

# **The Central Office of the Judicial Authorities for the Investigation of National Socialist Crimes**

State: December 2010

## **Information Sheet**

### **I. Creation and functions**

The Central Office of the Judicial Authorities for the Investigation of National Socialist Crimes (die Zentrale Stelle der Landesjustizverwaltungen zur Aufklärung von NS-Verbrechen) was founded on November 6, 1958 on the basis of an administrative agreement between the state ministers of justice and senators. It is a common organisation of all State Justice Administrations of Federal Republic of Germany. It began working on December 1, 1958.

According to the administrative agreement from November 6, 1958 the office was initially restricted to investigating crimes that occurred outside Germany and only those related to wartime operations but committed beyond such operations against civilians. In particular NS crimes at concentration camps and similar camps had to be treated.

The competence of the Central Office was considerably extended at the conferences of the state ministers of justice and senators from November 22, 1964 and April 27-28, 1966. According to resolutions taken there the Central Office investigates also NS crimes committed in Germany. Especially preliminary investigation concerning members of the highest Reich administration and party officials as well as guards who served at concentration camps had to be conducted. The main principle of investigating only NS crimes against civilians was insofar changed that since then the Central Office has also been investigating certain crimes against prisoners of war.

## **II. The reasons for the creation of the Central Office**

The German justice has already been investigating numerous cases of NS crimes since 1945. On the occasion of the discussion about a new statute of limitations in spring 1965 the Federal Ministry of Justice calculated the number of such cases. According to these data the courts and public prosecutor's offices in West Germany initiated proceedings against over 61,000 persons, round 13,000 of them were put on trial and 6,100 were finally convicted (for current date see part IV at the end).

There were also over 5,000 verdicts of military courts and Allied authorities of the three occupying powers on the territory of the Federal Republic of Germany; more than 12,000 verdicts in the Soviet Occupation Zone and in the German Democratic Republic, though these verdicts often did not meet all requirements of a constitutional state; a number of convictions in Soviet courts, some of them in the GDR and some in the USSR (the exact number is still unknown); over 16,000 verdicts in Poland and Czechoslovakia and more than 1,000 verdicts in other countries.

In the middle of the 50s there was a general impression that the whole complex of the prosecution of the NS crimes had been basically coped with. During the first postwar years a profound explanatory work was prevented not only by a catastrophic lack of experienced specialists, premises and materials but also by loosing of millions of registration forms and records of civil registry office. Moreover Germany was divided into four occupation zones, there existed no central police authorities at that time and German jurisdiction had been for a long time restricted by the Allied authorities. There was also the fact that because of insufficient information about the organizational structure, allegations could not be formulated precisely enough to provide evidences of compliancy of the accused or of orders issued by superiors.

Furthermore the traditional jurisdiction of public prosecutor's offices and courts was unsuitable for extensive work with NS crimes. According to the code of criminal procedure these authorities are primarily responsible only for crimes

conducted in their district, if a crime was committed outside of their area of responsibility, the perpetrator was prosecuted only if he resided in the respective district. Whether an NS crime was investigated or not by the German judicial authorities depended mainly on coincidence, especially in cases of mass crimes which had been committed outside Germany. That's why it was necessary to create an authority that would do some preparatory work in advance filling the gap between the areas of judicial competence.

The creation of the Central Office was a direct consequence of the so-called "Ulm forces trials" (Ulmer Einsatzkommando-Prozess) of ten former members of task force Tilsit (Einsatzkommando Tilsit) responsible for mass executions, mostly of Jews, along the German-Lithuanian front at the beginning of German's invasion of Soviet Russia. On August 29, 1958 all accused were sentenced to many years of prison by the jury court. In the course of the trial some issues became known which gave rise to the suspicion that probably more similar cases still remained un-investigated. To these issues belonged especially the so-called "incident reports" (Ereignismeldungen) of the security police (Sicherheitspolizei) und the SD (Sicherheitsdienst) about the activity of the task forces during the war against the Soviet Union. In such a way it turned out that the mass crimes at the concentration camps and determination camps in Poland also remained un-investigated.

### **III. Methods and personnel of the Central Office**

The task of the Central Office is to collect, to inspect and to analyse the whole accessible material on NS crimes in Germany and abroad. Its main aim is searching for crimes limited in space, time and committed by a certain group of culprits and to determine which persons involved into these atrocities can be still persecuted. After the Central Office has found the group of the perpetrators who are to be persecuted and the public prosecutor's office in charge, the preliminary investigation is closed and the files are transferred to this prosecutor's office. The latter is obliged to process the whole case. Here the Central Office renders investigative assistance further on. This method enables the state prosecutor's offices not only to conduct investigations in every single

case, as it had been till 1958, but to handle the case, divided into component complexes, profoundly and systematically as a whole.

For legal reasons only NS crimes defined as the murder can be persecuted since May 1960 (section 211 of the Criminal Code). As for other offences and crimes (including manslaughter section 212 of the Criminal Code) they are all subject to the statute of limitations for prosecution of crimes.

After the changes in the former Eastern bloc the Central Office gained access to the archive material which had been kept there and which had been inaccessible during the Cold War. Soon after German reunification the Central Office got the order from the conference of ministers of justice to look through and to analyse the large "NS-Archive" access to which had been refused for so many years by the authorities of the German Democratic Republic.

Since many years the Central Office has been cooperating with similar authorities from abroad which also deal with NS crimes, especially with the Human Rights and Special Prosecutions Section, former Office for Special Investigations (OSI), a unit within the Criminal Division of the United States Department of Justice, with the correspondent department of the Canadian Department of Justice and with the Commission for the Prosecution of the Crimes against the Polish nation. Moreover a legal assistance correspondence with the Italian legal authorities is being maintained.

Public prosecutors and judges delegated from various federal states are working for the Central Office. Nowadays the staff of the Central Office consists only of 19 persons. Between 1967 and 1971, as the largest workload was to be coped with – 600 preliminary investigations were being conducted at the same time – 121 persons belonged to the staff of the Central Office, among them 49 public prosecutors and judges.

Because of the decreasing number of cases the Central Office has been sharing its diverse tasks with the Bundesarchiv (Federal Archive) since April 2000. On the basis of an administrative agreement between the federal states which

are responsible for the Central Office and the Federal Republic of Germany the holdings of the Central Office were to a large extent transferred to the Bundesarchiv, which established its local branch office in Ludwigsburg for this aim. Since then the Central Office is primarily occupied with its original juristic tasks namely to conduct preliminary investigation of NS crimes and in this connection to collect, to inspect and to analyse relevant material in Germany and abroad. In this context the Central Office is anytime entitled to use the entire archive holdings transferred from the Bundesarchiv.

Now one of the main tasks of the Bundesarchiv is to provide information from the archive and to support visitors, especially researchers, who want to get access to records. The Federal Archive Act (Bundesarchivgesetz) is the governing law here which provides that according to section 5, subsections 1 and 2 of the Federal Archive Act the terms of protection are to be shortened for scientific researches and usage by authorised third persons in so far as it does not conflict with provisions of section 5, subsection 6 of this Act.

The Central Office has at its disposal only documents on preliminary investigations, which since its foundation in 1958 have been pending either at the Central Office itself or at one of the Federal public prosecutor's offices. Nevertheless the materials kept here give the most complete overview of all proceedings on NS-crimes since 1958 impossible to get anywhere else. After the Central Office has delivered a proceeding to the public prosecutor's office in charge, a duplicate of the preliminary investigation files remains at the Central Office. According to the administrative agreement this duplicate file is regularly completed with copies of documents showing a subsequent development of the matter. So it allows getting an overview of the whole proceeding from the files kept at the Central Office. In case a proceeding is opened directly by a public prosecutor's office, the Central Office also gets copies of all documents and establishes a so called correspondence file. In such a way it is possible to record also this kind of proceedings.

Though the number of the preliminary investigations decreases in the meantime, with increasing time interval to the Nazi regime and to the World War II,

however the Central Office will continue its activity to clear up other murder crimes of the Nazi regime, as long as other clarification is possible and while there is still reasonable chance of determining still living perpetrators and accessories to murder, which are fit enough for interrogation and for trial and of bringing if necessary a charge against them. Though the point in time in which this becomes unlikely already gets closer for biological reasons, however, just as some criminal actions recently brought in against such persons show it, it is not reached yet.

At last the District Court of Munich I passed a final verdict to imprisonment for life on September 11, 2009.

#### **IV. Some figures from creation of the Central Office till December 31, 2009**

<b>7,445</b>	preliminary investigations were started. In many cases this figure contains also collective procedures with a great number of accused and numerous criminal offences.
<b>7,418</b>	cases delivered to public prosecutor's offices for criminal proceedings to be started.
<b>27</b>	pending preliminary investigation matters at the moment. This figure contains neither the so called examination procedures nor administrative procedures which deal with archive researches, especially in archives abroad.
<b>17,955</b>	proceedings on NS-crimes which since 1958 have been pending before public prosecutor's offices and courts in the Federal Republic of Germany are recorded at the card-index of the Central Office. If these proceedings are not opened by the Central Office yet they are indirectly connected with it.
<b>113,997</b>	AR-matters (general information etc.) have been dealt with since 1958, including the so called examination procedures.
<b>about 1,685,000</b>	file cards are preserved at the central card-index of the Central Office. It is divided into personal files, geographical names files and files of military units. Among others the card-index contains 26,816 geographic names and 4,247 various military units and departments.

**about 558,300** pages of copies are contained at the Central Office. One can find separate documents with help of a document card-index which contains about 163,000 files. There are 427,500 documents in this card-index now. In the card-index is also recorded where the original document is kept.

Statistics of Ministry of Justice revealed complimentary to 01. January 2009 following figures on the proceedings at German public prosecutor's offices and in courts:

106,496	known by their names accused persons were under investigation which had been instituted by German public prosecutor's offices (without Allied authorities and without the Soviet Occupation Zone/the GDR) since May 8, 1945.
6,498	defendants were finally convicted namely:
13	persons were sentenced to death (prior to the effective date of the Basic Law)
167	persons were sentenced to life imprisonment
6,201	persons were sentenced to fixed term of imprisonment
115	persons were punished by a fine
1	person was cautioned according to law relating to young offenders
1	punishment was dispensed with

A data bank project of the Institute of Contemporary History in Munich has shown, that in the meantime some figures must be set clearly higher (See: Eichmüller, *Die Strafverfolgung von NS-Verbrechen durch west-deutsche Justizbehörden seit 1945. Eine Zahlenbilanz*, in: *Vierteljahreshefte für Zeitgeschichte*, Heft 4/2008, Seite 621 ff. / The Prosecution of Nazi Crimes by the West German Judiciary since 1945 - a Statistical Accounting, Issue 4/2008, p. 621 et seq.)

Based on this, from 1945 till 2005 inclusive, there were investigations conducted

against	172,294	persons known by their names
against	52,083	persons from 1945 to 1958
against	120,211	persons from 1959 to 2005
against	16,740	persons were brought charges
against	2,510	persons were charged with homicides
against	13,952	persons a final verdict was passed
namely:		
	5,184	persons were acquitted of their charges
against	2,101	persons the criminal proceedings were discontinued
	6,656	persons were convicted
	1,147	persons were convicted of homicides

**V. Addresses:**

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