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# The Prosecution of Local Nazi Collaborators in Post-Communist Eastern Europe: A Squandered Opportunity to Confront Holocaust Crimes

EFRAIM ZUROFF

Any attempt to assess the efforts to prosecute Holocaust perpetrators in post-Communist societies must begin by delineating three important historical phenomena which had an extremely significant influence on the attempts to bring Nazi war criminals to justice in Eastern Europe and on the perceptions of the Holocaust in these countries.

The first phenomenon relates to the unique role played by Eastern European Nazi collaborators in the implementation of the Final Solution. In all the countries occupied by, or allied with, the Third Reich, local collaborators assisted the Nazis in implementing their anti-Jewish policies, but the role played by collaborators in many Eastern European countries was particularly extensive and uniquely lethal. Thus while the Nazis' local helpers in the rest of Europe assisted them in implementing all the preliminary stages of the Final Solution (definition, Aryanization, concentration and deportation), those collaborators were never called upon to carry out the systematic mass murder of the Jews, which was committed hundreds of kilometers away in Eastern Europe, with the active participation of numerous local collaborators.

The second important historical phenomenon, which affected the issue of the prosecution of Holocaust perpetrators in Eastern Europe, was the numerous trials of local Nazi collaborators conducted by the Soviet or Communist judicial authorities in the immediate aftermath of World War II. In theory, such a large number of trials (whose exact number remains unknown to this day) should have clearly revealed the significance and scope of the role played by local residents in the mass murders. The Communists' manipulation of postwar justice for propaganda purposes, however, delegitimized the trials in the eyes of the lo-

cal population. The most blatant flaws in the process were the exaggerated emphasis on the murder of Communists, the downplaying of Jewish victimhood and the preference given to prosecution for political crimes rather than for genuine war crimes.

Needless to say, these problematic practices were also replicated when it came to erecting monuments and writing historical accounts and textbooks. Thus under Communism, World War II was primarily portrayed as an ideological struggle between anti-fascists and bourgeois capitalist nationalists. Under such circumstances, even those trials in which Holocaust perpetrators were prosecuted for the killing of Jews, did not necessarily convey an accurate narrative of the events.

In addition, many of the major local Nazi war criminals responsible for the mass murder of Jews escaped to Western democracies, out of Soviet reach, and their prosecution in absentia and/or the accusations leveled against them in Soviet publications were often perceived primarily as part of the Soviet campaigns against the West, rather than the pursuit of justice. Thus it becomes clear that during the postwar Communist domination of the region, the peoples of Eastern Europe who had participated in Holocaust crimes, never had a real opportunity to confront the active participation of their nationals in these atrocities.

Under those circumstances, the third phenomenon, the discovery of large numbers of Eastern European Holocaust perpetrators living in the United States and their successful prosecution for emigration and naturalization violations, presented a golden opportunity to bring to trial numerous Nazi collaborators and to help inform the public, especially in Eastern Europe, of the important role played by local residents in the implementation of the Final Solution. The results achieved to date by the U.S. Office of Special Investigations ("OSI") (currently the Human Rights and Special Prosecutions Section of the American Department of Justice) have been extremely impressive. As of June 1, 2016, the Americans have won cases against 108 Nazi war criminals, with eighty-six being stripped of their US citizenship and sixty-seven successfully removed from the country, practically all of them of Eastern European origin. The success of the American prosecution effort had two positive effects. First of all, it helped illuminate the highly important role played by local Nazi collaborators in the murder of Jews. Second, it helped convince Canada, Australia and Great Britain to initiate government investigations to determine whether they too had admitted Nazi war criminals. Those inquiries ultimately led to the passage of laws enabling the criminal prosecution of Holocaust perpetrators in Canada (1987), Australia (1989), and Great Britain (1991).

There were, however, three basic problems with the attempts to bring Nazi war criminals to justice in the United States. The first was that it only began in earnest in 1979 with the establishment of the OSI, by which time several of the most important killers had already died. The second problem was that due to the fact that the crimes had been committed overseas and that the victims were not Americans, the United States was forced to prosecute them on civil charges for immigration and/or naturalization violations, rather than on criminal charges for genocide, war crimes, crimes against humanity, or murder. Winning these cases was relatively easier than in criminal prosecutions, and the punishments (denaturalization and deportation) were relatively lighter, which lessened the impact of these convictions. This problem might have been overcome, if those convicted could have been extradited back to their countries of origin to be prosecuted for their crimes, but until the breakup of the Soviet Union and the fall of Communism, this was totally out of the question, with the exception of two cases, those of Ukrainian Treblinka guard Feodor Federenko and Estonian Nazi collaborator Karl Linna. In that respect, the fall of the Communist regimes in Eastern Europe had a double effect. It made it possible for the newly-democratic countries to seek the extradition of their nationals who had escaped overseas after World War II, and it created opportunities for the criminal prosecution of these suspects in their native countries.<sup>1</sup>

The breakup of the Soviet Union and the transition to democracy did indeed have a major impact on the efforts to prosecute local Nazi war criminals, but any attempt to evaluate the results achieved must be viewed within the broader context of the response of the newly-established governments of Central and Eastern Europe to six practical Holocaust-related issues which they had to face shortly after the fall of Communism. Only one relates directly to the prosecution of perpetrators, but all ultimately proved to be interconnected:

1. Acknowledgment of complicity by the local population in the murder of the Jews and an apology for those crimes
2. Commemoration of the victims
3. Prosecution of the perpetrators
4. Documentation of the crimes
5. Holocaust education
6. Restitution of communal and individual property<sup>2</sup>

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1. EFRAIM ZUROFF, *OPERATION LAST CHANCE; ONE MAN'S QUEST TO BRING NAZI CRIMINALS TO JUSTICE* 107 (Palgrave Macmillan 2009) [hereinafter *OPERATION LAST CHANCE*].

2. Efraim Zuroff, *Eastern Europe: Anti-Semitism in the Wake of Holocaust-Related Issues*, 17 *JEWISH POLITICAL STUD. REV.*, Spring 2005, at 63–79.

From the outset, it is important to note that these issues assumed particular significance for these governments due to the common perception in post-Communist Europe that “the road to Brussels and Washington goes through Jerusalem,” or in more prosaic terms, if they wanted to achieve their primary foreign policy objectives of NATO membership and entry into the European Union, they would have to establish good relations with Israel and world Jewry. It was clear from the outset, however, that dealing with these Holocaust-related issues would be an absolute prerequisite to do so, a situation that also reflected the growing importance of Holocaust commemoration and education in international relations and its increasingly significant role in Jewish identity throughout the Diaspora.<sup>3</sup>

What was obvious from the start, however, was that the issue of prosecution was likely to be one of the most difficult—both because of the fact that it was the only issue which was time-limited and due to the extremely strong local opposition it encountered from the beginning. The latter was clearly reflected by the fact that one of the first steps taken by several of the new governments of Eastern Europe was a large scale “rehabilitation” program, under which tens of thousands of convictions handed down by Soviet courts were cancelled and those convicted were granted monetary compensation for the punishments they endured as well as special financial benefits. This process, although ostensibly limited to those punished for political crimes, in fact included numerous Holocaust perpetrators. When this phenomenon was revealed, invariably by foreign Jewish groups or researchers, the demand that the pardons granted to Nazi war criminals be rescinded became part and parcel of the campaigns in these countries to bring unprosecuted Holocaust perpetrators to justice.<sup>4</sup>

The best way to illustrate these problems is to demonstrate their practical implications in several different countries. The country which prosecuted the largest number of local Nazi war criminals and in which this issue became particularly prominent is undoubtedly Lithuania. The reasons that this question became so important in that country are:

1. The extensive scope of local complicity in the murder of Jews, which encompassed all strata of Lithuanian society;
2. The relatively large number of unprosecuted suspects;
3. The prominent role played by several of these suspects;

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3. On the importance of Holocaust-related issues for the new democracies of Eastern Europe, see OPERATION LAST CHANCE, *supra* note 1, at 100.

4. On the rehabilitations granted in Lithuania see OPERATION LAST CHANCE, *supra* note 1, at 101–05.

4. The fact that numerous Lithuanian Nazi collaborators escaped after the war to the United States, where they were successfully prosecuted for concealing their wartime activities; and
5. The fact that practically every Lithuanian deported from the United States returned to live in Lithuania (which was willing to accept almost all of them), thereby increasing the pressure to deal with the problem.<sup>5</sup>

Before presenting a summary of Lithuania's efforts to prosecute these perpetrators, it is important to attempt to understand the public attitude toward the efforts to hold local war criminals accountable. There is no question that during the period following independence, there was little willingness to deal in any way with Lithuanian complicity in Holocaust crimes, let alone with practical implications like prosecution. Several examples in this regard will suffice. The first was the declaration issued by the Lithuanian Supreme Council in May 1990 condemning "the annihilation of the Jewish people" which, although it was officially issued "on behalf of the Lithuanian people," attributed guilt for the crimes to "Lithuanian citizens," a category clearly not limited to ethnic Lithuanians, who were the overwhelming majority of the perpetrators, and which by a twist of perverted logic could even include Jews.<sup>6</sup> A second was the reluctance to specifically acknowledge the participation of Lithuanians in the crimes committed at Ponar (Paneriai), the site of the mass murder of the Jews of Vilna, in the inscriptions in Lithuanian and Russian on a new monument built on the site in 1991.<sup>7</sup> A third was the speech by Prime Minister Gediminas Vagnorius at the dedication of that same monument, in which he claimed that the crimes against Jews lasted three months instead of three years, and that the only Lithuanians who participated were "a group of criminals," even though local complicity in the murders was widespread and encompassed all strata of Lithuanian society.<sup>8</sup>

In addition, it was relatively common to hear Lithuanian leaders and officials attempt to present false symmetries regarding the history of World War II such as, for example, that the number of Lithuanians

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5. See generally RUTA VANAGAITE AND EFRAIM ZUROFF, *MUSIŠKIAI* (Alma Littera 2016).

6. *Declaration of the Supreme Council of the Republic of Lithuania Concerning the Genocide of the Jewish nation in Lithuania During the Period of the Nazi Occupation, May 8, 1990*, in SIMON WIESENTHAL CENTER-ISRAEL OFFICE ARCHIVES, at Lithuania, file no. 2.

7. OPERATION LAST CHANCE, *supra* note 1, at 99.

8. Adress [sic] by Gediminas Vagnorius, Prime Minister of the Republic of Lithuania on 20 June 1991 at Dedication Ceremony of Monument at Ponar, in SIMON WIESENTHAL CENTER-ISRAEL OFFICE ARCHIVES, at Lithuania, file no. 3.

who assisted Jews during the Nazi occupation was equivalent or greater than the number of those who participated in Holocaust crimes. Another false symmetry equated crimes ostensibly committed by Jewish Communists during the initial year of Soviet occupation (June 1940–June 1941) with those carried out by local Nazi war criminals during the Holocaust.

Given this mind-set, it is hardly surprising that there was almost no support in Lithuania to press charges against local Nazi war criminals. In fact, one of the first programs initiated by independent Lithuania was an extensive rehabilitation program for those ostensibly falsely convicted by the Soviet courts. Tens of thousands of Lithuanians were granted pardons, monetary compensation for time in jail, and special financial benefits. Even though “those who had participated in genocide” were officially ineligible for this program, at least several dozen Nazi war criminals were rehabilitated. Only after extremely strong protests by Israel, the United States and Jewish organizations, did the Lithuanians set up a joint Lithuanian-Israeli commission of inquiry and begin canceling the pardons granted illegally to the murderers of Jews.<sup>9</sup>

As far as the prosecution of Holocaust perpetrators was concerned, the Lithuanian government could not possibly ignore this issue, for the numerous reasons cited above. Thus on a practical level, the arrival in Vilnius in the nineties of high-ranking Nazi collaborators such as Aleksandras Lileikis and Kazys Gimzauskas, the commander and deputy commander of the *Saugumas* (Lithuanian Security Police) in the Vilnius district, both of whom were denaturalized and ordered deported from the United States, as well as several officers from the infamous Twelfth Lithuanian Auxiliary Police Battalion, virtually forced the Lithuanian judicial authorities to deal with this problem. Their response was to wait until the key suspects, who had arrived in Lithuania in good health (Gimzauskas in 1993 and Lileikis in 1996), became medically unfit to stand trial. At that point, the *Seimas* (Lithuanian Parliament) passed two special laws to allow genocide suspects to be investigated and indicted regardless of their medical condition.

Thus both former *Saugumas* commanders were finally charged – Gimzauskas on November 20, 1997 and Lileikis on February 8, 1998 – but neither was ever arrested despite the severity of the charges against them, nor was either ever forced to appear at a single session of their trials. (Lileikis voluntarily appeared once for ten minutes and briefly followed another session by videotape.) Lileikis died in the middle of

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9. OPERATION LAST CHANCE, *supra* note 1, at 101–05.

his trial on September 26, 2000, whereas by the time Gimzauskas was convicted on January 14, 2001, he was unfit for punishment. Both trials received minimal coverage in the local media, part of which was clearly sympathetic to the defendants, who made every effort to emphasize their advanced age and frailties. If anything, the anger of parts of the Lithuanian public was directed primarily at those they deemed responsible for forcing the prosecution of these Lithuanians, i.e. the international Jewish organizations pressing the issue and the State of Israel.<sup>10</sup>

In fact, these cases, the campaign to rescind the rehabilitations granted to Holocaust perpetrators, and subsequent efforts to prosecute additional Lithuanian Nazi war criminals, all became catalysts to rally those elements of Lithuanian society who sought to prevent any discussion of the critical and extensive role played by local Nazi collaborators in the Holocaust. Anti-Semitic responses abounded in local Internet forums, and especially on the news portal [www.delfi.lt](http://www.delfi.lt). During this period, there were also numerous incidents of vandalization of Holocaust memorials and Jewish cemeteries, and demonstrations were held in Vilnius and elsewhere. Thus, for example, in response to the launching in Lithuania by the Simon Wiesenthal Center of its “Operation: Last Chance” project, which offers financial rewards for information which will facilitate the prosecution and punishment of Nazi war criminals, a member of the Taurage city council burned an Israeli flag in the center of town and drove around the city playing Nazi marches on a loudspeaker.<sup>11</sup>

In that respect, the efforts to bring these criminals to justice in Lithuania suffered primarily from the lack of any significant local support to emphasize the importance and necessity of this process. Unfortunately, the local Jewish community, which in theory should have fulfilled that role, chose to maintain a low profile due to fears of anti-Semitism. The fact that with the exception of a few solitary intellectuals who supported the justice process, there was no local group of any size or stature willing to lobby for the prosecution, apparently convinced the wider public that it was dangerous to be outspoken in this regard. The

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10. On the cases of Lileikis and Gimzauskas, see OPERATION LAST CHANCE, *supra* note 1, at 107–10.

11. *Taurageje surengta antisemitine akcija* (trans. “An Anti-Semitic Incident Was Organized in Taurage”), LIETUVOS RYTAS, July 29, 2002, at 2 (Lithuanian); *Lithuanian Politician Burns Israeli Flag, Plays Nazi Songs*, AGENCE FRANCE-PRESSE, June 29, 2002. Among the Jewish sites vandalized during the period since Lithuania obtained its independence were several Holocaust memorial monuments, particularly in smaller communities. See, e.g., *The Baltic States*, in ANTISEMITISM WORLDWIDE 129 (Dina Porat ed., World Jewish Congress and Anti-Defamation League 1995).



other potential constituency to advocate prosecution would have been anti-Nazi veterans and/or local anti-fascists, but neither group existed as such in Lithuania which, unlike most of Europe, never produced an anti-Nazi resistance movement. As far as the Communists were concerned, forty-six years of Soviet occupation had totally discredited them, and most had become nationalists, and as such could hardly publicly advocate the prosecution of Lithuanians for Nazi crimes.

Another reflection of the deep-seated opposition in Lithuania to the efforts to hold local Holocaust perpetrators accountable was the decision by the Lithuanian government to seek the extradition from Israel of two Lithuanian Jews alleged to have committed crimes against Lithuanians while serving in the KGB.<sup>12</sup> And, in fact, nationalist elements invariably raised the cases of Nachman Dushansky and Shimon Berkov in response to demands by international Jewish organizations and/or the State of Israel to Lithuania to expedite the prosecution of Lithuanian Nazi war criminals.<sup>13</sup> In this context, it is important to note that in the Dushansky case, twenty-five Lithuanian officers of higher or equivalent rank who served together with him were not even investigated, let alone indicted. In response, Israel took the hitherto unprecedented step of refusing a Lithuanian request for judicial assistance, based on the suspicion that the charges against Dushansky were motivated by anti-Semitism.<sup>14</sup>

It is hard to predict what kind of impact the successful prosecution of a high-ranking and/or particularly murderous local Holocaust perpetrator, conducted properly with extensive and balanced media coverage, might have had on Lithuanian public opinion and perceptions of the Shoa. What is currently clear, after twenty-five years of efforts to achieve that goal, is that it has hitherto not happened, nor is it likely to take place in the future.

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12. Mel Huang, *History Greets the New Year on the Baltic*, 2 *CENTRAL EUROPE REVIEW*, no. 1, 2000. The individuals in question are Nachman Dushanski and Semyon Berkov.

13. Vasiliauskas relates that following a visit to Lithuania by this author who had submitted particularly damning testimony regarding the participation of Lithuanians in the murder of Jews in the town of Rokiskis, obtained in the framework of "Operation: Last Chance" (which featured special advertisements calling on individuals to volunteer information regarding the identity of local Nazi perpetrators), to the Lithuanian Special Prosecutor for genocide crimes, the Lithuanian Center for the Study of Genocide and Resistance sponsored special radio advertisements calling for people with information on Communist crimes in the Rokiskis area during and after World War II to come forward. Geoffrey Vasiliauskas, *No One Rules*, LAISVAS LAIKRASTIS, March 16, 2004, at 4.

14. Letter of Irit Kahan, director of the Department of International Affairs of the Israeli Ministry of Justice to Lithuanian Prosecutor-General Kazys Pednycia, February 2, 2000, in ARCHIVES OF THE ISRAEL OFFICE OF THE SIMON WIESENTHAL CENTER, at Lithuania, file no. 28.

The record of the Lithuanian judiciary to date is as follows. It opened dozens of pretrial investigations, only four of which resulted in indictments, two of which were against medically-unfit defendants ultimately tried in Vilnius and a third, which was the basis for a request to Scotland for the extradition of Antony Gecas or Antanas Gecevičius, an officer of the infamous Twelfth Lithuanian Auxiliary Police Battalion was rejected due to his ill health. Thus only one trial was conducted with a defendant physically present in the docket, the March 2006 trial of Saugumas operative Algimantas Dailide, who was among the numerous Lithuanians successfully prosecuted in the US by the Office of Special Investigations. He was convicted on March 27, 2006 and sentenced to five years' imprisonment, but the judges refused to implement his sentence on the grounds that he was elderly (eighty-five-years-old), did not pose a danger to the public, and had to care for his ill wife. The mercy shown Dailide (who of course did not show any to his victims), reflects the lack of will in Vilnius to hold Lithuanian Nazi war criminals accountable, which is a direct outgrowth of the strong opposition to dealing with the issue of Lithuanian complicity in Holocaust crimes.<sup>15</sup>

It is entirely possible, although it would be extremely difficult to prove, that given the growing importance of Holocaust issues in the international arena, Lithuania attempted to compensate for its relative failure in prosecution by dealing in a more positive manner with some of the other, less politically-charged, practical Holocaust-related issues listed above, such as commemoration, documentation, and education. It is important to note, however, that in these issues as well, there is ample room for manipulation and/or distortion of the historical events regarding local complicity.

The formidable obstacles to the successful prosecution of local Holocaust perpetrators in post-Communist societies are not unique to Lithuania, which at least can point to four indictments, two convictions, and one extradition request, as well as the cancellation of at least 232 illegal rehabilitations.<sup>16</sup> Other countries that faced precisely the same

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15. OPERATION LAST CHANCE, *supra* note 1, at 110.

16. According to the figures provided by the Lithuanian authorities to the Wiesenthal Center, during the period from April 25, 2005 until April 15, 2016, a total of 232 rehabilitations granted to individuals convicted by Soviet courts were cancelled by the Lithuanian Supreme Court. There are no exact figures on the number of cancellations in cases related to those who collaborated with the Nazis, but Rimvydas Valentukevicius, who served as the Chief Prosecutor of the Special Investigations Division which handled these cases, estimated that 95% of those whose rehabilitations were cancelled had collaborated with the Nazis. See Rimvydas Valentukevicius' email to the author, April 25, 2005, in SIMON WIESENTHAL CENTER-ISRAEL OFFICE ARCHIVES, at Annual Status Report 2005.

situation, albeit on a smaller scale, have much less to show for their ostensible efforts.

Thus, for example, Latvia and Estonia also came under international pressure to prosecute local Nazi war criminals and both were extremely reluctant to proceed against their former nationals. In Latvia, the case which attracted the most attention (and international pressure) was that of former Arajs Kommando lieutenant Konrad Kalejs who, among other assignments, was responsible for perimeter security at the Salaspils concentration camp near Riga. He had initially escaped to Australia, from whence he moved to the United States in the fifties. In 1994, he was ordered deported from America, in 1998 he was deported from Canada and in 2000 he was expelled from Great Britain, in each case returning to Melbourne on his Australian passport. Efforts to convince the Latvian authorities to seek his extradition only bore fruit when an international conference with representatives from the United States, Great Britain, Israel, Australia and Germany was convened in Riga for this purpose. The Latvians finally submitted their request to the Australians in 2000, but Kalejs died in the middle of his appeal against the extradition.<sup>17</sup>

Throughout the entire period in which the Kalejs case was under discussion in Latvia, those advocating his prosecution were the object of intense criticism, often tinged with anti-Semitism. The themes used by those opposed to the prosecution of local Nazi war criminals were similar to those expressed in Lithuania and often referred to crimes against Latvians ostensibly committed by Jewish Communists. Jewish organizations seeking to bring Latvian Nazi war criminals to trial were rebuked for "ignoring Communist criminals," among whom, they claimed, the percentage of Jews was particularly high.<sup>18</sup>

Latvia, like Lithuania, carried out an extensive rehabilitation program shortly after obtaining independence. Among those granted pardons were numerous members of the Security Police who participated in the persecution and murder of Jews, most notably members of the infamous Arajs Kommando which played a central role in the mass murders in and around Riga, in the provincial Latvian Jewish communities, and in Belarus. Unlike the situation in Lithuania, where a joint Israeli-Lithuanian commission of inquiry was established to investigate the issue, a review of the pardons granted was undertaken, and to date more than two hundred illegal rehabilitations have already been cancelled, there was little willingness in Riga to carry out a similar process. Thus

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17. OPERATION LAST CHANCE, *supra* note 1, at 64–67, 113–14.

18. *Id.* at 118–19.

in Latvia there was never a comprehensive review of the rehabilitations and only two pardons granted to Latvian Holocaust perpetrators have thus far been cancelled.<sup>19</sup>

Perhaps the strongest indication of the widespread reluctance to properly deal with the issue of Latvian complicity in the Holocaust has been the absence of any effort by Latvian officials to combat recurring efforts to rehabilitate and/or glorify Herberts Cukurs, the famous pre-World War II aviator who later became the deputy commander of the Arajs Kommando, and to cast doubt on his culpability in the mass murder of Jews and others during the Holocaust. Even respected mainstream historians, such as Andrew Ezergailis, were sympathetic to the attempts to whitewash Cukurs. Thus, for example, he commented that there was no evidence that he had been at the pits at Rumbula, the site of the mass murder of approximately thirty thousand Latvian Jews, and in any event it had not been proven that he was “the most eager shooter of Jews in Latvia.” The implication being that less zealous Latvian killers should not be held accountable for their crimes and even deserved rehabilitation.<sup>20</sup>

Even worse, when the Jewish community protested against an exhibition on Cukurs entitled “Presumption of Innocence,” the chairman of the Saeima’s Foreign Affairs Committee Aleksanders Kiršteins warned the Jews of Latvia “not to repeat their perfidious behavior of 1940.” This charge posits that Latvian Jews welcomed the Soviet occupation in that year, an accusation very popular in nationalist circles, and one often used to justify Latvian participation in Holocaust crimes. To Latvia’s credit, Kiršteins was removed from his post in the wake of this comment.<sup>21</sup>

In Estonia as well, there is no political will to prosecute local Nazi war criminals. In fact, to date, the Estonians have not initiated a single investigation of an Estonian Holocaust perpetrator on their own, nor has legal action ever been taken against any local Nazi collaborators. On the contrary, Evald Mikson, who served in a prominent position in the notorious Political Police in Tallinn, was defended by the Estonian Foreign Ministry, which issued a statement proclaiming his innocence, after allegations concerning his involvement in the persecution and murder of Jews and Communists surfaced in 1991.<sup>22</sup> Other cases dragged on for

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19. *Id.* at 114–15.

20. Gunita Nagle and Nora Drike, *Nav tiesāts, tomēr navari nevainīgs*, *DIENA*, May 17, 2005.

21. OPERATION LAST CHANCE, *supra* note 1, at 118–19.

22. On Mikson’s crimes, see the testimony of Hilka Mootse, June 12, 1961, criminal case

years with no concrete results, despite the existence of abundant evidence proving the guilt of the suspects. Thus expatriate multimillionaire and cultural patron Harry Mannil was spared prosecution for his role in the Estonian Political Police, and Gestapo operative Michael Gorschkow, who was involved in the murder of Jews in Slutsk, Belarus, was never brought to justice in Estonia.<sup>23</sup>

Other allegations were dismissed without any serious investigation. Thus, for example, in July 2002, the Simon Wiesenthal Center submitted the names of 16 members of the Thirty-Sixth Estonian Police Battalion, who were decorated in December 1942 for their service with the Nazis, to the Estonian Security Police Board as possible suspects in the murder of the Jews of Nowogrudok, Belarus on 7 August 1942. The Security Police Board announced approximately two weeks later that there was no evidence to link the unit to the murder of the Jews of Nowogrudok, despite the fact that its participation in this crime was established by the Estonian "International Commission for Investigation of Crimes against Humanity" and confirmed by survivor witnesses.<sup>24</sup>

A clear-cut indication that the efforts to prosecute Estonian Nazi war criminals did not change local perceptions regarding the Holocaust was the August 2002 public opinion poll published in the daily *Eesti Paevaleht* which asked Estonians whether they supported the establishment of a special memorial day for the victims of the Holocaust, which by this time was a fairly common practice in Europe. Ninety-three percent of the respondents disapproved and only seven percent supported such an initiative.<sup>25</sup>

In both these Baltic countries, the efforts to facilitate prosecution encountered formidable political obstacles, which are clearly reflected by a comparison of the number of Communist criminals prosecuted compared to the number of Holocaust perpetrators brought to justice. Already a decade ago, ten Communist criminals had been put on trial in Estonia, and seven in Latvia, compared to zero suspected Nazi war criminals. (During the same time period, seventeen persons were tried for Communist crimes in Lithuania, and an additional nineteen were put

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15-61, former KGB Archives, Tallinn, Estonia. She witnessed him rape a Jewish mother and her daughter in the Vonnu rural district while he led the local Omakaitse, a nationalist vigilante squad.

23. On the Mannil case, see OPERATION LAST CHANCE, *supra* note 1, at 126-29; on the Gorschkow case see *Federal Court Revokes U.S. Citizenship of Former Gestapo Interrogator Who Participated in Nazi Mass Murder*, DEPARTMENT OF JUSTICE, July 31, 2002, [https://www.justice.gov/archive/opa/pr/2002/July/02\\_crm\\_446.htm](https://www.justice.gov/archive/opa/pr/2002/July/02_crm_446.htm).

24. OPERATION LAST CHANCE, *supra* note 1, at 128.

25. *Id.* at 128.

on trial after 2006).<sup>26</sup>

In each country, the demands by Jewish organizations to prosecute Holocaust perpetrators encountered vociferous opposition which was exacerbated by the local media, most of which actively opposed their initiatives, in a manner which bordered on the anti-Semitic. Thus, for example, *Eesti Ekspress*, the most popular Estonian news weekly, published a caricature of an official of the Wiesenthal Center (in fact, the author of this article), who presented the evidence against Harry Mannil to Estonian Prime Minister Mart Laar, as a devil intent on collecting the blood of the suspect, under the caption “Unwanted guest.”<sup>27</sup> Responses on the Internet to news stories regarding these cases or interviews with the individuals involved, invariably elicited harsh responses, often focusing on the alleged crimes of Jewish Communists against Balts, and even on occasion included calls for violence against those Jews pressing for the prosecution of local Nazi war criminals.

Besides Lithuania, Nazi war criminals were prosecuted in only two other Eastern European post-Communist countries—Croatia and Hungary. The former conducted what can today be described as the most successful trial of a Nazi collaborator in democratic Eastern Europe and in fact the only legal proceeding which resulted in the punishment of the defendant. The case in question was that of Jasenovac commander Dinko Šakić, who in 1999 was convicted in Zagreb of responsibility for the murder of more than two thousand inmates and sentenced to the maximum sentence of twenty years’ imprisonment.

In the wake of that conviction, several positive steps were taken to combat attempts to whitewash Ustasha crimes by nationalist right-wing elements. Thus, for example, a central square in Zagreb which after World War II had been named for the “Victims of Fascism,” but whose name was changed when Croatia became independent to “Heroes of Croatia,” had its original name restored. A street in the city of Split named after the breakup of Yugoslavia in honor of Ustasha Education Minister Mile Budak was renamed in the wake of a protest campaign. An annual memorial mass held in Zagreb to honor Ustasha leader Ante Pavelic was cancelled, and two monuments to famous Ustasha heroes—Budak and Jure Francitec were destroyed by the government.<sup>28</sup>

The conviction of Šakić was not the only positive step taken by the

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26. EVA-CLARITA PETTAI AND VELLO PETTAI, *TRANSITIONAL AND RETROSPECTIVE JUSTICE IN THE BALTIC STATES* 84–85 (Cambridge Univ. Press 2015).

27. Aet Suvari and Pekka Erelt, *Kutsumata kulaline*, *EESTI EKSPRESS*, August 23, 2001, at 5.

28. *OPERATION LAST CHANCE*, *supra* note 1, at 143–49.

Croatians. They also extradited Šakić's wife Nada who had served at the Stara Gradiška women's camp and issued an international arrest warrant for escaped Požega (Croatia) police chief Milivoj Ašner, who was responsible for the deportations to concentration camps of several hundred innocent civilians. These steps did not result in prosecutions, however, since Nada Šakić became ill and the Austrians refused to extradite Ašner to stand trial in Croatia.<sup>29</sup>

Hungary, like Croatia, conducted a trial of a Nazi collaborator, and sought the extradition of at least one Nazi war criminal, but it did not register any practical successes. Hungarian gendarmerie officer Sandor Kepiro, who was accused of participation in the murder of Serbs, Jews, and Roma in and around the city of Novi Sad in January 1942, was acquitted by a Budapest court and died before the government's appeal could be heard.<sup>30</sup> A Hungarian request for the extradition of Karoly (Charles) Zentai for the murder of eighteen-year-old Peter Babazs whom he caught on a streetcar without the requisite yellow star, was rejected by the Australian High Court.<sup>31</sup>

In attempting to assess the positive impact of the Šakić trial as opposed to the ostensibly less impressive practical results achieved by the efforts to prosecute local Nazi war criminals in the Baltics, one can point to several key factors:

First, the prominence of the suspects and their specific crimes played an important role. As the last surviving unprosecuted concentration camp commander, who was in charge of the most notorious Ustaša concentration camp, and an individual who had personally committed murder, Šakić was a criminal whose crimes could not be ignored. In contrast, while the role played by Saugumas commanders Lileikis and Gimzauskas was unquestionably criminal and worthy of prosecution, the fact that they were essentially desk murderers made it harder to convince public opinion, in what was largely a political decision, that they had to be held accountable for their crimes. Had there been unequivocal evidence, including live witnesses, that they had personally committed murder—and the same applies for all the other cases in the Baltics—it most probably would have been easier to convince these countries to prosecute the suspects.

A second important factor in the relative success of the Šakić trial was the existence of strong local support for his prosecution by significant segments of Croatian society. This was primarily due to two rea-

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29. For more on the Ašner case, see *id.* at 1–11.

30. For more on the Kepiro trial, see *id.* at 209–19.

31. For more on the Zentai Case, see *id.* at 173–82.

sons. The first was that unlike the situation in the Baltics, many Croats had opposed, and even fought against, the Ustasha and thus there was an important part of society with a strong anti-fascist orientation. While they did not necessarily constitute a clear majority of the population, they were an element which could not be ignored and they openly expressed their support for the prosecution. There was no such equivalent in any of the Baltic countries, a factor which made it easy for the governments of these countries to ignore their legal responsibility. The other factor of importance relates to the identity of the victims. Whereas those murdered in the Baltics were overwhelmingly Jews, the victims at Jasenovac were primarily non-Jews, specifically Serbs, Gypsies, and anti-fascist Croats. This fact most likely increased the number of local supporters of the prosecution.

A third factor which helps explain the difference between Croatia and the Baltics is the attitude of the local media. As noted above, the Baltic media reflected the widespread empathy for the defendants and viewed the efforts to prosecute them as sinister and rooted in anti-Baltic prejudice. Still preoccupied with their own suffering under Soviet occupation, most of the Lithuanian, Latvian, and Estonian press felt obligated to defend their own nationals from the attacks of foreign Jewish organizations, Israel and the United States rather than admit the complicity of local Nazi collaborators in Holocaust crimes.

I believe that we will soon be able to assess the full impact of the efforts to prosecute Nazi war criminals in post-Communist Central and Eastern Europe. It is already clear, however, that the major obstacles to successful prosecutions were not necessarily technical issues concerning evidence and the advanced age of defendants and/or witnesses, but rather deep-rooted factors which will take many decades of education to overcome.