland Yard claimed only 13 individuals.<sup>71</sup> In 1999, a British court convicted Anthony Sawoniuk, a 78-year old retired railroad ticket collector, of killing 18 Jews in a Polish town in 1942. Sawoniuk was the first, and perhaps only, Briton to be convicted of war crimes during World War II.<sup>72</sup> (U)

In the United States, the Nazi war criminal investigations took some unusual twists in the early 1990s. The past now came back to haunt the children of the DP generation that came to America in the 1940s and 1950s. Pres. Bill Clinton discovered this in the summer of 1993 when he nominated Army Gen. John Shalikashvili for the position of chairman of the Joint Chiefs of Staff. Shortly after Clinton hailed Shalikashvili's rise to the nation's highest military rank from his humble immigrant background, the Simon Wiesenthal Center announced that the general's father had actually been an officer in a Georgian Waffen SS unit. Captured by the British at the end

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<sup>70</sup>In 1995, British authorities charged a Belorussian living near London with wartime murder. Fred Barbash, "Britain Launches Its First Nazi War-Crime Case," *Washington Post*, 15 July 1995, p. A-24. (U)

<sup>71</sup>Fred Barbash, "Britain Launches its First Nazi War-Crimes Case," *Washington Post*, 15 July 1995, p. A24. (U)

<sup>72</sup>Sarah Lyall, "Nazi Crimes Bring Man 2 Life Terms in Briton," *New York Times*, 2 April 1999, p. A5. (U)



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of the war, the Shalikashvili family moved to the United States in the early 1950s.<sup>73</sup> The appointment, one columnist wrote, made it appear that “the Clinton administration or the Pentagon—or both—have combined the smug arrogance of the ignorant with an attempt to repackage a Nazi into a political refugee.” Columnist Richard Cohen protested, “the apparently purposeful recasting of the elder Shalikashvili from a Nazi soldier to a war refugee just to make a better Rose Garden ceremony is an insult to the victims of Nazism and shows contempt for the American people.”<sup>74</sup> (U)

### **The Demjanjuk Debacle (U)**

No case has besmirched the prestige of the Office of Special Investigations more than its prosecution of John Demjanjuk. While OSI filed its largest number of suits in 1992, the Demjanjuk case cast a dark shadow over the entire Nazi war criminal investigations. Eleven years earlier, OSI stripped John Demjanjuk, a Ukrainian-born autoworker in Cleveland, of his citizenship for lying on his immigration application and his petition for naturalization. In one of its most important cases involving a Nazi war criminal, the Federal government claimed that Demjanjuk was the infamous “Ivan the Terrible” at the Treblinka concentration camp. In 1986, the United States extradited Demjanjuk to Israel to stand trial for these crimes. An Israeli court, indeed, determined

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<sup>73</sup>Thomas W. Lippman, “Pentagon Nominee’s Father Served as Nazi SS Officer,” *Washington Post*, 28 August 1993, pp. A1 and A14. (U)

<sup>74</sup>Richard Cohen, “Gen. Shalikashvili’s Father,” *Washington Post*, 31 August 1993, p. A19; Andrew Borowiec, “Elder Shalikashvili’s Situation Not Unique,” *Washington Times*, 31 August 1993, pp. A1 and A8. (U)

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that Demjanjuk had participated in war crimes and sentenced him to death. The Israeli Supreme Court, however, felt that there was reasonable doubt whether Demjanjuk was "Ivan the Terrible," although it agreed that he had served as a guard at another concentration camp. After much debate, Israel released Demjanjuk in September 1993 and returned him to the United States.<sup>75</sup> In 1998, Demjanjuk regained his American citizenship. (U)

Public pressure forced the United States Government to review the Demjanjuk case. In 1992, the 6th US Circuit Court of Appeals in Cincinnati launched an investigation into the handling of the case to determine whether there had been any misconduct on the part of OSI in its prosecution of the Ukrainian immigrant. The court questioned several former OSI attorneys, exposing differing opinions about the evidence used to convict Demjanjuk.<sup>76</sup> In June 1993, Judge Thomas A. Wiseman, Jr., declared that OSI's behavior had been "reckless" in not providing evidence that appeared to contradict the Government's case. But Judge Wiseman found the evidence did not disprove the case as the Office of Special Investigations had presented it. Thus, Wiseman held that OSI had not engaged in any prosecutorial misconduct. A second panel of judges from the same circuit court, however, then took up the case and reached a different conclusion. Chaired by Senior Judge Pierce Lively, the three-judge panel

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<sup>75</sup>Numerous articles and books have been written on the Demjanjuk case. For some contemporary accounts, see Edward Walsh, "Protests Greet Demjanjuk's Return After Seven Years," *Washington Post*, 23 September 1993, p. A3. (U)

<sup>76</sup>See Sharon LaFraniere, "Ex-Prosecutor: Demjanjuk was Not 'Ivan the Terrible,'" *Washington Post*, 13 November 1992, pp. A1 and A22; Ronald Smothers, "Lawyer Recalls No Doubt on Nazi Guard," *New York Times*, 15 January 1993, p. A11; and David Johnston, "Doubt Cast on Identification of Nazi Guard 'Ivan,'" *New York Times*, 1 July 1993, pp. A1 and A14. (U)

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declared that the Office of Special Investigators, in particular its former director, Allan A. Ryan, Jr., and Norman Moscowitz, had suppressed contravening evidence about Demjanjuk and bowed to pressure from Jewish interest groups anxious for a successful case.<sup>77</sup> (U)

The decision badly damaged the reputation of the Office of Special Investigations and prompted Attorney General Janet Reno to review the ethical standards of the Office's attorneys.<sup>78</sup> In February 1994, Neal M. Sher, director of OSI, announced his resignation to accept the executive directorship of the American Israel Public Affairs Committee.<sup>79</sup> After a lengthy interim period, Eli M. Rosenbaum, the WJC's lead investigator during the Waldheim affair and a former OSI attorney, assumed the helm at OSI in 1995. (U)

Despite the setbacks, OSI pressed with a new case against Demjanjuk. In May 1994, OSI asked the Supreme Court to throw out the appeals court ruling. In a brief signed by Solicitor General Drew S. Days III, the Justice Department sought to vindicate the OSI prosecutors and their efforts to strip Demjanjuk of his American citizenship. The Office of Special Investigations contended that its lawyers had acted in good faith to deport Demjanjuk. Their lapses in providing certain documents pertinent to the case did not constitute "egregious and deliberate misconduct, such as bribery of a judge or

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<sup>77</sup>Stephen Labaton, "Judges Assail US Handling of Demjanjuk," *New York Times*, 18 November 1993, pp. A1 and B20. (U)

<sup>78</sup>Michael Hedges, "Nazi-Hunting OSI Criticized Before, Reno Admits as Probe Continues," *Washington Times*, 7 February 1994, p. A8. (U)

<sup>79</sup>Stephen Labaton, "At the Bar: A Successful Prosecutor of War Criminals May Be Remembered for the Case that Fell Apart," *New York Times*, 27 August 1993, p. A21, and Michael Weisskopf, "Justice Official Named to HeDC Pro-Israel PAC," *Washington Post*, 11 February 1994, p. A23. (U)

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fabrication of evidence" that is normally cited as fraudulent behavior before the courts.<sup>80</sup>

(U)

In 1999, OSI reopened the case when it filed suit against Demjanjuk whom it alleged had served as a guard at several concentration camps.<sup>81</sup> The Demjanjuk trial opened in Cleveland in May 2001 as both the prosecution and the defense grappled over the use of decades-old documents in what the defense attorney called a "trial by archive."<sup>82</sup> In February 2002, Judge Paul R. Matia ruled that the Justice Department had proven that Demjanjuk had knowingly misrepresented his past when he arrived in the United States in 1952 with "clear, convincing, and unequivocal evidence." Demjanjuk, in Matia's opinion, had "not given the court any credible evidence of where he was during most of World War II."<sup>83</sup> (U)

## The Search for Restitution (U)

The plight of Holocaust victims in the former Soviet Union and in Eastern Europe attracted the attention of Jewish groups in the West, who mounted a vigorous campaign

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<sup>80</sup>Joan Biskupic, "US Challenges Fraud Ruling in Demjanjuk Case," *Washington Post*, 25 May 1994, p. A15. (U)

<sup>81</sup>David Johnston, "Nazi Death Camp Case Reopened by US," *New York Times*, 20 May 1999, p. A20. (U)

<sup>82</sup>Jerry Seper, "Justice Targets Man, 81, Again," *Washington Times*, 29 May 2001, p. A6; Associated Press, "Government Tries Demjanjuk Again," *Washington Times*, 30 May 2001, p. A7; Francis X. Clines, "US Again Prosecutes Man Cleared of Being Reviled Nazi," *New York Times*, 30 May 2001, p. A15; and Associated Press, "Witness Deems Documents about Demjanjuk Authentic," *Washington Times*, 31 May 2001, p. A7. (U)

<sup>83</sup>David Johnston, "Demjanjuk Loses Citizenship Again; Judge Cites Lies," *New York Times*, 22 February 2002, p. A16. (U)

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to aid these forgotten victims. Since the 1950s, West Germany had paid compensation to Jewish victims of the Holocaust, but survivors behind the Iron Curtain had received none of this money. By the 1990s, most of these men and women were now old and helpless. "The war has almost been consigned to ancient history," said Rabbi Andrew Baker, the director of European affairs for the American Jewish Committee. "So it's somewhat of a shock that you have not only living witnesses but people who have suffered and have yet to receive any kind of compensation."<sup>84</sup> (U)

In early 1996, Sen. Alfonse M. D'Amato of New York took up the issue of Jewish accounts in Switzerland. On 23 February, D'Amato wrote DCI John M. Deutch requesting the CIA's help to "achieve an authoritative, accurate and final accounting of all assets that numerous Swiss banks continue to hold from this time period and to which the survivors and rightful heirs are entitled." D'Amato also sought the Agency's help in locating the "reportedly great amounts of Nazi loot, including gold, art, and other treasures, that might have made their way to Switzerland, and perhaps into Swiss banks."<sup>85</sup> (U)

The allegations of Swiss complicity in hiding confiscated Jewish assets captured the world's imagination. In less than two years, as the *New York Times* wrote in 1997, Europe was "awash in information that nations which considered themselves neutral or even victims of the Nazis actually profited from the Holocaust. They trafficked in gold,

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<sup>84</sup>Rick Atkinson, "Slow to Redress," *Washington Post*, 26 May 1995, pp. A29 and A33. (U)

<sup>85</sup>D'Amato to Deutch, 23 February 1996, ER 96-1509, in CIA History Staff files. (U)

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strategic minerals, art and real estate. Newly opened archives reveal that others knew of the slaughter of Jews and stayed silent.”<sup>86</sup> (U)

A World Jewish Congress report in 1998, for example, estimated that Nazi Germany had seized between \$9 and 14 billion from the 20 different countries or regions that it had occupied between 1933 and 1945.<sup>87</sup> In 1996, Pres. Clinton ordered the Federal government to search its unclassified and classified holdings for information on the role of neutral countries during the war years. The two-year investigation, headed by Under Secretary of Commerce (later Under Secretary of State) Stuart E. Eizenstat, brought together 11 different Federal departments and agencies that reviewed some 15 million documents.<sup>88</sup> (U)

Eizenstat’s investigations resulted in two reports, *US and Allied Efforts to recover and Restore Gold and Other Assets Stolen or Hidden by Germany during World War II, Preliminary Study*, and *US and Allied Wartime and Postwar Relations and Negotiations with Argentina, Portugal, Spain, Sweden, and Turkey on Looted Gold and German External Assets and US Concerns about the Fate of the Wartime Ustasha Treasury*, published by the State Department in May 1997 and June 1998, respectively. The reports marked the pinnacle of official American efforts to understand what happened during the war and afterward. Both studies discussed Project SAFEHAVEN, a wartime interagency

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<sup>86</sup>Tina Rosenberg, “Nazi Entanglements: Judging the Acts of Another Era,” *New York Times*, 3 March 1997, p. A24. (U)

<sup>87</sup>US Congress, House. Committee on International Relations. *Heirless Property Issues of the Holocaust* (Washington, DC: Government Printing Office, 1998), pp. 71-101. (U)

<sup>88</sup>See Stuart E. Eizenstat, *Imperfect Justice: Looted Assets, Slave Labor, and the Unfinished Business of World War II* (New York: Public Affairs, 2003). (U)

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US project to identify Nazi Germany's sources of wealth and to neutralize its commercial and industrial strength. The Office of Strategic Services played a leading role in obtaining intelligence on Germany's activities and providing assessments. Decades later, the CIA's History Staff located primary sources in both OSS and CIA files and provided historical analysis for both Eizenstat reports.<sup>89</sup> (U)

In April 2000, Under Secretary Eizenstat briefed the Senate's Committee on Foreign Relations on American efforts to right the wrongs of the 1940s. His testimony demonstrated the wide-ranging steps that the Federal government undertook during the Clinton administration, resulting in a \$1.25 billion Swiss bank settlement; a \$5.1 billion German agreement to assist those men and women forced to work for German companies during the war; the restitution of stolen and looted art; the creation of the International Commission for Holocaust Era Insurance Claims; the declassification of US records on World War II; the return of religious and communal effects in Eastern Europe; the sponsorship of international efforts to spur Holocaust education; and the negotiations with Austria on slave labor. Eizenstat told the senators why the US Government had taken these unprecedented steps. "Our policy on Holocaust issues," he noted, "serves important US foreign policy interests, as well as helping individual American

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<sup>89</sup>See William Z. Slany, US Department of State, *US and Allied Efforts to Recover and Restore Gold and Other Assets Stolen or Hidden by Germany during World War II, Preliminary Study* (Washington, DC: Office of the Historian, 1997) and William Z. Slany, US Department of State, *US and Allied Wartime and Postwar Relations and Negotiations with Argentina, Portugal, Spain, Sweden, and Turkey on Looted Gold and German External Assets and US Concerns about the Fate of the Wartime Ustasha Treasury* (Washington, DC: Office of the Historian, 1998). See also Donald P. Steury, "Tracking Nazi 'Gold:' The OSS and Project SAFEHAVEN," *Studies in Intelligence* (Summer 2000, No. 9, Unclassified ed.). (U)

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citizens . . . . and helps in the removal of impediments to greater cooperation in Europe.”<sup>90</sup> (U)

### **CIA’s Ongoing Participation in the Investigations (U)**

The Central Intelligence Agency supported the Nazi war criminal investigations in the 1990s, mostly through routine name traces in the files of the Directorate of Operations and the Office of Security. The Office of General Counsel served as the conduit between the Agency and OSI, coordinating OSI reviews of CIA documents. The relationship between the two agencies proceeded smoothly with only minor disruptions. (U)

For the most part, OGC staff paralegals initiated name traces after receiving OSI requests. When the Agency’s components located documents pertaining to an individual, OGC then provided OSI with a summary of the Agency’s information. If OSI wanted to look at the records, the Department of Justice attorneys would then visit the Agency’s Headquarters to examine a sanitized file of the documents pertaining to the individual’s wartime activities. If the case actually proceeded to the litigation stage, OSI would then again meet with the Office of General Counsel to review the Agency’s entire holdings.

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<sup>90</sup>US Congress, Senate. Committee on Foreign Relations. *The Legacies of the Holocaust* (Washington, DC: Government Printing Office, 2000), pp. 13-49. The US Government’s efforts had great impact. For example, the Vatican declared in February 2002 that it would open its secret archives related to Pope Pius XII as well as documents pertaining to the Church’s relationship with Nazi Germany. See Daniel Williams, “Vatican to Open Nazi-Era Archives,” *Washington Post*, 16 February 2002, p. B9, and Melinda Henneberger, “Vatican to Hold Off Releasing Pope Pius XII War Documents,” *New York Times*, 16 February 2002, p. A8. (U)



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This meeting was held to ensure that neither OSI nor CIA encountered any later difficulties or surprises. Representatives from the two agencies occasionally met to discuss the name trace procedures and improvements for overall operations. These meetings, held in 1989 and 1993, clarified general issues and introduced new personnel.<sup>91</sup> (U)

Between 1980 and 1995, the Central Intelligence Agency had conducted over 1000 name traces for the Office of Special Investigations [

] The Agency did the bulk of these name traces during the first five years of OSI's existence and it slowed after the first rush. During the 1990s, CIA handled an average of 30 name traces for OSI annually. The Agency's records systems provided a bonanza of information about numerous individuals of interest to OSI because they contained documents from the State Department, Immigration and Naturalization Service, the Displaced Persons Commission, the FBI, the Army, and the Air Force, in addition to CIA's own components. The DO's records systems, in particular, have been of value to the OSI investigations, although the system was not designed as a research or investigative tool. The Agency also retained control of an extensive collection of records from the Office of Strategic Services, the Strategic Services Unit, and the Central Intelligence Group that occasionally assisted OSI investigators. (U)

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<sup>91</sup> [ ] telephonic interview by Kevin C. Ruffner, Arlington, VA, 18 October 1996. See also [ ] Jr., Assistant General Counsel to John K. Russell, OSI, "Name Trace Requests," 23 June 1993, OGC 93-52098, enclosing draft 15 June 1993, "Letter of Understanding—OSI Name Trace Requests," in OGC Nazi War Criminal Working Files. These letters were never sent to OSI because the points of interest were discussed in a meeting between CIA and OSI at CIA Headquarters in August 1993. (S)

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The Office of Special Investigations turned to CIA as one of its first avenues for research to determine if allegations of war crimes had any merit. While the Agency's records do not normally provide conclusive evidence that an individual participated in a war crime, the records can offer extensive information about an individual's background or whereabouts. For a successful prosecution, OSI has to demonstrate that an individual provided false information to the US Government about his wartime activities when immigrating to this country or obtaining citizenship. The Agency's records, because they are readily retrievable and incorporate documents from a variety of sources, often contain valuable clues. In fact, OSI often preferred to examine the CIA's records as opposed to using files from the Immigration and Naturalization Service because the Agency's records were better organized and preserved. Lastly, the Agency's files indicate whether the CIA or another Federal agency, including the Army or the FBI, had an operational interest in a particular individual. Over the years, information of this nature had a bearing on a number of cases. (U)

While most of the name traces done by CIA over the years have located "no record," the CIA has occasionally found its old agents now sought by the Office of Special Investigations. The Agency has always informed OSI when it possessed records on individuals who had worked for CIA, and the two agencies coordinated the presentation of this information in court. For the most part, the Agency prefers not to go to court with OSI unless absolutely necessary and then only to protect Agency "sources and methods." The Agency, to date, has never taken a stand in defense of a former agent

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seeking to avoid prosecution for misleading Federal officials regarding wartime activities. (U)

## Ring Around the Records (U)

Kurt Waldheim remained a *persona non grata* in the United States as the 20<sup>th</sup> century came to a close. In the afterglow following the collapse of communism, little did the Central Intelligence Agency realize that it would soon confront a highly publicized and a politically well-connected drive to open the Agency's historical files related to Nazi war criminals. As events proved, Kurt Waldheim was the key that unlocked the classified cabinets at Langley. (U)

The first volley of this new campaign appeared in the form of a letter from Elizabeth Holtzman, comptroller of the City of New York, a former Congresswoman, and a candidate for the US Senate, to DCI Robert Gates in March 1992. Holtzman, who had also written to Pres. George Bush, requested that the CIA release its files on Nazi war criminals. Citing specifically Klaus Barbie, Otto von Bolschwing, Mykola Lebed, and Arthur Rudolph, Holtzman complained that the United States Government had protected Nazi war criminals and, in some cases, arranged their immigration to the United States. "In the process of employing these people and bringing them to safe haven in the United States and elsewhere," Holtzman added, "laws were broken, lies were told, and the President, Congress, other government agencies and the public were deceived. But we

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still don't know the whole story," she exclaimed. "Forty seven years after the end of World War II, it is time for the American people to find out the truth."<sup>92</sup> (U)

Holtzman's letter landed on the desk of J. Kenneth McDonald, the Agency's chief historian, who prepared the response for Adm. William O. Studeman, the Acting DCI, in the summer of 1992. After discussing Holtzman's request with the Office of General Counsel and the Information, Privacy and Classification Review Division to see what records the Agency had on these individuals, McDonald reported that the CIA had previously released material on Barbie and that the Agency's overall collection of Nazi material was "dispersed but not large." McDonald commented, "the time has come for us to attempt to unburden ourselves of all records we hold related to Nazis and war criminals."<sup>93</sup> (U)

On 10 August 1992, DDCI William Studeman told Holtzman that he had directed the CIA's Center for the Study of Intelligence to search for and review records relating to Nazi war criminals. The DDCI also informed her that no records had been found in CIA's Freedom of Information Act (FOIA) files that mentioned either Lebed or Rudolph, although it had released documents through FOIA on Barbie and Bolschwing. The letter unfortunately gave Holtzman the impression that the Agency had no records at all on Mykola Lebed.<sup>94</sup> (U)

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<sup>92</sup>Elizabeth Holtzman to DCI George Bush, 26 March 1992, copy of the letter in CIA History Staff files. (U)

<sup>93</sup>J. Kenneth McDonald to DCI, 20 July 1992, in CIA History Staff files. (U)

<sup>94</sup>W.O. Studeman to Holtzman, 10 August 1992, ER 92-1861/2, in CIA History Staff files. (U)

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Studeman's letter quickly made its way to the *New York Times*. "In a change of policy that could provide new information about American recruitment of Nazi war criminals after World War II, the Central Intelligence Agency says it has begun to systematically search its records with the aim of opening long-secret files to historians' scrutiny," the paper reported.<sup>95</sup> (U)

This optimistic announcement soon became mired in controversy. Holtzman immediately retorted that Lebed had a lengthy relationship with the CIA. "It therefore seems highly unlikely that the agency would have no records on Mr. Lebed," the former congresswoman noted.<sup>96</sup> (U)

John Loftus, the former OSI attorney who had embarked upon an independent career as a Nazi hunter, soon contacted the Agency with his own theories about Lebed and DeLoach on how to find the "missing" files.<sup>97</sup> In his press release, Loftus announced, "I suspect that, in a few weeks, a red-faced Admiral Studeman will tell Liz Holtzman that the CIA has found several filing cabinets full of Lebed's files. Of course," Loftus went on to say, "if Lebed's files do not turn up, then the CIA would have a major scandal. It would mean that someone put a large portion of their intelligence files into a CIA shredder without proper authorization. If Admiral Studeman is right and the old Nazi records are

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<sup>95</sup>Ralph Blumenthal, "CIA is Planning to Unlock Many Long-Secret Nazi Files," *New York Times*, 10 September 1992, p. B8. (U)

<sup>96</sup>Holtzman to Studeman, 27 August 1992, ER 92-1861/3, in CIA History Staff files. (U)

<sup>97</sup> [redacted], Executive Assistant, DDCI, Memorandum for the Record, "Telephone Call from John Loftus re Mykola Lebed," 11 September 1992, (S), in CIA History Staff files. (S)

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gone, then it is a major historical loss, as well as a flagrant violation of the CIA's statutory obligation to the National Archives."<sup>98</sup> (U)

The Agency continued to feel the heat from this incident as a result of Adm. Studeman's August 1992 letter. Both Holtzman's and Loftus's correspondence received further publicity in the *New York Times*, while reporters sought out interviews with Lebed in his Yonkers, New York residence.<sup>99</sup> The aging Ukrainian resistance leader expressed surprise at the Agency's actions, and refused to talk with the media. "I am tired of all this," he declared. "I can't understand why they do this. I was looking for understanding, for help, and the answer is so vulgar. I can't understand this."<sup>100</sup> (U)

After Holtzman's electoral defeat in the fall of 1992, the Agency quietly let the subject drop altogether.<sup>101</sup> But the issue of the Agency's records management procedures did not disappear. The National Archives and Records Administration (NARA) was also drawn into the controversy over Lebed's files because of its legal

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<sup>98</sup>Loftus, press release, 15 September 1992, in CIA History Staff files. (U)

<sup>99</sup>Ralph Blumenthal, "Nazi Hunter Says CIA Has Files on Man Accused of War Crimes," *New York Times*, 17 September 1992, p. B10. (U)

<sup>100</sup>Laurel Babcock, "Yonkers Man, 82, Denies War Crimes," *Yonkers Herald Statesman*, 18 September 1992. By this time, Lebed had been the subject of extensive speculation in the press following the 1985 GAO Report, which noted his case anonymously as "Subject D." In early 1986, both the *Village Voice* and the *New York Times* ran lengthy pieces about Lebed while the Office of Special Investigations questioned him extensively. As late as 1991, OSI continued its investigation about Lebed although it has never filed any charges. The Central Intelligence Agency monitored these activities closely as seen by numerous memos in Lebed's 201 file. (S)

<sup>101</sup>For various correspondence on how to answer Holtzman, see McDonald to DDCI, "Reply to Elizabeth Holtzman's Letters concerning Nazi War Criminal Records," 15 December 1992, CSI 92-0223, (S), enclosing draft letter for DDCI to Holtzman; [redacted], Assistant General Counsel to McDonald, "Letter to Elizabeth Holtzman on Nazi Records," 23 February 1993, OGC 93-50500; and McDonald to DDCI, "Reply to Elizabeth Holtzman's Letters concerning Nazi War Criminal Records," 23 July 1993, CSI 0227/93, (S), enclosing draft letter for DDCI to Holtzman. All correspondence located in CIA History Staff files. (S)

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mandate to protect historically important Federal records. Trudy H. Peterson, the Acting Archivist of the United States, wrote R. James Woolsey, the new DCI, in the summer of 1993. She demanded to know if the Agency still possessed "highly significant Federal reports." In response to her office's first inquiry after the *New York Times* broke the story about the missing Lebed file, the Agency had told the National Archives that "it would be inappropriate for the CIA to discuss particular records or files based upon accusations reported in news articles."<sup>102</sup> Over the course of the next couple of months, the CIA tried to reassure the Archivist that no records marked for permanent retention had been destroyed.<sup>103</sup> (S)

### The Agency Is the Obstacle (U)

In May 1994, *New York Times* editorialist A.M. Rosenthal again took up his pen as he mused about "the Waldheim file." Rosenthal continued to ask about Waldheim and how he had escaped his past for so many years. Rosenthal again drew upon Prof. Herzstein's research to highlight the gaps in the public's knowledge of the Austrian politician, (Waldheim had by this time completed his term as president and retired from

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<sup>102</sup>For background material, see James J. Hastings, Director of Records Appraisal and Disposition Division, NARA to [redacted], CIA Information Management Officer, 19 October 1992; [redacted] to Hastings, 14 April 1993; and Trudy H. Peterson, Acting Archivist, NARA to R. James Woolsey, DCI, 7 June 1993, ER 93-3464, all in CIA History Staff files. (U)

<sup>103</sup>See Frank J. Ruocco, Deputy Director for administration, to DCI, "Letter from NARA Regarding Alleged Destruction of Files on Nazi War Crimes," 23 July 1993, OIT 0502-93, OGC 93-05046, (S), enclosing Woolsey to Peterson, 7 August 1993, ER 93-3464/1, (S), in CIA History Staff files. (S)

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all official duties.)<sup>104</sup> Herzstein maintained that Waldheim “was protected by the US Government, provided information in return for that protection, and profited from the Government’s willingness to obliterate his wartime service.”<sup>105</sup> (U)

Frustrated with the Agency’s refusal to declassify its holdings on Waldheim, Rosenthal urged the US Congress to pass legislation “preventing Government agencies from denying information about World War II war crimes.”<sup>106</sup> Congresswoman Carolyn B. Maloney quickly took up Rosenthal’s and Herzstein’s platform in a 12 July 1994 letter to her colleagues on Capitol Hill to push for a “War Crimes Disclosure Act.” Forwarding a copy of Rosenthal’s editorial, Maloney expressed shock that “the CIA withheld critical information about Kurt Waldheim’s Nazi past from the public.” She sought a cosponsor to close the loopholes in the Freedom of Information Act that allowed the Agency to withhold information about war criminals.<sup>107</sup> (U)

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<sup>104</sup>After his 1988 book, Herzstein continued to research Waldheim’s service in World War II and to speculate on his postwar activities. See Robert E. Herzstein, “The Life of Dr. Kurt Waldheim, 1938-1948: Sources in the National Archives,” in George O. Kent, ed., *Historians and Archivists: Essays in Modern German History and Archival Policy* (Fairfax: George Mason University, 1991), pp. 287-297, and Herzstein, “The Present State of the Waldheim Affair: Second Thoughts and New Direction,” in Bischof and Pelinka, eds., *Austrian Historical Memory and National Identity*, pp. 116-134. (U)

<sup>105</sup>A.M. Rosenthal, “The Waldheim File,” *New York Times*, 24 May 1994, p. A19. (U)

<sup>106</sup>Ibid. Rosenthal’s editorial evoked an immediate reaction in the CIA and a search for information pertaining to the Austrian. See [redacted], Office of the Director, Executive Secretariat, to SA/DDO, “Commentary on Newspaper,” 25 May 1994, (S), and [redacted], Chief, External Inquiries Branch, IMS, to [redacted], Office of the Director, Executive Secretariat, “Your Request dated 25 May 1994,” 26 May 1994, DOR-03886, (S), both in Waldheim, File 201-0896881, DO Records. (S)

<sup>107</sup>Carolyn B. Maloney, letter to colleagues, 12 July 1994, copy of the letter in CIA History Staff files. (U)



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Maloney introduced her bill on 12 August 1994, and it was referred to three committees in the House of Representatives, but she lacked a companion bill in the Senate. The bill, cosponsored by six other congressmen, would amend the Freedom of Information Act and eliminate the Agency's ability to claim any FOIA exemptions for Nazi war criminal information. The bill called for a minimum of exceptions to full disclosure of the identities of war criminals in the United States.<sup>108</sup> (U)

Within a week, A.M. Rosenthal informed the readers of the *New York Times* that Rep. Maloney had introduced a bill, drawing upon Rosenthal's coverage of Herzstein's research on Waldheim. "It is an overdue piece of legislation," Rosenthal wrote, "important to justice and history. The key to the Waldheim file is right there on the table, waiting for Congress to pick it up and use it."<sup>109</sup> (U)

The Congressional legislation quickly ran into a wall of opposition from the CIA. [redacted], a member of the Agency's Office of Congressional Affairs, warned that the War Crimes Disclosure Act would strip the Agency of its ability to protect information under the National Security Act of 1947, and there would be no protection for the identities of CIA officers.<sup>110</sup> Although Maloney's bill failed to move in the House in the

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<sup>108</sup>For further details on the impact of the act and its wording, see [redacted], Office of Congressional Affairs, to Director of Information Management, Information and Privacy Coordinator, Director of the Center for the Study of Intelligence, and Litigation Division, Office of General Counsel, "War Crimes Disclosure Act (H.R. 4955)," 23 August 1994, OCA 94-2161, (no classification listed), copy in CIA History Staff files. (U)

<sup>109</sup>A.M. Rosenthal, "The Waldheim Bill," *New York Times*, 19 August 1994, p. A27. (U)

<sup>110</sup>[redacted] Office of Congressional Affairs, to Director of Information Management, Information and Privacy Coordinator, Director of the Center for the Study of Intelligence, and Litigation Division, Office of General Counsel, "War Crimes Disclosure Act (H.R. 4955)," 23 August 1994, OCA 94-2161, [no classification listed], copy in CIA History Staff files. (U)

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waning hours of the 103<sup>rd</sup> Congress, she reintroduced it when the new Congress convened in March 1995, this time with 17 cosponsors, and it began to make its way through hearings. In the summer of 1996, A.M. Rosenthal took up the charge and proclaimed, "for a full half-century, with determination and skill, and with the help of the law, US intelligence agencies have kept secret the record of how they used Nazis for so many years, what the agencies got from these services—and what they gave as payback."<sup>111</sup> (U)

Once again, Rosenthal advocated that Congress demand the release of the Federal government's holdings on Waldheim, whom he now described as a possible "big power groupie" who worked for all sides during the Cold War. Adding to Maloney's efforts in the House, Daniel P. Moynihan, the powerful New York senator, also took up the drive in the US Senate. In late September 1996, the House voted to approve the Maloney bill, although *ParDCe Magazine*, a widely distributed national insert to most Sunday newspapers, commented in December of that year that "there are thousands of Nazis still being pursued for war crimes they committed more than 50 years ago. The CIA," *ParDCe Magazine* claimed, "is one of the obstacles to finding those alive today. The agency," according to the article, "intervened in October to weaken the War Crimes Disclosure Act, which would have opened US intelligence files on Nazi war criminals to

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<sup>111</sup>A.M. Rosenthal, "Ms. Maloney and Mr. Waldheim," *New York Times*, 25 June 1996, p. A21. (U)

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those engaged in hunting them. Why? National embarrassment. The US helped some Nazis after the war if they were useful in fighting the Communists.”<sup>112</sup> (U)

### Nazi War Crimes Disclosure Act (U)

Congresswoman Maloney's efforts culminated in success when President Bill Clinton signed the Nazi War Crimes Disclosure Act, Public Law 105-246, on 8 October 1998.<sup>113</sup> Earlier that summer, the House ratified the Senate bill calling for the disclosure of records related to Nazi war crimes and criminals. In addition, the Senate language, adopted into law, called for an interagency working group, or IWG, to facilitate the review and release of government records. The new law required all Federal agencies to

locate bodies of records that can reasonably be believed to contain information that: (1) pertains to any individuals who the US Government has grounds to believe ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion, during the period of Nazi rule in Germany (1933-45); or (2) involves assets taken, whether or not under the color of law, during that period from persons persecuted by the Nazi regime or governments associated with it. (U)

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<sup>112</sup> “House Votes to Release Data on Nazis,” *Washington Times*, 25 September 1996, and “CIA is Obstacle in Hunt for Nazis,” *Parade Magazine*, 22 December 1996, p. 7. (U)

<sup>113</sup> Public Law 105-246, “An Act to Amend Section 522 of Title 5, United States Code, and the National Security Act of 1947 to Require Disclosure under the Freedom of Information Act regarding Certain Persons, Disclose Nazi War Criminal Records without Impairing Any Investigation or Prosecution Conducted by the Department of Justice or Certain Intelligence Matters, and for Other Purposes.” Samuel R. Berger, Assistant to the President for National Security Affairs, to Secretary of State et al, “Implementation of the Nazi War Crimes Disclosure Act,” 22 February 1999. Copies of both documents are located in CIA History Staff files. In 2000, Congress amended the Nazi War Crimes Disclosure Act and its implementing directive to DCd records pertaining to the Imperial Japanese Government between 1931 and 1945. (U)

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The Implementation Directive issued by the White House furthermore stated that “agencies should take an expansive view of the act in making this survey and in the subsequent identification of records and declassification review. Special efforts should be mDCE to locate records that may shed light on US government knowledge about, policies toward, and treatment of Nazi war criminals, especially during the Cold War years.”<sup>114</sup> For the first time in the Agency’s history, Congress mandated that the CIA had to review all of its classified holdings on Nazi war crimes and criminals for declassification. (U)

In January 1999, President Clinton appointed the three nongovernmental members of the IWG; Thomas H. Baer, a lawyer and motion picture and television producer; Richard Ben-Veniste, a former assistant US attorney and Watergate prosecutor; and most importantly, Elizabeth Holtzman, who had struggled for 25 years to get the Federal government to open its records on Nazi war criminals.<sup>115</sup> (U)

## **Past is Prologue (U)**

While the Agency has provided extensive assistance to the Office of Special Investigations, the General Accounting Office, and various Congressional offices in their

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<sup>114</sup>Office of Information Management, Employee Bulletin, “Implementation of the Nazi War Crimes Disclosure Act,” 31 March 1999, EB No. 0002-99, in DCI/HS files. (S)

<sup>115</sup>The White House, Office of the Press Secretary, “President Clinton Names Thomas Baer, Elizabeth Holtzman, and Richard Ben-Veniste as Members of the Nazi War Crimes Records Interagency Working Group,” 11 January 1999. Copy located in CIA History Staff file. (U)

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inquiries about Nazi war criminals and collaborators, many feared that the CIA still protected some deep, dark secrets. The Agency had itself to blame for the persistence of these suspicions. With its responses in the Waldheim investigation and its gaffes with Elizabeth Holtzman, the CIA created even more problems. (U)

The pattern of using German intelligence figures and their collaborators had been well established by the time of the CIA's formation in 1947. In fact, the Office of Strategic Services had embarked on this course even during the war. For a variety of reasons, other American intelligence agencies, including the Strategic Services Unit and the Central Intelligence Group, continued to exploit these individuals for information as the Cold War spread over Europe. Headquarters personnel in Washington had a less than favorable impression of using these sources than had their counterparts in the field, who felt pressed to obtain current intelligence. While the CIA's sponsorship of the Gehlen Organization, the nascent German intelligence service, is one of its most controversial actions, the Agency and its predecessors actually took a dim view of Gehlen's effectiveness. Until forced to take on this service from the US Army, the CIA had expressed its distaste for Gehlen's organization and had advocated a radical trimming, if not a complete disbandment of the outfit. CIA's initial reluctance to use the West Germans and the various emigre groups would later prove to have been justified. (U)

The Army's Counter Intelligence Corps, the larger and more powerful American intelligence service in Europe immediately after the war, demonstrated an amateurish approach to intelligence recruitment and operational employment. Two of the most serious Nazi war criminal investigations of the 1980s, the Barbie and the Verbelen cases,

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highlighted the CIC's poor evaluation of its agents and how the Army facilitated their escape from justice. The Central Intelligence Agency, once it achieved a measure of status in Europe, attempted to undo the damage caused by the CIC in the early 1950s, but the Army had already wreaked considerable havoc by that point. (U)

As the Cold War heated up, both the Office of Special Operations and later the Office of Policy Coordination embarked on missions behind the Iron Curtain. OSO's ill-fated missions to drop agents into the Ukraine and Eastern Europe linked the CIA to suspect Eastern Europe groups and individuals tainted by collaboration with the Germans. Until late 1948, the CIA had avoided these groups because of questions about their reliability. The need for intelligence and growing tensions between the East and West, however, overrode caution on the part of the Americans. The establishment of the Office of Policy Coordination in 1948 spurred CIA's movement into covert operations. At the same time, OPC tried to exploit internal fissures within the Soviet Union. This effort also involved growing reliance on anticommunists from Central, Southern, and Eastern Europe—the same regions of the world marked by widespread support of the Nazis. While OPC had a short life as a bureaucratic entity, it deeply influenced the CIA's development and established the Agency's future psychological and paramilitary operations. (U)

By the early 1950s, World War II seemed a long way from the problems faced by the United States in its struggle against world communism. Americans, never known for long memories or a sense of history, concentrated on the new problems at hand. This national amnesia allowed the CIA to not only employ individuals who had supported the

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nation's enemies only a few years earlier but also to allow them to immigrate to the United States. (U)

After the experience of the 1960s and 1970s, a new generation questioned the honesty of the United States Government and forced a serious examination of the presence of Nazi war criminals and collaborators in America. The Agency, reeling from other scandals, soon faced demands from Congress and the media for information about Nazi war criminals. The Agency did not welcome these calls with open arms and released its information only with hesitation. After a series of mishaps within the Immigration and Naturalization Service and concerns that the CIA had sponsored the immigration of Nazis to the United States, Congress passed new legislation to strengthen the laws to prosecute Nazi war criminals and collaborators in 1979. The Agency and the new Office of Special Investigations experienced some rocky cases in the beginning, but by the early 1980s, the two organizations had established a steady working relationship—one that survives to this day. The Agency remains one of the best sources of information for OSI in what is now the longest-running investigation in the Agency's history. There are no signs that public interest in the topic of Nazi war criminals has abated; if anything, it has become a growth industry for archivists, historians, and journalists. (U)

The Agency cannot escape from its past because the public is enthralled by tales of escaped Nazis. The CIA's own mystique lends itself to the image that it directed super secret operations that allowed these individuals to escape from justice. The media and self-proclaimed "Nazi hunters" quickly link the Agency with the latest rumors of one Nazi fugitive or another. The Nazi war criminal issue is likely to outlive its participants,

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the accused war criminals and collaborators as well as their American case officers. The wartime generation is rapidly disappearing, but the controversies live on and take on new dimensions. While the bulk of the Agency's early records have now been declassified and transferred to the National Archives, thorough histories of these agencies and their operations have yet to be written. Likewise, the declassification of CIA's own records under the Nazi War Crimes Disclosure Act offers the best insight as to the extent of the Agency's role and operations during the Cold War. (U)

The Central Intelligence Agency inherited a thorny problem in 1947. This birthmark is an unfortunate blemish that cannot be erased. The only solution for the Agency is to bring these Nazi cases to light and to share as much information with the public as possible. It is a half-answer, but it is the CIA's only available option that best serves the interests of the American people. (U)