

Joanna Lubecka
<https://orcid.org/0000-0002-2965-7925>
Ignatianum University in Cracow
Institute of National Remembrance

The strategy used by the defence in the post-war trials set before the Supreme National Tribunal with particular reference to the trials in Krakow

The text presents analysis of several aspects of the trials set before the Polish Supreme National Tribunal [the SNT; Polish: *Najwyższy Trybunał Narodowy*] in which the highest ranking German criminals were tried. The analysis presented here is not representative of the activities of other courts, especially the special criminal courts before which German defendants were also tried. It is important to emphasise that despite the communists' takeover of power in Poland, the trials conducted by the SNT generally met Western (and also pre-war Polish) standards of justice. Between 1946 and 1948, seven trials took place in which high officials from the occupation period were tried: Arthur Greiser (Reich Governor in the Reichsgau Wartheland), Josef Bühler (Hans Frank's deputy governor in the General Governorate for the Occupied Polish Territories, commonly called the General Government), Albert Forster (gauleiter of the Danzig NSDAP and reichsstatthalter of the Reich District of Danzig-West Prussia), camp commandants Rudolf Höß (the commandant

of the KL Auschwitz Concentration Camp) and Amon Göth (the commandant of the KL Płaszów Concentration Camp), 40 crew members of KL Auschwitz, and the so-called 'Warsaw executioners', Ludwig Fischer (governor of the Warsaw district), Ludwig Leist (starost of Warsaw), Josef Meisinger (head of the SD and the Security Police in Warsaw), and Max Daume (high officer of the German Ordnungspolizei in Warsaw, responsible for the shooting of the Polish civilians in Wawer).

Since the main aim of this article is to present elements of the strategy used by the defence, I will primarily focus on the role of the defence lawyers who did their best to fulfil their professional duty in the difficult situation of these trials. They attempted to present the defendants in a better light than the indictments would imply and thereby reduce the sentence proposed by the prosecution. The choice of the defence lawyers at the SNT and their defence strategy allows us to call these trials 'fair' in line with the judicial principles of Western civilisation. This analysis is not a legal study but an attempt to reconstruct the political determinants, the social atmosphere, and, above all, the lawyers' efforts to ensure that the defence requirements of a 'fair trial' were met. Although the article is mostly based on the court records of all seven trials before the SNT, the line of defence reconstruction is based on the trials that took place in Krakow. These are representative not only in terms of the strategy used by the defence lawyers but also because they refer to defendants of different ranks: officials, camp commanders (who gave the orders to execute but did not themselves kill prisoners), and camp torturers. The discussion of the impact of the defence on the SNT's final sentences is based on analysis of all the trials.

The court records are very extensive and although the reconstruction of the line of defence presented here was mainly based on them, they are only a part of the documentation, which also includes official letters, especially correspondence between the SNT personnel and offices (e.g., the Security Office, the Militia, and the Ministry of Justice), the defendants' prison files, interviews with the lawyers who participated in the trials, and the subject literature.

General determinants of the Supreme National Tribunal activity from the perspective of the defence

From the perspective of the defence lawyers, participating in trials before the SNT was an enormous challenge. After the communists took power in Poland in 1944, the Polish judiciary was soon brought into the orbit of their influence. Despite this, the trials before the SNT were relatively

independent and free from the pressures of the communist authorities, which can be explained by three factors. First, the goal of the communist authorities and Polish society—which was to try the criminals—converged here. For the communists, the possibility that the trials could serve as a tool to legitimise their power in society held an additional advantage. Second, the trials were international and, due to the presence of foreign observers, the procedures recognised in the Western world had to be followed. Third, the communists did not have time to educate legal professionals, so they had to use lawyers educated in the inter-war period who may have had extensive legal experience but were not always submissive to the new authorities¹.

The social atmosphere surrounding the trials was heavily affected by the cruel 5-year occupation policy of the Germans (during which a fifth of all Polish citizens were killed), so there was a desire for revenge in Polish society, which intellectuals (primarily writers, journalists, and clergymen) tried to curb by publicly calling for fair trials². The public found it hard to understand the role of the defence lawyers, who all performed their functions *ex officio*.

The legal basis for the trials before the SNT was primarily the Criminal Code of 1932 (commonly called *Kodeks Makarewicz* [*Makarewicz's Code*]³), the Code of Criminal Procedure of 1928⁴, the August Decree⁵,

- 1 Some defence lawyers fell into disfavour with the new authorities after the trials (e.g., Stanisław Hejnowski), and the prosecutor Mieczysław Siewierski was arrested and charged with the fascisation of life in the interwar period, more on this topic in: E. Romanowska, *“wkrótce już stanę przed innym sądem”*. *Prawnicy II Rzeczypospolitej represjonowani w Polsce w latach 1944–1956*, Warszawa 2020.
- 2 J. Lubecka, *Niemiecki zbrodniarz przed polskim sądem. Krakowskie procesy przed Najwyższym Trybunałem Narodowym*, Kraków 2021, pp. 69–86.
- 3 Rozporządzenie Prezydenta Rzeczypospolitej z dnia 11 lipca 1932 r. Kodeks karny, Dz.U. [“Dziennik Ustaw” = Journal of Laws] 1932 no. 60, item. 571. The colloquial name of the code comes from the name of the eminent Polish jurist Juliusz Makarewicz (1872–1955), a long-standing professor of criminal law at the University of Lviv, main author of the 1932 codification of Polish criminal law.
- 4 Rozporządzenie Prezydenta Rzeczypospolitej z dn. 19 marca 1928 r. Kodeks postępowania karnego, Dz.U. 1928 No. 33, item 313.
- 5 Dekret Polskiego Komitetu Wyzwolenia Narodowego z dnia 31 sierpnia 1944 r. o wymiarze kary dla faszystowsko-hitlerowskich zbrodniarzy winnych zabójstw

and the Decree on the Establishment of the SNT⁶. Every defendant tried by the SNT had to have a defence lawyer, either of their choosing or ex officio. According to Article 86 of the 1928 Code of Criminal Procedure, an ex officio defence lawyer could be “only: (a.) a person registered with the Polish bar association, (b.) a professor or an assistant professor of law at a state Polish university or a university recognised by Poland”⁷. The Decree on the Establishment of the SNT provided for both the possibility of a defendant choosing a defence lawyer and having one assigned to him ex officio (pursuant to Article 86 of the Code of Criminal Procedure). What was particularly surprising was the additional entitlement by the president of the SNT to allow as the chosen defence lawyer a person who was not only not registered with the bar association but one who had no legal training: “A defence lawyer of choice may be any Polish citizen admitted in this capacity by the President of the Supreme National Tribunal” (Article 9, paragraph 2 of the Decree). This never occurred in practice, however, and in the trials of the German defendants before the SNT, all the defenders were lawyers working ex officio.

Defending before the SNT at these trials was an enormous challenge, not only from a legal point of view but also from a human point of view. The defence lawyers were criticised not only by the public but also by their own community. After years of brutal occupation, the public expected trials that would satisfy their need for justice, which was often understood in terms of revenge. In the trials I have analysed, the defence lawyers tried not to succumb to this pressure, even though defending these trials did not bring them fame, money or public recognition. On the contrary, these must have been extremely difficult personal decisions for them. They often expressed their fears and doubts during the trials. The defence lawyer Stefan Minasowicz, who defended the members of the KL Auschwitz crew in the trial, emphasised the ‘unpopularity’ of the task entrusted to them. He said: “the mission that has been assigned to us demands that we detach ourselves from what binds us by sentiment to society, and, as a result,

i znęcania się nad ludnością cywilną i jeńcami oraz dla zdrajców Narodu Polskiego, Dz.U. 1944 No. 4, item 16.

- 6 Dekret z dnia 22 stycznia 1946 r. o Najwyższym Trybunale Narodowym, Dz.U. 1946 No. 5, item 45 with its subsequent amendments: amendment of 17 October 1946 on amending the decree of 22 January (Dz.U. 1946 No. 59, item 325).
- 7 Rozporządzenie Prezydenta Rzeczypospolitej z dnia 19 marca 1928 r. Kodeks postępowania karnego, Dz.U. 1928 No. 33, item 313.

we are required to become as if superhuman”⁸. These dilemmas were expressed even more emphatically by the defence lawyer Stanisław Rymar: “I realise that the defence lawyer in this KL Auschwitz trial has against him not only himself but also all of society, and if it were not for my faith in the power and ability to forgive—this most beautiful manifestation of our faith—I do not know if I would have the courage to go against my society”⁹. Bertold Rappaport, who first acted as a defence lawyer in the trial of the KL Auschwitz crew and later in the trial of Josef Bühler, declared: “we will fulfil this duty [of defence—J. L.] without fail, with the dignity that should characterise every Pole. We shall fulfil it with dignity and in accordance with our conscience, and with the dignity of the state to which we have the honour to belong. It is our duty to use everything that speaks in favour of the defendants. In accordance with the binding law, in accordance with our knowledge, in accordance with professional ethics and to the best of our ability, to the best of our knowledge, and to the best of our modest capabilities, we shall do so without fail, even if we expose ourselves to criticism”¹⁰.

The court records seem to reveal no particular criteria according to which the defence lawyers were selected. Bogdan Rentflejsz, who worked as a court recorder in the trial of the ‘executioners of Warsaw’ and in the trial of Höß, described the defence lawyers in these trials in the following way: “they were distinguished by their outstanding knowledge of criminal law, criminal procedure, and international law. They also demonstrated a good knowledge of the German language, both spoken and written. As the only living participant in these trials, I can declare that these public defence lawyers fulfilled their duties with the utmost diligence”¹¹.

8 Archive of the Institute of National Remembrance [*Archiwum Instytutu Pamięci Narodowej*, AIPN] GK 196/161, Volume I of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Stanisław Minasowicz, first day of the trial, f. 53.

9 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Stanisław Rymar, nineteenth day of the trial, f. 82.

10 AIPN GK 196/244, The trial against Josef Bühler, Speech by the defence lawyer Bertold Rappaport, twelfth day of the trial, f. 70.

11 The statement of the defence lawyer Bogdan Rentflejsz from his letter to Przemysław Pluta dated 8.01.2007, made available to the author.

A total of 22 public defence lawyers defended in the trials in question, and many of them had academic degrees and extensive experience. The only female lawyer among them was Szczęсна Wolska-Walasowa, who defended four female supervisors in the trial of the KL Auschwitz crew¹².

The trial documentation contains a number of letters whose authors requested being exempted from the duty of acting as defence lawyers. Such requests were submitted, among others, by Stanisław Hejmowski, who, in his letter, justified his request to the SNT in the following way: “No lawyer from Wielkopolska could be Greiser’s defence lawyer [...]. As a result of the orders of the German authorities in occupied Poland, I myself was expelled from Poznań and sent to the General Government in December 1939, whereby I was deprived of the achievements of ten years of my professional work. During the war, the Germans killed my two brothers. It is indeed unreasonable to expect me to now be Arthur Greiser’s defence lawyer”¹³. Hejmowski’s request was rejected. The same happened with Tadeusz Jakubowski and Bruno Pokorny, who were the defence lawyers for Amon Göth. Both began their defence speeches during his trial with a request to be dismissed from this duty: “on behalf of myself and lawyer Dr. Jakubowski [...] allow me to reiterate my request that we be released from the defence [...]. Since we are members of the community that suffered so much during the German occupation, we believe that fulfilling such a heavy and responsible duty as defending the defendants forces us, in a way, to negate our own views, convictions, and feelings”¹⁴. In the trial of the KL Auschwitz officers, several lawyers, including those of Jewish origin, e.g., Bertold Rappaport and Alfred Liebeskind, also asked to be relieved from their defence duties, with their request motivated primarily by their dramatic wartime experiences. Liebeskind wrote to Judge Alfred Eimer (the presiding judge): “Since this defence presents me with a great many difficulties, particularly of a moral nature, I kindly request that I be relieved of my duties as a public defender in the above case. I take the liberty of mentioning that during the war the Germans killed

12 These were: Therese Rosi Brandl, Alice Orlowski, Luise Helene Elisabeth Danz, and Hildegard Marta Luise Lächert.

13 J. Gumowski, T. Kułakowski, *Zbrodniarze hitlerowscy przed Najwyższym Trybunałem Narodowym*, Warszawa 1967, pp. 4–5.

14 Speech by the defence lawyer B. Pokorny in the trial against A. Göth, *Proces ludobójcy Amona Leopolda Goetha przed Najwyższym Trybunałem Narodowym*, Warszawa–Łódź–Kraków 1947, p. 18.

my closest family: my mother and my two brothers. I therefore ask that this request be granted”¹⁵. The very next day, the SNT Judge Dr. Alfred Eimer decided to relieve Liebeskind of his duty to defend, and proposed a new candidate, the defence lawyer Dr. Henryk Wallisch¹⁶, who, however, also asked to be relieved of duty: “during the German occupation, in the summer of 1943, my brother Kazimierz Wallisch was murdered by the Germans, and in particular by SS units, amidst tragic circumstances. For this reason, in addition to the feelings I have for the Germans for reasons that concern our entire Nation, the fact of the bestial murder of my brother does not allow me to act as a defender of any member of the Germanic community [...]. For these reasons, I have the honour to ask to be relieved of my duty as a defence lawyer—against which my whole nature protests”¹⁷. The defendants assigned to Wallisch were eventually defended by Bertold Rappaport, who also lost several family members during the war¹⁸. Other requests were motivated by ill health (these were usually granted) or academic duties¹⁹. The often dramatic letters and requests reveal how morally difficult and psychologically demanding the decisions the defence lawyers had to make were. They were no doubt aware that the task they had to undertake was in most cases doomed to failure and that most defendants would be found guilty. The defence lawyers thus tried to present mitigating circumstances in order to obtain reductions in sentences.

15 AIPN GK 196/8, Correspondence on the trial in Auschwitz against the crew members of KL Auschwitz, the defendant Liebehenschel, and others; Letter from Adolf Liebeskind to Judge Alfred Eimer dated 21.10.1947, f. 91.

16 AIPN GK 196/8, Correspondence on the trial in Auschwitz against the crew members of KL Auschwitz, the defendant Liebehenschel, and others; Letter from Alfred Eimer to the president of the SNT dated 22.10.1947, f. 90.

17 AIPN GK 196/159, Files in the criminal case of the former members of the SS officials of KL Auschwitz-Birkenau, Letter from Henryk Wallisch to the SNT dated 06.10.1947, f. 93.

18 AIPN GK 196/159, Files in the criminal case of the former members of the SS officials of KL Auschwitz-Birkenau, Letter from Alfred Eimer to the Central Board of the Montelupich Prison on the change of a defence lawyer, f. 102.

19 AIPN GK 196/246, The trial against Josef Bühler, Letter from Alfred Eimer to Stefan Kosiński dated 29.04.1948, f. 30; Letter from Alfred Eimer to Adam Vetulani dated 29.04.1948, f. 31.

Extraordinary mitigation of punishment

The aim of the defence in a criminal trial is to take “procedural steps aimed at refuting the charge or mitigating criminal liability”²⁰. This task may consist in “highlighting all circumstances in favour of the defendant concerning both the event in question and the defendant and his past which may influence the assessment of the defendant’s guilt and the potential sentence”²¹. A defence lawyer should “appropriately assess and highlight all relevant facts and emphasise everything that can speak in favour of the defendant” so that “the defendant does not suffer punishment beyond the measure of his misconduct”²². Mitigating circumstances are presented after the prosecution’s case has already been proven and the legal qualification of the act is correct²³. The grounds for mitigating circumstances do not change the qualification of the act, but they may result in an extraordinary mitigation of the sentence, i.e., passing a sentence that is below the lower limit of the statutory regulations or a lighter type of punishment. Mitigating circumstances do not have to be directly related to the committed act.

The Polish Criminal Code of 1932 listed several situations in which there was the possibility of applying for mitigation²⁴. We should add, however, that, according to the provisions of the Code, “extraordinary mitigation of punishment is not a prerogative of the judge which can be applied in every case without exception, but the Code clearly states in advance in which cases the judge can apply this extraordinary mitigation of punishment”²⁵.

20 J. Matan, *Zasada prawa do obrony w polskim procesie karnym oraz formy jej realizacji*, “Roczniki Administracji i Prawa” 9 (2009), p. 92.

21 R. Regliński, *Okoliczności łagodzące w świetle orzecznictwa Sądu Najwyższego okresu powojennego*, “Palestra” 9 (1965) no. 10, p. 56.

22 S. Śliwiński, *Proces karny—zasady ogólne*, Warszawa 1947, pp. 367 and 400.

23 R. Regliński, *Okoliczności łagodzące w świetle orzecznictwa Sądu Najwyższego okresu powojennego*, “Palestra” 9 (1965) no. 10, p. 56.

24 The circumstances that did not apply to the defendants before the SNT, e.g., juvenility and necessary defence, have not been analysed in the article.

25 Polski kodeks karny z 11.VII.1932 r. wraz z prawem o wykroczeniach, przepisami wprowadzającymi i utrzymanymi w mocy przepisami kodeksu karnego austriackiego, niemieckiego, rosyjskiego i skorowidzem. Komentarzem zaopatrzyli K. Sobolewski i Dr. A. Laniewski, Lwów 1932; commentary to Article 59.

A total of 49 defendants appeared before the SNT. All but one of them (Hans Münch) were found guilty, and a total of 29 death sentences and 19 prison sentences ranging from 3 years to life imprisonment were passed.

The defence lawyers' arguments and mitigating circumstances

In this article, the defence lawyers' efforts to present the defendants in a better light and thus mitigate the punishment are not assigned to any legal categories, as they themselves did not refer to specific legal provisions in their defence speeches (although in some cases the links with specific articles of the Criminal Code seem obvious). The defence lawyers' argumentation can be divided into two categories: one was intended to show the inability of the defendants to make independent, informed decisions and the other was intended to show them in a better, more 'human' light. Under the first category, the defence lawyers argued that the defendants were unable to properly assess their actions because they had lost their sense of the proper hierarchy of values or they had obeyed an order. Under the second category, the defence lawyers referred to specific positive behaviours and attitudes of the defendants, not just those pertaining to their time at KL Auschwitz. In the case of some defendants, the testimonies of former Polish and Jewish prisoners in KL Auschwitz was an additional argument in their favour.

The arguments from these two categories complemented one another, but, of course, they did not apply to all the defendants. In his summing up speech, one of the defence lawyers stated: "unfortunately, the results of the trial proceedings have not given me any more trump cards, nor a weapon capable of refuting the weight of the charges of the prosecution"²⁶.

The loss of the proper hierarchy of values

The arguments about the defendants' inability to morally evaluate their actions appeared in almost all trials set before the SNT, although they were given far more weight by the defence lawyers in the trials of the SS members (i.e., in the trials of Rudolf Höß, Amon Göth, and the KL Auschwitz crew) and much less in the trials of the crew (i.e., the trials of Arthur Greiser, Josef Bühler, and Ludwig Fischer). It seems that

26 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Stanisław Minasowicz, nineteenth day of the trial, f. 73.

the defence lawyers tried to take advantage of Article 18 § 1 of the Penal Code, which allowed extraordinary mitigation of punishment “if at the time of committing the offence the defendant’s ability to recognise the act or to direct his behaviour was considerably impaired”²⁷. However, the commentary to this article adds the reservation that “the condition for the application of this article is not every, even slight, impairment of the ability to recognise the act or to direct the behaviour, but it must be present with considerable intensity”²⁸. Article 20 § 2 also expressly stated that “the court may take into account the justified lack of awareness of the unlawfulness of the act and treat it as grounds for extraordinary mitigation of punishment”. In the commentary to this article, the defence lawyers Laniewski and Sobolewski clarified that this refers to “the actual justified lack of awareness of the unlawfulness of the act”²⁹.

In this context, the defence lawyers portrayed the defendants as members of a fanatic society that built the love for its own nation on the hatred of others³⁰. This ‘socialisation’ of the defendants in an environment of “corruption of the ethical and legal sense and the ongoing undermining of the value of moral norms”, could not have left them unaffected³¹. Thus, the individual guilt of the defendants is the result of the collective guilt of German society. The defence lawyer Stanisław Druszkowski was consistent in portraying them as victims of the “SS sect” and persons affected by “moral degeneration”. In his opinion, an additional mitigating factor in the evaluation of the defendants was the fact that the crimes were committed in war time, which by its very nature is a denial of the human ethical code.

The defence lawyer Tadeusz Ostaszewski called the SS formation “a school for murderers” and the commandant of KL Auschwitz “a product

27 Rozporządzenie Prezydenta Rzeczypospolitej z dnia 11 lipca 1932 r. Kodeks karny, Dz.U. 1932 No. 60, item 571.

28 Commentary to Article 18; Polski kodeks karny z 11.VII.1932 r. wraz z prawem...

29 Commentary to Article 20 § 2.

30 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Stanisław Druszkowski, nineteenth day of the trial, f. 48.

31 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Stanisław Druszkowski, nineteenth day of the trial, f. 48.

of this school”³². The defence lawyer Franciszek Umbreit drew attention to another important psychological aspect. He argued that even if Rudolf Höß had doubts about his actions, they were dispelled by the German civilian and military authorities, “scientific and medical commissions that came from Berlin”, and “successive Himmler’s inspections” that set him as a model³³. Similar arguments concerning the SS formation were used by the defence lawyer Mieczysław Kossek, who defended the crew members of KL Auschwitz³⁴. In his opinion, organisations such as the SS and the NSDAP were criminal organisations, and the German people, who were trained to be obedient and to follow orders, succumbed to this propaganda over time: “over time, false ideology and hypocritical propaganda made every German a susceptible and submissive individual in the service of National Socialism”³⁵. The defence lawyer Stanisław Minasowicz observed that the training for the SS members presented the concentration camps as places of confinement for dangerous political enemies of the Reich and for “antisocial elements”. “Hatred, contempt, disgust, instinctive repugnance for the miserable inmates covered in ulcers, in filthy rags, eaten by lice, carriers of all possible plagues, covered in blood, physically and morally broken [...] made the SS members, who were equipped with the divine power of life and death, see nothing human in these skeletons, nothing that could dissuade them from beating, torturing, and tormenting them and putting them to cruel deaths”³⁶. The defendants believed that they dealt with enemies of the

32 AIPN GK 196/112, Files in the criminal case of former SS officials of KL Auschwitz-Birkenau, Speech by the defence lawyer Tadeusz Ostaszewski in the trial against Rudolf Höß, seventeenth day of the trial, f. 94.

33 AIPN GK 196/112, Files in the criminal case of former SS officials of KL Auschwitz-Birkenau, Speech by the defence lawyer Franciszek Umbreit in the trial against Rudolf Höß, seventeenth day of the trial, f. 107.

34 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Mieczysław Kossek, nineteenth day of the trial, f. 37.

35 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Mieczysław Kossek, nineteenth day of the trial, f. 37.

36 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Stanisław Minasowicz, nineteenth day of the trial, f. 65.

Reich, and the dehumanisation of the prisoner was conducive to their cruel treatment.

The defence lawyers, especially those who defended the KL Auschwitz crew, pointed out that many of the defendants were simple, uneducated people, who had often lived in poverty before the war. Nazi propaganda gave them hope for a better life, and they believed it. Indeed, in the first period after Hitler took over, their lives improved considerably. They were given jobs, some were given the chance to attend education courses, and eventually they received assignments in concentration camps, often with the promise of better wages. The defence lawyer Kruh particularly emphasised the economic conditions and argued that the NSDAP was a workers' party membership of which made it easier to find a job³⁷. The defence lawyer Ostrowski, who defended the crew, also noted that they joined the party "for bread and a job", while the defence lawyer Antoni Czerny emphasised that his defendants were "really very unintelligent, they were simple people, they were just what the regime needed, as they could be trusted to inertly and blindly follow orders"³⁸.

The defence lawyers observed that most of the defendants were low-level officials with not very high levels of intelligence (this argument applied particularly to the crew members at KL Auschwitz), and thus were more susceptible to Nazi propaganda³⁹. The defence lawyer Minasowicz summarised this aspect with the following words: "they were poor when Hitler came to power. They were lured in by criminal propaganda that promised them prosperity and satiety"⁴⁰. He described one of his defendants, Hans Aumaier, as "an unemployed welder with a mediocre

37 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Czesław Kruh, twentieth day of the trial, f. 133.

38 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Antoni Czerny, twentieth day of the trial, f. 122.

39 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Kazimierz Ostrowski, twentieth day of the trial, f. 167.

40 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Stanisław Minasowicz, twentieth day of the trial, f. 64.

education”, who twice tried to discharge himself from service in the camp to go and fight on the frontline but was both times refused⁴¹.

In defending Maria Mandl (in charge of KL Auschwitz-Birkenau women’s camp), the defence lawyer Rymar emphasised the psychological aspect of social advancement and the sense of real power it gave: “a country girl, the daughter of a shoemaker, who for a long time had been a servant and a maid; her uncle, a police superintendent, landed her the job; she had gone through Hitler’s entire school programme, beginning with Ravensbrück camp [...]; she became a slave of the system, a psychopath, and a sick, seriously ill person”⁴². A similar line of defence was also adopted by the lawyer Wolska-Walasowa, who defended the other four women of the KL Auschwitz crew. Only the defendant Teresa Brandl belonged to the NSDAP; the other three had found their jobs in the camp through an employment agency⁴³. None of them belonged to the SS as it was a purely male organisation. As the defence lawyer emphasised, the SS was their employer, and “they were merely pawns in the German camp hierarchy and had no German subordinates themselves”⁴⁴.

The defence lawyers’ emphasis on economic factors such as the prospect of good and secure jobs and the social factors, i.e., their low social status, lack of education, and the benefits linked to social advancement, was aimed to highlight the defendants’ ‘seduction’ by the system and thus their loss of ability to morally evaluate their actions.

The impact of political and social determinants on the defendants may have been an important factor in explaining their behaviour, but it was not essential in mitigating their punishment, especially in the case of the defendants charged with the most serious crimes. It is worth

41 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Stanisław Minasowicz, twentieth day of the trial, f. 66.

42 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Stanisław Rymar, nineteenth day of the trial, f. 3.

43 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Szczęsa Wolska-Walasowa, twentieth day of the trial, f. 143.

44 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Szczęsa Wolska-Walasowa, twentieth day of the trial, f. 144.

mentioning here that the development of psychological and psychiatric studies dedicated to the role of the environment in human behaviour did not take place until the 1960s and 1970s. The famous experiments conducted by Milgram and Zimbardo made it possible to explain human behaviour influenced by a group, an authority figure, or the role performed by an individual person⁴⁵. Although the Polish defence lawyers did not know the results of these studies, they intuitively saw the correlations between the specific ‘socialisation’ implemented under the National Socialist regime and the behaviour of the individual.

Acting on orders

In the trials of the German criminals, the argument that they were acting on orders was linked to two other aspects. First, it can be assumed that everything officials did in totalitarian Germany would have been following orders, since—according to the Führerprinzip principle—Hitler’s will was the binding law in the Third Reich⁴⁶. “The leader principle” stated that the highest and fullest power in the state was exercised by the individual at its head; the exercise of this power is arbitrary and is controlled by no one. All citizens without exception are subordinated to this supreme power and must obey the orders and commands of the leader with absolute obedience. From 1934, German soldiers swore absolute allegiance to Adolf Hitler to the point of sacrificing their lives for him⁴⁷. However, from the perspective of international law, this oath was not binding, as it included a commitment to unconditionally commit any crime ordered by Hitler. From a legal perspective no one can be effectively obliged to commit a crime⁴⁸. However, the average soldier or officer would not know this, and given the enthusiastic support of the German people for Hitler, most commanders would have been in no doubt as to the validity of the Führer’s orders or those given by their immediate superiors.

45 More on the topic in: J. Lubecka, *Zrozumieć nazistę. Wątki racjonalizacji i zrozumienia zachowania zbrodniarzy nazistowskich w powojennych procesach i badaniach psychologicznych*, in: *Wina i kara. Społeczeństwa wobec rozliczeń zbrodni popełnionych przez reżimy totalitarne w latach 1939–1956*, ed. P. Pleskot, Warszawa 2015, pp. 127–148.

46 More on the topic in: N. Frei, *Der Führerstaat. Nationalsozialistische Herrschaft 1933–1945*, München 2000.

47 M. Messerschmidt, *Die Wehrmachtjustiz 1933–1945*, Paderborn 2005, p. 60.

48 O. Gritschneder, *Von Anfang an nichtig. Die Todesurteile der nationalsozialistischen Kriegesgerichte*, “Deutsche Richterzeitung” 80 (2002) no. 1.

Second, both German state officials and soldiers acted in accordance with the law of their state. This was what the defendants believed to be the case. During his trial in Munich, Otto Bradfisch, the head of the Gestapo in Łódź and commander of Einsatzkommando 8 within Einsatzgruppe B, stated: “It is ridiculous to be held judicially responsible for obeying the orders of the legitimate state authority”⁴⁹. Similar arguments were put forward by the defence lawyers of military commanders in the Nuremberg trial (including Alfred Jodl, Wilhelm Keitel, and Erich Raeder). The defence lawyer at Nuremberg, Hermann Jahrreiß, observed “Hitler’s orders were already law before the Second World War [...]. The Führer’s orders were binding, legally binding”⁵⁰. The defence lawyers, both European and American, were aware that a total abandonment of the principle of mutual respect for the sovereignty of states could be a dangerous precedent and could also provide a legal basis for future interferences in their internal legal systems. The International Military Tribunal at Nuremberg eventually recognised the primacy of the prohibition on planning and waging aggressive war over the act of state doctrine⁵¹. Moreover, some of the lawyers involved in the work of the United Nations War Crimes Commission (UN-WCC) believed that, in the words of Hersch Lauterpacht (a British lawyer of Polish-Jewish origin): “[...] the international community has for centuries demanded the recognition of the right of humanitarian intervention on behalf of the rights of man; rights which are trampled upon by the state in a manner which shocks the conscience of mankind”⁵². Regarding the crimes perpetrated by Germans, he was convinced that “the fate of the defendants [...] should serve as irrefutable proof that the scope of exclusively domestic jurisdiction ends where crimes against humanity begin”⁵³.

49 As quoted in: H. Langerbein, *Szwadrony śmierci Hitlera. Einsatzgruppen i logika masowej zbrodni*, Zakrzewo 2017, p. 123.

50 AIPN GK 150/181, *Plädoyer vor dem Internationalen Militärgerichtshof zu Nürnberg im Prozesse gegen Herman Göring und andere von Dr Hermann Jahreiss Professor der Rechte*, f. 55.

51 H. T. King Jr, *Nuremberg and Sovereignty*, “Case Western Reserve Journal of International Law” 28 (1996) issue 1, pp. 135–140.

52 As quoted in: A. Bryl, *Zbrodnie przeciwko ludzkości w myśli prawnej Herscha Lauterpachta*, “Głos Prawa. Przegląd Prawniczy Allerhanda” 2 (2019) no. 1 (3), item 4, p. 56.

53 This view was voiced in the closing speech of the British prosecutor at Nuremberg, Hartley Shawcross, for whom Lauterpacht had prepared speeches; as quoted in: A. Bryl, *Zbrodnie przeciwko ludzkości*, pp. 56–57.

Commenting on Western lawyers' opinions regarding the act of state doctrine, the Polish prosecutor Mieczysław Siewierski wrote: "the source of their resistance was the view—legitimate under other conditions but not on the ruins of fascism—that an act committed as an act of state power in the performance of the legal duties in force at the time could not be considered unlawful"⁵⁴.

Three aspects of the defence of acting on orders were considered in the trials. First, whether the person following an order was aware of the criminal nature of this order or of the consequences of following it; second, whether the person had a real possibility of refusing to follow an order, i.e., what sanctions there were for doing so, and third, whether a commander had real authority over the units subordinated to him and—if he had no such authority, he could be exempted from criminal liability⁵⁵.

The average follower of an order in the Third Reich was generally not in a position to judge whether the order he was given was in accordance with international law or not, and therefore, whether he could refuse to follow it. Undoubtedly, he would have believed that all orders were in accordance with German law and, as such, they were legal. These aspects may have constituted possible mitigating circumstances, but they did not exempt anyone from responsibility in accordance with Article 8 of the Charter of International Military Tribunal: "The fact that the Defendant acted pursuant to the order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires"⁵⁶.

54 M. Siewierski, *Wpływ instytucji procesu norymberskiego*, in: *Norymberga—nadal otwarty rozdział historii. W XXX rocznicę wyroku Międzynarodowego Trybunału Wojskowego*, Warszawa 1977, pp. 140–145.

55 This includes, among others, the case of General W. Von Leeb, who was eventually exonerated from criminal liability. More on this topic in: M. Królikowski, *Odpowiedzialność karna jednostki za sprawstwo zbrodni międzynarodowej*, Warszawa 2011, p. 229; more on the consequences of a failure to obey an order in: K. Hinrichsen, *Befehlsnotstand*, in: *NS-Prozesse. Nach 25 Jahren Strafverfolgung. Möglichkeiten—Grenzen—Ergebnisse*, Hrsg. A. Rückerl, Karlsruhe 1972, pp. 131–161; J. Lubecka, *Konieczność wykonania rozkazu jako instrument obrony w procesach niemieckich zbrodniarzy przed Najwyższym Trybunałem Narodowym*, in: *Pola Wolności*, ed. A. Bartuś, Oświęcim—Poznań 2020, pp. 217–236.

56 Karta Międzynarodowego Trybunału Wojskowego, Dz.U. 1947 No. 63, item 367.

This provision was also introduced into Article 5 of the August Decree⁵⁷. The defence lawyers tried to convince the judges that some of the defendants, being aware of the criminal nature of the orders they were given (in a legal and/or moral sense) tried to resign from their positions (Josef Bühler), even though they were convinced that this would not contribute to any improvement of the situation for Poles or Jews (Rudolf Höß, Josef Bühler). Höß explained: “such a refusal would not have affected the course of the entire action in any way because my place would have been taken by someone else and the extermination would have been carried out anyway, according to a meticulously prepared plan”⁵⁸. The defence lawyer Ostaszewski argued that “Höß had moral principles implanted in him, which would prove a problem for him later on at KL Auschwitz”⁵⁹. Josef Bühler and his defence lawyers reminded the judges of his unsuccessful attempts to resign from his position. First, they emphasised that this was evidence of the defendants’ disapproval of the government’s actions and, second, they argued that Bühler’s resignation from his post would “entail not an improvement but a deterioration of the situation of the Polish population”⁶⁰. When the defence lawyer Rappaport explained the

57 Obwieszczenie Ministra Sprawiedliwości z dnia 11 grudnia 1946 r. w sprawie ogłoszenia jednolitego tekstu dekretu z dnia 31 sierpnia 1944 r. o wymiarze kary dla faszystowsko-hitlerowskich zbrodniarzy winnych zabójstw i znęcania się nad ludnością cywilną i jeńcami oraz dla zdrajców Narodu Polskiego, Dz.U. 1946 No. 69, item 377. Similar provisions were included in the Military Criminal Code of 1932 in Article 9: “§ 1. A soldier who commits an act which is in execution of an order in official matters shall not be punished. § 2. § 1 shall not apply if: a) the offence resulted from the transgression of an order, or b) the defendant knew that the order concerned an act which was a crime or an offence. In these cases, the court may apply extraordinary mitigation of punishment” (Rozporządzenie Prezydenta Rzeczypospolitej z dnia 21 października 1932 r., Kodeks karny wojskowy, <https://sip.lex.pl/akty-prawne/dzu-dziennik-ustaw/kodeks-karny-wojskowy-16852887> (24.09.2023)).

58 S. Batawia, *Rudolf Höss. Komendant obozu koncentracyjnego w Oświęcimiu*, “Biuletyn Głównej Komisji Badania Zbrodni Hitlerowskich w Polsce” 7 (1951), p. 50.

59 AIPN GK 196/112, Files in the criminal case of former SS officials of KL Auschwitz-Birkenau, Speech by the defence lawyer Tadeusz Ostaszewski in the trial against Rudolf Höß, seventeenth day of the trial, f. 90.

60 AIPN GK 196/244, The trial of Josef Bühler, Speech by Josefa Bühlera during the trial, twelfth day of the trial, f. 131–132; AIPN GK 196/244, The trial of Josef Bühler, Speech by the defence lawyer Bertold Rappaport, f. 90.

reasons why Bühler did not abandon his position, he said that “this requires a certain dose of heroism, which is a very rare human virtue, and for this reason one cannot blame a man of weak character, which the defendant was”⁶¹. In his defence of Göth, the defence lawyer Jakubowski tried to convince the judges that many of the actions of the commandant of the KL Płaszów Concentration Camp were dictated by fear: “the defendant might have been afraid of his superiors and might have been afraid that if he did not perform a terrible task he had been ordered to do, he would be held responsible for it. That is what the defendant might have thought”⁶². Jakubowski highlighted the realities of refusing to obey an order to emphasise an important aspect of mitigating circumstances for the defendant⁶³.

In several cases, the defence lawyers tried to prove that the defendants were not volunteers in the SS or in the camp but had been forcibly conscripted there, which might also constitute a mitigating circumstance⁶⁴.

In the case of Josef Bühler, the defence lawyers tried to show that, despite his high position, he could not in fact give orders, which, in their opinion, was documented in the minutes of meetings of the authorities of the General Government (and other bodies) and in Hans Frank’s diaries, to which all parties at the trial, including the defendant, had access⁶⁵.

61 AIPN GK 196/244, The trial of Josef Bühler, Speech by the defence lawyer Bertold Rappaport, f. 91–92.

62 Speech by the defence lawyer Tadeusz Jakubowski in the trial of A. Göth, *Proces ludobójcy Amona Leopolda Goetha przed Najwyższym Trybunałem Narodowym*, Warszawa–Łódź–Kraków 1947, p. 451.

63 It is worth mentioning here that the expert opinion of Dr Hans-Günther Seraphim was commissioned in 1958 by the State Court in Ulm in the trial of the members of the “Einsatzkommando Tilsit”. Seraphim unequivocally stated that in his 12 years of research he had not once come across the case of an SS member who had refused to obey order who was executed. *Prozess-Gutachten zum “Befehlsnotstand” erstattet von Dr. Hans-Günther Seraphim*, Staatsarchiv Ludwigsburg EL 322 II Bü 18, f. 75–88.

64 This was the case of Dr. Hans Münch, Karl Jeschke, and Hans Hoffmann, among others. In the case of Professor Johann Paul Kremer, his service at Auschwitz was considered a form of punishment.

65 AIPN GK 196/244, The trial of Josef Bühler, Speech by defence lawyer Bertold Rappaport, twelfth day of the trial, f. 92.

As a general rule, the SNT judges denied the admittance of defence arguments concerning acting on orders, which was reflected in their summing up judgements. In the judge's summing up verdict in Fischer's trial (i.e., the trial of one of 'Warsaw executioners'), the court explicitly stated: "The question of whether the order of the superiors was legal or illegal is, under the circumstances, completely irrelevant"⁶⁶, since, as the judges emphasised, neither international law nor Polish law abolishes responsibility in the event of following an order.

**Positive behaviours of defendants—
the testimonies of the Polish witnesses and former camp prisoners**

The Polish witnesses, especially the former camp prisoners (and those of other nationalities) testified primarily as prosecution witnesses, but in the case of several defendants, their testimonies were also used by the defence. Of course, this was only true in very few cases, but it seems that the defence testimonies of former camp prisoners must have made a great impression during the trials, even if they did not always influence the verdict. The most spectacular case was that of Dr. Hans Münch⁶⁷. Although he was charged with conducting medical experiments, he was completely exonerated and was the only defendant in the trials before the SNT to be acquitted. A number of Polish and Jewish prisoners who worked in the SS Hygiene Institute in Rajsko⁶⁸ testified that "Münch helped prisoners regardless of their religion or nationality, he gave them medicines, he protected them against selection, he interceded on their behalf and sometimes covered up cases that could have had bad consequences for the prisoners"⁶⁹. Münch was defended by academics who

66 AIPN GK 196/71, The trial of Ludwig Fischer and others; judge's summation at the trial of Ludwig Fischer, Ludwig Leist, Josef Meisinger, and Max Daume, 03.03.1947, f. 117–118.

67 Dr. Hans Münch was a doctor and a bacteriologist. From 1943 he worked at the Waffen SS Hygiene Institute in Rajsko, which was subordinate to KL Auschwitz-Birkenau.

68 The SS Hygiene Institute was subordinate in matters of military discipline to the SS garrison chief at KL Auschwitz and in matters of service and science to the Hygiene Institute in Berlin.

69 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Stanisław Druszkowski, nineteenth day of the trial, f. 43.

had been employed in Rajsko as prisoners, including Prof. Markus Klein from the University of Strasbourg, Dr. Jakub Seeman from Rudolf Weigl's institute in Lviv, and Prof. Geza Mansfeld from Budapest⁷⁰. The Polish prisoners employed at the SS Hygiene Institute in Rajsko also spoke highly of Dr. Münch. Such unequivocally positive statements and the fact that his SS membership had been forced on him were the basis for his acquittal⁷¹.

Although, for other defendants, there were also favourable Polish witness testimonies, they were not so unambiguous and showed their occasional positive behaviours rather than their unequivocally positive attitude. In the case of Josef Bühler, the Polish witnesses confirmed his passivity and lack of initiative in the implementation of the occupation policy, which of course could also be treated as a mitigating circumstance. The defence lawyers also referred to specific events and orders against which Bühler had the courage to protest privately to his superiors or to which he managed to mitigate the negative effects. Article 30 of the Criminal Code could be applied in this case: "An instigator or an aider shall not be liable if he has prevented the consequences of his action. § 2. The court may apply extraordinary mitigation of punishment to an instigator or an aider who tried to prevent the consequences of his action"⁷². The defence lawyers gave an example of Bühler's objections to the arrest of the Krakow professors (he was one of very few members of the General Government authorities to do so). He contributed to the release of several

70 A total of about 150 mostly well-educated prisoners worked at the institute in Rajsko. These included biologists, chemists, and histologists, often specially brought from the main camp or even from European universities in countries under occupation. The speech of the defence lawyer B. Rappaport in the trial of the crew members of KL Auschwitz X, AIPN GK 196/167, f. 43–44. More on the prisoner-scientists working in Rajsko in: S. Kłodziński, *Laboratorium Instytutu Higieny SS w Oświęcimiu. Bulion z mięsa ludzkiego*, "Przegląd Lekarski—Oświęcim" Seria II 25 (1969) nr 1, pp. 67–71.

71 In retrospect, Dr. Hans Münch's innocence was not so clear-cut. More on this topic in: Lubecka, *Niemiecki zbrodniarz przed polskim sądem. Krakowskie procesy przed Najwyższym Trybunałem Narodowym*, Kraków 2021, pp. 152–160.

72 Rozporządzenie Prezydenta Rzeczypospolitej z dnia 11 lipca 1932 r. Kodeks karny, Dz.U. 1932 No. 60, item 571.

professors from the Sachsenhausen camp⁷³. One of the witnesses, Prof. Tadeusz Lehr-Spławiński, in his testimony confirmed Bühler's kindness and assistance in freeing the professors. The defence lawyers portrayed Bühler as the main initiator of the removal of Odilo Globocnik from his post in the police and as an SS commander in Lublin after the pacification of Zamojszczyzna: "it was only thanks to him that this bloody thug Globocnik was forever removed from the territory of the General Government"⁷⁴. The head of the Central Welfare Council [Polish: *Rada Główna Opiekuńcza*], Dr. Edmund Seyfried, described Bühler as a "decent but weak man"⁷⁵, who tried to help when there was no risk involved. The defence lawyers tried to show that Bühler was a man of weak character and that he had goodwill but was unable to exert himself. As a mitigating circumstance they also presented his establishment of a 'mercy commission' whose task was to decide on the legitimacy of the death penalty for Jews who had escaped from the ghetto⁷⁶.

The testimonies of the members of various charitable organisations who enjoyed great authority were particularly important for the defence. These were e.g., Father Stanisław Domasik (prelate of the Metropolitan Chapter and parish priest of the Wawel Cathedral), Prof. Jan Gwiazdomorski, and members of the Central Welfare Council⁷⁷. The witnesses for the defence also included Germans, officials in the administration of the General Government, such as Wilhelm Ernst von Palézieux (Hans Frank's advisor on works of art), Alfred Spindler (head of the financial department in the General Government's authorities), Ernst Boepple (Josef Bühler's deputy), Friedrich Siebert (head of the main internal affairs department of the General Government), Kurt von Burgsdorf (governor of the Kraków

73 AIPN GK 196/244, The trial of Josef Bühler, Speech by defence lawyer Bertold Rappaport, twelfth day of the trial, f. 91–92.

74 Other representatives of the General Government's authorities, including Ludwig Losacker and Otto von Wächter, also protested the brutal pacification of the Zamojszczyzna. Speech by the defence lawyer Bertold Rappaport, AIPN GK 196/244, f. 85.

75 AIPN GK 196/385, The trial of Josef Bühler Proces, Testimony by Edmund Seyfried, third day of the trial, f. 230.

76 AIPN GK 196/312, The trial of Josef Bühler, Letter from Bühler to the district governors of the General Government, f. 27–28.

77 These were the testimonies of, among others: Professor Waclaw Krzyżanowski, Maria Zazulowa, Edmund Seyfried, Konstanty Tchorznicki, Rev. Stefan Mazanek (chancellor of the Metropolitan Curia and secretary to Bishop Sapieha).

district in the General Government) and others. Their testimonies, most often concerning the structure and relations in the General Government's authorities and the role played by Josef Bühler himself, were weakened not only by the very fact that they were German but also by the fact that they were all under investigation for complicity in crimes⁷⁸.

In the case of the defendant Arthur Liebehenschel⁷⁹, his lawyer Mieczysław Kossek referred to the testimonies of Polish witnesses who emphasised how things changed for the better once the commandant of KL Auschwitz, Rudolf Höß, had been removed from Birkenau and Arthur Liebehenschel⁸⁰ had been appointed in his place. Kossek quoted the words of several former prisoners: "the life conditions of the prisoners changed radically for the better", "he pardoned those sentenced to death, he was gentle and approachable towards the prisoners", "relations changed dramatically, he released people from the bunker, supervised hygiene", "he ordered that prisoners be given clean underwear, abolished the death wall and gallows, issued a ban on beatings, shortened roll calls"⁸¹. In the end, however, these testimonies did not help the defendant and it was acknowledged that, regardless of the objective improvement of the conditions in the camp, the management of the camp did not absolve the defendant of responsibility for the very existence of the camp and everything that happened in it.

The defence lawyer Bertold Rappaport, who defended Erich Dinges⁸² among others, also used the testimonies of former camp prisoners. They emphasised that the defendant never insulted the Polish prisoners, and "he was the only SS member who paid prisoners for the favours he asked

78 AIPN GK 196/243, Testimonies of German witnesses.

79 Arthur Liebehenschel was the commandant of the KL Auschwitz-Birkenau main camp from 1943–1945 (for 6 months).

80 Those who testified in favour of A. Liebehenschel included: Władysław Tondos, Kazimierz Gagola, Eugeniusz Niedojadło, Henryk Szklarz, Mieczysław Kotlarski, Ignacy Ratajczak, Erwin Olszówka, Ksawery Dunikowski, Dr. Władysław Fejkiel and many others.

81 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Mieczysław Kossek, nineteenth day of the trial, f. 28.

82 Erich Dinges—a crew member at KL Auschwitz-Birkenau, a truck driver.

of them”⁸³. “The defendant Dinges helped the prisoners in every way and did what he could for them: he brought food, fats, medicines from the city, he acted as an intermediary to take letters to the prisoners’ families”⁸⁴. Similar mitigating circumstances were referred to by the defence lawyer Kazimierz Ostrowski, who defended Eduard Lorenz⁸⁵: “Lorenz brought food, shared news about the Soviet-German front, and warned before selections”⁸⁶.

In arguing for the acquittal of Hans Aumeier, August Bogusch, and Anton Lechner⁸⁷, the defence lawyer Minasowicz referred to several circumstances that could be argued to mitigate their guilt. In the case of Aumeier, he emphasised that the trial had changed him a great deal and that “he is not the same person today as he was during his disgraceful service in KL Auschwitz”⁸⁸; in the case of Bogusch—that he had served primarily in the camp administration; and in case of Lechner—that he was not charged with murder.

An interesting case was the defence of Johann Paul Kremer, who had been a doctor in KL Auschwitz for three months. He was transferred there as a punishment because the conclusions of his scientific research did not coincide with and even contradicted those advocated by National Socialist pseudoscience. The defence lawyers used his scientific publications

83 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Bertold Rappaport, nineteenth day of the trial, f. 114.

84 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Bertold Rappaport, nineteenth day of the trial, f. 115.

85 Eduard Lorenz—a crew member at KL Auschwitz-Birkenau, a driver.

86 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Kazimierz Ostrowski, nineteenth day of the trial, f. 163.

87 Hans Aumeier—a crew member at KL Auschwitz-Birkenau, head of the prisoner section of the camp (Schutzhaftlagerführer) and deputy camp commandant.

August Bogusch—a crew member at KL Auschwitz-Birkenau, a member of the Politische Abteilung (the camp Gestapo)

Anton Lechner—a crew member at KL Auschwitz-Birkenau, he served as a guard and later as an escort.

88 AIPN GK 196/169, The pardon application for Aumeier, Lechner, and Bogusch, 22.12.1947, f. 11–12.

as a mitigating circumstance, and Rappaport emphasised that Kremer was not in KL Auschwitz voluntarily, but that it was a punishment for his dissidence.

Even in very difficult cases, the defence lawyers tried to find mitigating circumstances. In his defence of Wilhelm Gehring⁸⁹, who executed prisoners, the defence lawyer Czesław Kruh, who himself lost two brothers in KL Auschwitz, pointed out that, according to the testimony of one witness, “after an execution Gehring was always subdued”⁹⁰. According to the defence lawyer, this was proof that “Gehring did not lose his sense of humanity, despite the Nazi regime’s efforts to dehumanise the German people. So, let this positive trait of his character serve as a mitigating circumstance for his punishment”⁹¹.

Hejmowski and Kręglewski, the defence lawyers for Greiser, also called Polish witnesses. One of them was Greiser’s schoolmate from Inowrocław, Sylwester Kozielski, and the other was a Polish gardener employed at Greiser’s headquarters. During the war, both had asked for their sons’ release and pardon, and in both cases Greiser helped and both young men were returned home⁹².

The above examples demonstrate that even in very difficult situations, the defence lawyers tried to perform their duty despite the fact that, from the perspective of both the social perception of their role and their personal determinants, it must have been an extremely difficult and very psychologically exhausting task.

Impact on sentences

When the defence lawyer Stanisław Śniechórski, who participated in the Warsaw trials of both Höß and Fischer whilst still a young man, was asked about the role of the defence lawyers in these trials, he replied: “Do you

89 Wilhelm Gehring—a crew member at KL Auschwitz-Birkenau, he held various managerial positions, including that of a blockführer in block 11 (the death block).

90 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Czesław Kruh, twentieth day of the trial, f. 136.

91 AIPN GK 196/167, Volume VII of the minutes of the trial in the case against the former crew members of KL Auschwitz, Speech by the defence lawyer Czesław Kruh, twentieth day of the trial, f. 136.

92 AIPN GK 196/38, Testimony of Sylwestr Kozielski in the trial of Arthur Greiser, f. 113.

think it is pleasant for a lawyer to listen to a death sentence? That is why all those trials that ended in death sentences are tragic trials”⁹³.

The defence lawyers could have reasonably assumed that the SNT would pass the highest sentences in their power. This was particularly true in the case of the trials of individual defendants (camp commanders, high representatives of the security apparatus and administration). They were intended to be exemplary and the selection of the defendants was intended to show the cruelty of the German occupier. In their summing up speeches, the judges said not granting them extraordinary mitigation of punishment was justified because of their high position, either in the camp or the occupation administration. In the case of the trial of the ‘executioners of Warsaw’, in which four defendants were tried, and the trial of the crew members of KL Auschwitz, in which as many as forty defendants were tried, the sentences were not so obvious and the role of the defence lawyers was certainly greater.

In the SNT verdicts, only in very few cases did the judges refer to Article 5 paragraph 2 on extraordinary mitigation “due to the person of the perpetrator or the circumstances of the act”, with the explanation for not applying these provisions because: “of the 22 defendants convicted under Article 1 of the decree, only four, defendant Liebehenschel, defendant Möckel, defendant Kremer, and defendant Koch did not torture the prisoners. The other eighteen abused the prisoners in a more or less bestial manner. For this reason, the SNT did not consider it advisable to apply extraordinary mitigation to any of them”⁹⁴. In the cases of Liebehenschel and Möckel, the judges argued that “despite the fact that they did not mistreat the prisoners (and Liebehenschel even helped them), thanks to which many prisoners survived, in view of the enormity of the crimes attributed to them both in the camp and in the SS organisation”⁹⁵, no extraordinary mitigation was applied.

93 An unpublished interview with the defence lawyer Stanisław Śniechórski conducted by Przemysław Pluta on 22 February 2007, made available to the author.

94 AIPN GK 196/549, the judge’s summation of the case [against Liebehenschel and other members] of the former crew members of KL Auschwitz, 22.12.1947, f. 201.

95 AIPN GK 196/549, the judge’s summation of the case [against Liebehenschel and other members] of the former crew members of KL Auschwitz, 22.12.1947, f. 202.

In the case of Paul Johann Kremer, “the Supreme National Tribunal did not apply extraordinary mitigation due to the high position of this defendant, despite the fact that he too had acted on orders”⁹⁶.

Extraordinary mitigation was applied to the defendant Koch “in view of the fact that this defendant never acted in a hostile manner towards the prisoners and had only the misfortune to hold the position of disinfectant as a laboratory technician in the camp. Moreover, Koch had access to the cyclone for disinfection purposes, and that is why he was ordered to pour the cyclone into the gas chambers. Koch obeyed this order but never acted against the prisoners. Because of this and because Koch held a low position in the camp and in the SS, the SNT considered it advisable to sentence him to life imprisonment in lieu of the death penalty”⁹⁷.

With regard to the remaining fifteen defendants in the trial of the crew members of KL Auschwitz sentenced to prison terms (five to life imprisonment and the rest to prison terms ranging from three to fifteen years), the judges “took into account the quality of the crimes attributed to each of them, their position in the camp and in the SS, their time of service in the camp, their attitude towards the prisoners, their age, their education, and their background”⁹⁸.

In the case of Josef Bühler, the verdict summation emphasised that “the SNT found no basis to the extraordinary mitigation of this sentence under Article 5 paragraphs 2 and 3 of the said decree”⁹⁹, despite the fact that “both in his public speeches and in his contact with the Polish population, he did not show the brutality that characterised Frank and other leaders. [...] However, all these circumstances are insignificant considering the enormity of the crimes he committed, crimes which place the defendant among the top rank of Nazi criminals on Polish soil”¹⁰⁰.

In the trial of the ‘executioners of Warsaw’, the occupation starost of Warsaw, Ludwig Leist received a relatively low sentence of eight years

96 AIPN GK 196/549, the judge’s summation of the case [against Liebehenschel and other members] of the former crew members of KL Auschwitz, 22.12.1947, f. 202.

97 AIPN GK 196/549, the judge’s summation of the case [against Liebehenschel and other members] of the former crew members of KL Auschwitz, 22.12.1947, f. 202–203.

98 AIPN GK 196/549, the judge’s summation of the case [against Liebehenschel and other members] of the former crew members of KL Auschwitz, 22.12.1947, f. 203.

99 AIPN GK 196/245, The trial of Josef Bühler, Judgement, 10.07.1948, f. 93.

100 AIPN GK 196/245, The trial of Josef Bühler, Judgement, 10.07.1948, f. 98.

(the other three were sentenced to death). The judges ruled that “the crime attributed to the defendant Leist consists of a smaller number of criminal actions of relatively lesser gravity”¹⁰¹. In justifying the sentence, the tribunal referred, among other things, to the testimony of one of the witnesses, who stated that “it would be difficult to find a German, a National Socialist, who would play a more convenient role in the German administration for us [for the Polish Underground State—J. L.] [...]”. The opinion of the underground authorities of the Polish Underground State was also important for the assessment of Leist’s activity: according to the testimony of the witness Kulski, they considered this defendant to be of little harm”¹⁰².

In conclusion, the Supreme National Tribunal applied extraordinary mitigation only in several cases, generally against defendants who held lower positions in the camp hierarchy and the occupation administration. In all of them, the testimony of defence witnesses, particularly of former prisoners, played a significant role.

Summary

Analysis of the defence lawyers’ speeches can lead to the conclusion that, in their defence of those who were lower in the power structures and the evidence against whom was not entirely negative, the lawyers, seeing the chance for a reduced sentence, went to greater lengths to balance the charges (Dinges, Liebehenschel, Schröder, Hoffmann, Bühler, Kremer, Breitwieser). This does not mean that they attached less importance to defending the more incriminated defendants, but it was far harder or even impossible to gather the relevant testimony and evidence, hence in the defence speeches in the case of Grabner, Lätsch, Plagge, Buntrock, Höß, among others, a plea for potential mitigation of the sentence had to be based on the non-personal factors that shaped these people into criminals. The work of the SNT in the category of ‘justice’ should be assessed taking into account the work of the defence lawyers, their commitment, their diligence, and their conviction that everyone deserves to be defended, which they repeatedly emphasised in their speeches. It is noteworthy

101 AIPN GK 196/71, the judge’s summation of the case against Fischer, Leist, and Meisinger, Daume, 03.03.1947, f. 167.

102 Julian Spitosław Kulski during the occupation (1939–1944) was the commissary Mayor of the City of Warsaw with the consent of the Polish underground authorities.

that the number of death sentences in the trials before the SNT was much lower than in those passed before the Allied courts (British: Bergen Belsen and American: Dachau, Mauthausen, and Buchenwald), although certainly this was also caused by factors other than the work of the defence lawyers¹⁰³.

Finally, the defence lawyers argued that the defendants should be allowed to live and given the chance to make amends. This is how Stanisław Rymar concluded his defence speech: “It seems to me that the Polish State can afford to risk an experience that differs from KL Auschwitz: to restore to these people, after a certain long period of moral convalescence, the possibility of life, instead of taking it away from them. Let us try to return to the belief that only He who gave life can take it away”.

The journalist of the “Tygodnik Powszechny”, Stanisław Stomma, evaluated the work of the defence lawyers after the trial of the KL Auschwitz crew in the following words: “The defence was a real defence. The lawyers from Krakow defended with true zeal and made real attempts to undermine certain theses of the prosecution. In the words of the defence lawyer Ostaszewski, the Polish defence lawyers do not want to be fictional defence lawyers and do not want to play the same role as the German doctors in KL Auschwitz, who sent people to death instead of curing them [...]. In the last trial in Krakow, the defence was a real legal fight for the defendants”¹⁰⁴.

103 The American prosecutor William Denson charged 177 functionaries of the concentration camps (at Dachau, Mauthausen, and Gusen). All were found guilty, 97 were sentenced to death and 54 to life imprisonment, *Extract from the Review of Proceedings of the General Military Court in the case of US vs. Weiss, Ruppert et al, held at Dachau*, in: *Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law no. 10*, vol. 1, Nuernberg October 1946–April 1949, pp. 289–298.

104 S. Stomma, *Zwycięstwo nad zemstą*, “Tygodnik Powszechny” no. 148, 18.01.1948, p. 2.

References

Acts

- Dekret Polskiego Komitetu Wyzwolenia Narodowego z dnia 31 sierpnia 1944 r. o wymiarze kary dla faszystowsko-hitlerowskich zbrodniarzy winnych zabójstw i znęcania się nad ludnością cywilną i jeńcami oraz dla zdrajców Narodu Polskiego, Dz.U. 1944 nr 4, poz. 16 [Decree of the Polish Committee for National Liberation of 31 August 1944 on the punishment for fascist-Hitler criminals guilty of murdering and torturing the civilian population and prisoners, and for traitors of the Polish Nation, Journal of Laws of 1944 no. 4, item 16].
- Dekret z dnia 22 stycznia 1946 r. o Najwyższym Trybunale Narodowym, Dz.U. 1946 nr 5, poz. 45 i późniejsze jego nowelizacje: nowelizacja 17 października 1946 o zmianie dekretu z 22 stycznia (Dz.U. 1946 nr 59, poz. 325), obwieszczenie Ministra Sprawiedliwości z 31 października 1946—jednolity tekst dekretu (Dz.U. 1946 nr 59, poz. 327) [Decree of 22 January 1946 on the Supreme National Tribunal, Journal of Laws of 1946 no. 5, item 45, with its subsequent amendments: amendment of 17 October 1946 on amending the decree of 22 January (Journal of Laws of 1946 no. 59, item 325); Announcement of the Minister of Justice of 31 October 1946—a consolidated text of the decree (Journal of Laws of 1946 no. 59, item 327)].
- Karta Międzynarodowego Trybunału Wojskowego*, Dz.U. 1947 nr 63, poz. 367 [*Charter of International Military Tribunal*, Journal of Laws of 1947 no. 63, item 367].
- Obwieszczenie Ministra Sprawiedliwości z dnia 11 grudnia 1946 r. w sprawie ogłoszenia jednolitego tekstu dekretu z dnia 31 sierpnia 1944 r. o wymiarze kary dla faszystowsko-hitlerowskich zbrodniarzy winnych zabójstw i znęcania się nad ludnością cywilną i jeńcami oraz dla zdrajców Narodu Polskiego, Dz.U. 1946 nr 69, poz. 377 [Announcement of the Minister of Justice of 11 December 1946 on the publication of the consolidated text of the Decree of 31 August 1944 on the punishment for fascist-Hitler criminals found guilty of murdering and torturing the civilian

- population and prisoners, and for traitors of the Polish Nation, Journal of Laws of 1946 no. 69 item 377].
- Polski kodeks karny z 11.VII.1932 r. wraz z prawem o wykroczeniach, przepisami wprowadzającymi i utrzymanymi w mocy przepisami kodeksu karnego autryjackiego, niemieckiego, rosyjskiego i skorowidzem. Komentarzem zaopatrzyli K. Sobolewski i dr A. Laniewski, Lwów 1932 [Polish Penal Code of 11.07.1932, together with the law on offences, introductory provisions, and the upheld provisions of the Austrian, German, and Russian Penal Codes, and the Index. With commentaries by K. Sobolewski and Dr. A. Laniewski, Lviv 1932].
- Rozporządzenie Prezydenta Rzeczypospolitej z dn. 19 marca 1928 r. Kodeks postępowania karnego, Dz.U. 1928 nr 33, poz. 313 [Ordinance of the President of the Republic of Poland 19 March 1928. Code of Criminal Procedure, Journal of Laws of 1928 no. 33, item 313].
- Rozporządzenie Prezydenta Rzeczypospolitej z dnia 21 października 1932 r., Kodeks karny wojskowy, Dz.U. 1932 nr 91, poz. 765 [Ordinance of the President of the Republic of 21 October 1932, Military Penal Code, Journal of Laws of 1932 no. 91, item 765].
- Rozporządzenie Prezydenta Rzeczypospolitej z dnia 11 lipca 1932 r. Kodeks karny, Dz.U. 1932 nr 60, poz. 571 [Ordinance of the President of the Republic of Poland of 11 July 1932. Penal Code, Journal of Laws of 1932 no. 60, item 571].

Archival materials

- Agreement for the prosecution and punishment of the major war criminals of the European Axis. Signed at London, on 8 August 1945*, https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.2_Charter%20of%20IMT%201945.pdf.
- Extract from the Review of Proceedings of the General Military Court in the case of US vs. Weiss, Ruppert et al, held at Dachau*, in: *Trials of War Criminals befor the Nuremberg Military Tribunals under Control Council Law no. 10*, vol. 1, Nuremberg October 1946—April 1949.
- Prozess-Gutachten zum "Befehlsnotstand" erstattet von Dr. Hans-Günther Seraphim*, Staatsarchiv Ludwigsburg, EL 322 II Bü 18, k. 75–88.
- The Institute of National Remembrance—The Chief Commission for the Prosecution of Crimes against the Polish Nation in Warsaw, The Supreme National Tribunal in Warsaw 1946–1948 [Instytut

Pamięci Narodowej—Komisja Ścigania Zbrodni przeciwko Narodowi Polskiemu w Warszawie, Najwyższy Trybunał Narodowy w Warszawie 1946–1948]:

Trail of Arthur Greiser IPN GK 196

Trail of Amon Göth IPN GK 164, IPN GK 168, IPN GK 174, IPN GK 190, IPN GK196, IPN GK 351

Trail of Rudolf Höß IPN GK 164, IPN GK 351, IPN GK 196

Trail of the KL Auschwitz crew IPN GK 196

Trail of Ludwig Fischer IPN GK 196

Trail of Josef Bühler IPN GK 196

Studies and articles

Batawia S., *Rudolf Höss. Komendant obozu koncentracyjnego w Oświęcimiu*, “Biuletyn Głównej Komisji Badania Zbrodni Hitlerowskich w Polsce” 7 (1951), pp. 9–58.

Bryl A., *Zbrodnie przeciwko ludzkości w myśli prawnej Herscha Lauterpachta*, “Przegląd Prawniczy Allerhanda” 2 (2019) no. 1, item 4, pp. 50–61.

Frei N., *Der Führerstaat. Nationalsozialistische Herrschaft 1933–1945*, München 2000.

Gritschneider O., *Von Anfang an nichtig. Die Todesurteile der nationalsozialistischen Kriegsgerichte*, “Deutsche Richterzeitung” 80 (2002) no. 1.

Gumowski J., Kułakowski T., *Zbrodniarze hitlerowscy przed Najwyższym Trybunałem Narodowym*, Warszawa 1967.

King H. T. Jr, *Nuremberg and Sovereignty*, “Case Western Reserve Journal of International Law” 28 (1996) issue 1, pp. 135–140.

Kłodziński S., *Laboratorium Instytutu Higieny SS w Oświęcimiu. Bulion z mięsa ludzkiego*, “Przegląd Lekarski—Oświęcim” 25 (1969) Seria II nr 1, s. 67–71.

Królkowski M., *Odpowiedzialność karna jednostki za sprawstwo zbrodni międzynarodowej*, Warszawa 2011.

Langerbein H., *Szwadrony śmierci Hitlera. Einsatzgruppen i logika masowej zbrodni*, Zakrzewo 2017.

Lubecka J., *Konieczność wykonania rozkazu jako instrument obrony w procesach niemieckich zbrodniarzy przed Najwyższym Trybunałem Narodowym*, in: *Pola wolności*, ed. A. Bartuś, Oświęcim–Poznań 2020, pp. 217–236.

- Lubecka J., *Niemiecki zbrodniarz przed polskim sądem. Krakowskie procesy przed Najwyższym Trybunałem Narodowym*, Kraków 2021.
- Lubecka J., *Zrozumieć nazistę. Wątki racjonalizacji i zrozumienia zachowania zbrodniarzy nazistowskich w powojennych procesach i badaniach psychologicznych*, in: *Wina i kara. Społeczeństwa wobec rozliczeń zbrodni popełnionych przez reżimy totalitarne w latach 1939–1956*, ed. P. Pleskot, Warszawa 2015, pp. 127–148.
- NS-Prozesse. Nach 25 Jahren Strafverfolgung. Möglichkeiten—Grenzen—Ergebnisse*, Hrsg. A. Rückerl, Karlsruhe 1972.
- Matan J., *Zasada prawa do obrony w polskim procesie karnym oraz formy jej realizacji*, “Roczniki Administracji i Prawa” 9 (2009), pp. 89–109.
- Messerschmidt M., *Die Wehrmachtjustiz 1933–1945*, Paderborn 2005.
- Regliński R., *Okoliczności łagodzące w świetle orzecznictwa Sądu Najwyższego okresu powojennego*, “Palestra” 9 (1965) no. 10, pp. 56–62.
- Siewierski M., *Wpływ instytucji procesu norymberskiego*, in: *Norymberga—nadal otwarty rozdział historii. W XXX rocznicę wyroku Międzynarodowego Trybunału Wojskowego*, Warszawa 1977, pp. 140–145.
- Stomma S., *Zwycięstwo nad zemstą*, “Tygodnik Powszechny” no. 148, 18.01.1948, p. 2.
- Śliwiński S., *Proces karny—zasady ogólne*, Warszawa 1947.
- An unpublished interview with the defence lawyer Stanisław Śniechórski conducted by Przemysław Pluta on 22 February 2007, made available to the author.
- The statement of the defence lawyer Bogdan Rentflejsz from his letter to Przemysław Pluta dated 8.01.2007, made available to the author.

Abstract

Joanna Lubecka, PhD

The strategy used by the defence in the post-war trials set before the Supreme National Tribunal with particular reference to the trials in Krakow

One of the most important conditions for a “fair trial” is not only the right of every defendant to a defense, but also the diligent work of lawyers. Post-war trials before the Supreme National Tribunal took place in an extremely difficult atmosphere. The communist takeover, especially in the area of the judiciary, resulted in a departure from the principles of fair trial. However, before the SNT, accused Germans were defended by prominent pre-war attorneys who provided a guarantee that the highest standards of defense would be realized. Nevertheless, their work was extremely difficult. The course of the cruel German occupation resulted in a vengeful mood in society, with many Poles showing a lack of understanding of the need for judicial defense. Advocates, often themselves aggrieved by the German occupier, undertook defense *ex officio*, despite the perceived public reluctance. The article focuses on the role and strategy of the defense, particularly in terms of the mitigating circumstances presented by the attorneys, which were intended to soften sentences. The analysis presented in the text is intended to prove that the lawyers defending German defendants in trials before the SNT fulfilled this duty in accordance with the principles of “fair trial” thereby significantly contributing to the perception of the Supreme National Tribunal as a court operating in accordance with the standards of Western civilization.

Keywords:

Supreme National Tribunal, German crimes, Poland

Abstrakt

Joanna Lubecka, PhD

Strategia obrony w powojennych procesach przed Najwyższym Trybunałem Narodowym ze szczególnym uwzględnieniem procesów krakowskich

Jednym z ważniejszych warunków „sprawiedliwego sądenia” jest nie tylko prawo każdego oskarżonego do obrony, lecz także rzetelna praca adwokatów. Powojenne procesy przed Najwyższym Trybunałem Narodowym odbywały się w niezwykle trudnej atmosferze. Przejmowanie władzy przez komunistów, szczególnie w zakresie wymiaru sprawiedliwości skutkowało odejściem od zasad sprawiedliwego sądenia. Jednak przed NTN oskarżonych Niemców bronili wybitni przedwojenni adwokaci, którzy dawali gwarancję zrealizowania najwyższych standardów obrony. Mimo to ich praca była niezwykle trudna. Przebieg okrutnej okupacji niemieckiej spowodował, że w społeczeństwie panowały nastroje zemsty, wielu Polaków wykazywało brak zrozumienia dla konieczności sądowej obrony. Adwokaci, często sami poszkodowani przez niemieckiego okupanta, podejmowali się obrony z urzędu, mimo odczuwanej niechęci społecznej. W artykule przedstawiona została przede wszystkim rola i strategia obrony, szczególnie pod kątem okoliczności łagodzących przedstawianych przez adwokatów, które miały na celu złagodzenie wyroków. Analiza przedstawiona w tekście ma dowieść, iż adwokaci broniący niemieckich oskarżonych w procesach przed NTN, spełnili ten obowiązek zgodnie z zasadami „sprawiedliwego sądenia”, tym samym znacząco przyczynili się do postrzegania Najwyższego Trybunału Narodowego jako sądu działającego zgodnie ze standardami zachodniej cywilizacji.

Słowa kluczowe:

Najwyższy Trybunał Narodowy, zbrodnie niemieckie, Polska