

PHASE II : THE GERMAN OCCUPATION OF ESTONIA IN 1941–1944

INTRODUCTION

His Excellency the President of Estonia, Lennart Meri, wrote in his letter of 14 August 1998 to members of the Commission:

“It is my hope that the Commission can help my country to move confidently into the future after having identified all the individuals and groups responsible for the many tragedies visited on her half a century ago.”

The Commission was established to look into the historical record of the massive violation of human rights in Estonia during and after the Second World War.

Following the Molotov-Ribbentrop Pact concluded by Germany and the Soviet Union in August 1939 the Soviet Union occupied the Republic of Estonia in June 1940. In 1940–1941 the Soviet Union started the incorporation of the Republic of Estonia into the Soviet Union. To achieve this aim numerous leading politicians, officials, businessmen, intellectuals, military officers and wealthy farmers of the Republic of Estonia were arrested. The state structure of the Republic of Estonia was destroyed, non-profit organisations were closed down, restrictions were set on private property and ownership. Altogether tens of thousands Estonian citizens and residents fell victim to crimes against humanity and war crimes. In June 1941 Germany invaded the Soviet Union and occupied the territory of Estonia until 1944, continuing to undermine the structure of the Estonian State and inflicting great suffering on the population. From the Soviet reoccupation in 1944 the Soviet Union reimposed its rule until Estonia recovered her independence.

The Commission has divided its investigation into three segments: the first Soviet occupation (1940–1941), the German occupation (1941–1944), and the second Soviet occupation (from 1944).

This Report is intended in the first instance to present the facts of the German occupation to the Estonian people. These facts are derived from research commissioned by the Commission from Estonian historians, using archival material avail-

able in Estonia, Germany and (to a limited extent) Russia, Israel, the United States and Sweden. The Commission believes the research reports to be of high quality, factual, and securely based on primary and secondary sources.

The Commission would like to recognize the dedication of its historians, and of Executive Director Toomas Hiio.

The Commission wishes it to be understood at the outset that overall responsibility for most, if not all of the episodes of criminality reported upon here lies with the German military and civil occupying forces. This was established during Nuremberg Trials, as well as in other connections, and German actions are recorded in several of the research reports. It is, however, also the purpose of this Report to identify those Estonians who ordered or took part in these events, and through the positions they held or their actions, share responsibility for crimes against humanity, genocide, or war crimes.

DEFINITION OF TERMS

In order to make clear precisely who we are discussing, the Commission has adopted the convention of using the term “Estonian” to denote only citizenship. Where we deem it necessary to identify specific ethnic or religious groups of Estonian citizenship, we use the appropriate term (e.g., “Estonian Jews”). We use “ethnic Estonians” to identify the majority population.

The Commission recognizes that there is debate as to the precise citizenship of several members of the Estonian Self-Administration, including Hjalmar Mäe and Alfred Wendt. It is the Commission’s opinion that the functions exercised by these individuals clearly indicate that they considered themselves to be Estonian citizens; and that the possibility that they may also technically have held German citizenship has no relevance for the conclusions of this Report.

The Commission decided at its first meeting to use the definitions of “Crimes Against Humanity” set out in Article 7 of the 1998 Rome Statute of the

International Criminal Court which is appended to this Report. Although these definitions were arrived at many years after the events that we have studied, we are confident that they represent a standard that is appropriate to those events. This is, furthermore, not a judicial commission; any legal action that may be taken as a result of the Commission's findings will be the responsibility of the appropriate authorities of the Republic of Estonia.

On reviewing the events on which this Report is based, the Commission also concluded that certain of those events met the definition of Genocide as set out in Article 6 of the Rome Statute; the killing of Estonian Jews and Estonian Roma were “acts committed with intent to destroy, in whole or in part, a national, racial or religious group.” In addition, the killing of Soviet prisoners of war in this period met the definition of War Crimes, as defined in Article 8 of the Statute.

CRIMINAL EVENTS

The Commission believes that the following events which took place during the period of the German occupation are at least *prima facie* evidence that genocide, crimes against humanity, and war crimes were committed by, or with the active assistance of, Estonians on or outside Estonian territory:

1. ESTONIA AND THE HOLOCAUST

1.1. THE KILLING OF ESTONIAN JEWS

Round-ups and killings began immediately following the arrival of the first German troops, who were closely followed by the extermination squad *Sonderkommando (Einsatzkommando) 1a*, commanded by Martin Sandberger, part of *Einsatzgruppe A* under Walter Stahlecker. Arrests and executions continued as the Germans advanced through Estonia. About 75% of Estonia's Jewish community, aware of the fate that otherwise awaited them, managed to escape to the Soviet Union; virtually all the remainder (between 950 and 1000 men, women and children) were killed before the end of 1941. They included Estonia's only rabbi; the professor of Jewish Studies at Tartu University; Jews who had left the Jewish community; the mentally disabled; and a number of veterans of Estonia's war of independence. Less than a dozen Estonian Jews are known to have survived the war in Estonia.

1.2. THE KILLING OF FOREIGN JEWS ON THE TERRITORY OF ESTONIA

The Germans deported to Estonia an unknown number of Jews from other countries, including Lithuania, Czechoslovakia, Germany and Poland. A labor camp was established at Jägala in 1942, commanded by Aleksander Laak, an Estonian. During 1942 several transports arrived from Terezin. Some 3,000 Jews not selected for work were taken to Kalevi-Liiva and shot. The Jägala camp was liquidated in the spring of 1943: most of the prisoners were shot.

A camp complex based at Vaivara was established in September 1943, commanded by German officers (Hans Aumeier, Otto Brennais and Franz von Bodman). The complex consisted of approximately twenty field camps, some of which existed only for short periods. As the Russians advanced in autumn 1944, a number of prisoners were evacuated by sea to the concentration camp in Stutthof, near Danzig. At Klooga, approximately 2,000 prisoners were shot, their bodies stacked on pyres and burned. Killings also took place at various times in the central prison in Tallinn, in a camp in Tartu, and at other locations.

1.3. THE PARTICIPATION OF ESTONIAN MILITARY UNITS AND POLICE BATTALIONS IN TOWNS AND TRANSIT CAMPS OUTSIDE ESTONIA, AND AT LABOUR AND CONCENTRATION CAMPS IN ESTONIA, WHILE ACTS OF GENOCIDE OR CRIMES AGAINST HUMANITY TOOK PLACE INVOLVING THE KILLING OR DEPORTATION OF JEWS AND OTHER CIVILIANS, IN WHICH THE UNITS PLAYED A VARIETY OF ROLES

The Commission's researchers have studied a number of the records of post-war Soviet era trials, in an effort to determine the location and activities of specific Estonian military units and police battalions at various times. Some of this material could be matched against the information provided in the book “Eesti Vabadusvõitlejad” (Estonian Freedom Fighters). Information was also obtained from individuals, and from memoirs. From this research, the Commission concludes that the Estonian Legion and a number of Estonian police battalions were actively involved in the rounding up and shooting of Jews in at least one town in Belarus (Nowogródek); in guard duties in at least four towns in Poland (Łódź, Przemysl, Rzeszow, and Tarnopol); in guard duties at a number of camps in Estonia and elsewhere; and in the deportation to Germany of an unknown number of civilians from Belarus and Poland.

2. THE KILLING OF ROMA IN ESTONIA

The 1934 census identified 776 Estonian Roma. The Commission's researchers have compiled a list of 243 Estonian Roma who were killed at the end of October 1942. It is known that a number of other Roma, probably from Czechoslovakia, were also killed in Estonia. Estimates put the total number of Roma murdered in Estonia at somewhere between 400 and 1000, men, women and children. A number of Estonian Roma are known to have survived the war.

3. THE KILLING OF AT LEAST A FURTHER 7000 PEOPLE, INCLUDING APPROXIMATELY 6000 ETHNIC ESTONIANS

The Commission's researchers have undertaken a statistical analysis of post-war (1944 onward) files from Soviet era archives, and a close analysis of existing databases. The researchers have estimated that some 6000 ethnic Estonians, apart from Jews and Roma, were killed during this period. In addition, some 1000 people of uncertain citizenship, mostly ethnic Russians, were killed. In some cases there was some form of trial; in others, no attempt at any judicial process. The majority of those killed appear to have been ethnic Estonians, and to have been accused of membership in destruction battalions, or of having Communist sympathies. There is evidence that the dead included family members of the accused. The majority of killings took place prior to the spring of 1942.

4. THE KILLING OF SOVIET PRISONERS OF WAR

Conditions for the detention of Soviet POWs were primitive, reflecting both the initial speed of the German advance, and the German refusal to apply international conventions to the Soviets. Mortality among Soviet POWs was heavy in the first winter of the war. A number of them had been cut off from their units for some time before their capture, and prisoners who entered the camps in poor physical condition were significantly at risk. The situation of some Soviet POWs (primarily Ukrainians, who were considered politically reliable) later improved when they were put to work on the land. Others, working in labour camps, experienced extremely harsh conditions. A careful analysis of the sparse evidence available suggests that of some 30,000+ Soviet POWs held in Estonia about 15,000 died in captivity. It is not possible to determine with any degree of precision how many POWs died of neglect and mistreatment, and how many were deliberately killed.

5. THE IMPOSITION OF FORCED AND SLAVE LABOUR

The Commission's researchers found evidence of the use of forced labor and slave labour at several locations within the Vaivara camp complex and elsewhere. Slave labourers are defined as those (normally Jews and some Soviet POWs) who were intended to be worked to death. Forced labourers were exploited, at times under very harsh conditions, but were not to be worked to death.

PRINCIPLES OF RESPONSIBILITY

The Commission decided that responsibility for the crimes committed in respect of the above-mentioned events should be assigned in two ways. Firstly, we deem certain people responsible by virtue of the positions they held, for having given orders which resulted in crimes against humanity. These were the most senior members of the Estonian Self-Administration, serving as Directors with, and reporting directly to Hjalmar Mäe.

In the second instance, responsibility is solely determined by the actions of an individual. We make no distinction between those who volunteered to serve the occupying power, and those who were conscripted; what governs is the actions of the individual.

DETAILED ASSESSMENT OF RESPONSIBILITY

The Commission examined the role of the Estonian Self-Administration (known as the Directorate). The objective was to determine by whose authority and under what circumstances the Directorate came into being; whether it enjoyed any significant independence of action; how it functioned in relation to the occupying power, and to the Estonian people; and what degree of responsibility for criminal actions which occurred during the period of its activity should be attributable to those who worked under its aegis.

The Commission concluded that the Directorate was established under the authority of the Germans, and with the intention of providing a convenient structure for the administration of the territory of Estonia, which would limit the need for the Germans to use their own resources for this purpose. The position of Director was voluntary; there is no evidence that any of the leadership of the Directorate were subject to any form of coercion.

Although the Directorate did not have complete freedom of action, it exercised a significant measure of autonomy, within the framework of German policy, political, racial and economic. For example, the Directors exercised their powers pursuant to the laws and regulations of the Republic of Estonia, but only to the extent that these had not been repealed or amended by the German military command.

The Directorate's autonomy, in particular, enabled them to maintain police structures that cooperated with the Germans in rounding up and killing Estonian Jews and Roma, and in seeking out and killing Estonians deemed to be opponents of the occupiers, and which were ultimately incorporated into the Security Police. It also extended to the unlawful conscription of Estonians for forced labor or for military service under German command.

It is therefore the opinion of the Commission that the following, who served at various times as Directors, or in other senior capacities, share responsibility with the German authorities, by virtue of their office, for all criminal actions carried out in Estonia, and beyond its borders by military units or police battalions raised with their consent, during the period of the German occupation:

Hjalmar Mäe

Oskar Angelus

Alfred Wendt (or Vendt)

Otto Leesment

Hans Saar

Oskar Öpik

Arnold Raadik

Johannes Soodla

The Commission also considered the creation, and the role, of the police, initially under the command of the Director of Internal Affairs (Oskar Angelus), and later under the direct authority of the head of the Directorate (Hjalmar Mäe), until taken over by the Germans in 1944.

Although Estonian police structures were formally subordinated to the German Security Police and Order Police, evidence shows that Estonians exercised significant independence of action in arresting and interrogating suspects, and determining and carrying out sentences.

The Commission reviewed the structure and the operational competence of the police through their various reorganisations, including that of May 1942, which brought them into line with the German Security Police. The Commission believes that the police were actively involved in the arrest and killing of Estonian Jews. The police were also actively engaged in actions against Estonians deemed to be opponents of the Germans. In particular, but not exclusively, these functions were carried out by Group B, the Estonian Security Police, headed by Ain-Ervin Mere and later by Julius Ennok.

It is the opinion of the Commission that despite the criminal activities in which numbers of policemen were engaged, it is not reasonable to assign responsibility solely by virtue of their positions to every individual who worked in the various police structures during the German occupation. Those persons, whether serving in the police or elsewhere, who actually committed such crimes must bear individual responsibility for them.

However, the Commission believes that an exception to this general rule should be made in the case of members of the Political Police (Department B IV), headed by Julius Ennok. Given the specific activities of this section, the Commission believes that it is reasonable to assign responsibility for these crimes to everyone who served in Department B IV, by virtue of their office.

The Commission particularly singles out the roles of Ain-Ervin Mere; Julius Ennok; Ervin Viks and Evald Mikson, who signed numerous death warrants; Karl Linnas and Aleksander Koolmeister, commandant and senior officer respectively at camps in Tartu, and Tallinn; and Aleksander Laak, commandant at Jägala and later in Tallinn. The Commission also singles out the role of the members of the three-man tribunals which passed sentence on Soviet POWs, suspected Communist sympathisers, and "anti-social elements".

The Commission has considered carefully the role and responsibility of those who worked for the Directorate in areas other than the police, and in less senior capacities, ranging from heads of departments down to clerical workers. Although their activities contributed to the German war effort, we concluded that in the absence of evidence of specific actions taken by these individuals that gave rise to a criminal act, we could not hold them responsible for criminal acts simply by virtue of the positions they held.

Many of the lower-level administrators had held the same or similar positions under previous

regimes. The Commission believes that they belong to the large category of Estonians who may have been aware of criminal acts, but neither took part in them, nor registered any protest against them.

The Commission reviewed the role of the “forest brothers”, and their successors (*Omakaitse*) during the early stages of the German occupation. Research reports show that the bulk of the killings of alleged Communist sympathisers occurred at the hands of *Omakaitse* members, in the first two months following the German invasion. *Omakaitse* units also took part in the round-up of Jews (and possibly in their killing).

Estimates suggest that some 30,000–40,000 men were members of the *Omakaitse*. A comparison of local *Omakaitse* strength with the number of accusations of killings in those areas suggests that only a relatively small proportion of *Omakaitse* members (approximately between 1000 and 1200 men) were directly involved in criminal acts.

Members of the *Omakaitse* were eventually recruited into military units or police battalions, together with other volunteers and (at a later stage) conscripts. The Commission studied the limited material available on the activities of these units on Estonian territory and elsewhere.

The Commission has reviewed the role of Estonian military units and police battalions in an effort to identify the specific units which took part in the following actions:

- 1) escorting Jews deported from Vilnius to camps in Estonia.
- 2) providing guards for the Vaivara camp complex, the camps at Tartu, Jägala, Tallinn, and camps for Soviet POWs, in all of which prisoners were killed.
- 3) guarding the transit camp for Jews at Izbica in Poland, where a significant number of Jews were killed.
- 4) providing guards to prevent the escape of Jews being rounded up in several towns in Poland, including Łódź, Przemysl, Rzeszow, and Tarnopol.
- 5) the roundup and mass shooting of the Jewish population of at least one town in Belarus (Nowogródek).

The study of Estonian military units is complicated by frequent changes in unit designation, in personnel and in duties, some of which are poorly recorded. However, it has been possible by careful use of Soviet era trial records, matched against material from the Estonian archives, to determine that Estonian units took an active part in at least one well-documented round-up and mass murder in

Belarus. The 36th Police Battalion participated on 7 August 1942 in the gathering together and shooting of almost all the Jews still surviving in the town of Nowogródek.

In the published records, this unit was described as fighting against partisans at the time. The Commission believes that although there clearly were numerous engagements between police units and partisans, “fighting against partisans” and “guarding prisoner of war camps” were at times ways of describing participation in actions against civilians, including Jews.

Although there is little documentary evidence on this subject, individuals also reported the presence of Estonian units as guards at Łódź, Tarnopol, Przemysl and Rzeszow. Major deportations to the death camp at Belzec from the ghettos of the three latter towns took place between July and September 1942. However, neither the dates mentioned, nor the testimony given, directly implicate Estonian units in these actions.

Research has also disclosed evidence of crimes against humanity, and acts of genocide, in which the 286th, 287th and 288th Police Battalions participated at various times in their existence. These include the killing of prisoners at camps in Estonia, and participation in what are described as “raids” on villages in Poland, Belarus, and Lithuania. The 287th was on duty at the Klooga camp in September 1944, when the last surviving prisoners were killed. It is not clear whether the actual killings were carried out by German SS guards, by members of a reserve unit of the Estonian SS, or by members of the 287th. It is however clear that the 287th was actively involved in gathering together the prisoners, guarding them, and escorting them to their death. The unit was withdrawn to Germany and most of its men were sent to the 20th Estonian SS Division.

Given the frequency with which police units changed their personnel, the Commission does not believe that membership in the cited units, or in any specific unit is, on its own, proof of involvement in crimes. However, those individuals who served in the units during the commission of crimes against humanity are to be held responsible for their own actions.

GENERAL CONSIDERATIONS

The Commission decided that it could not conclude this Report without making some general comments on the situation facing Estonia during the German occupation.

There is no doubt that the year-long Soviet occupation which immediately preceded the German attack on the Soviet Union caused immense damage to Estonia's institutions and to her citizens. In particular, the mass deportations of June 1941 (at least 1% of the entire population, including 10% of the Jewish community) created an atmosphere of panic, in which the German invasion initially appeared to many as a form of liberation.

In the confusion of the first two months, until German forces occupied the whole of Estonia, the implementation on Estonian territory and against Estonian Jews of Nazi genocidal policies – evident in the murder of Estonian Jews in Pärnu and elsewhere – went largely unnoticed by the population as a whole.

By the time the roundup of Jews (and Roma) began in earnest in late August 1941, over three-quarters of the Jewish community had fled. Anecdotal evidence suggests that some of those who stayed behind did so because they refused to seek refuge in the Soviet Union.

The extermination of the remaining Estonian Jews was carried out so thoroughly, by *Sonderkommando* 1a with assistance from the *Omakaitse* and the Estonian police, that no ghetto was formed. Until the later deportation of foreign Jews to camps in Estonia, the only surviving Jews on Estonian territory were those few who had been hidden by Estonian friends or relatives.

The use of Estonian military units (including the Estonian Legion), and police battalions in various capacities in Belarus and Poland suggests at best indifference on the part of those troops and their officers to the plight of Jews; at worse, active cooperation in genocide. Estonian troops guarded several towns in Poland from which Jews were periodically deported to the death camps, to prevent their escape. On the basis of what happened elsewhere there would have been attempts to break out to the forests. There is no documentary evidence of the actions taken by Estonian troops, but the implications of their presence in and around those towns are clear.

The eye-witness account by Polish resistance fighter Jan Karski of the events at the Izbica transit

camp is equally clear. Jews were loaded into trains whose floors had been covered in quicklime, and which were then shunted onto sidings until they were dead. Karski entered the camp (which he initially thought was Belzec) by bribing an Estonian guard. This unidentified Estonian unit shared guard duties with auxiliaries of other nationalities.

The evidence for the participation of the 36th Police Battalion in the liquidation of the ghetto in Nowogródek is much clearer and compelling. In view of the repeated use of the language used to disguise this crime (“fighting against partisans”), the Commission believes that at least a portion of the activity of the Estonian police battalions constituted, or contributed to, crimes against humanity or genocide.

There is doubt about the activities of the “forest brothers”, and later the *Omakaitse* in the first few weeks after the German invasion, although this part of the subject is poorly documented. The recruitment of “destruction battalions” to support the scorched earth withdrawal of the Red Army gave rise to the Summer War in Estonia – engagements primarily between armed bands of Estonians who took opposing political positions.

Our research has shown that a significant majority of destruction battalion members were ethnic Estonians, as were the bulk of those “forest brothers” and members of the *Omakaitse* opposing them. There is every reason to believe that in the confusion of the first stage of the German invasion, crimes were committed by both sides in the conflict, and that innocent civilians were deliberately killed. Many of the hundreds of “suspects” rounded up by the *Omakaitse* and many killed by Soviet destruction battalions fall into this category.

The situation of those who wanted a return to a free and democratic Estonian state, and consequently opposed both the Germans and the Soviets, was the most difficult. They had virtually no means of expressing themselves. Their existence can be inferred from the shortage of volunteers for military and police units in the earlier stages of the German occupation.

There is anecdotal evidence from surveys of popular opinion conducted by Estonian Security Police that this passive resistance grew as it became evident that Estonia would not recover her independence under the aegis of the Germans, nor would the Soviet confiscations of land and property be reversed.

We note that over 3,500 Estonians crossed the Gulf of Finland, some to avoid conscription and others to volunteer to serve in the Finnish Army, so that they could fight against the Soviets, but not under German command. We believe that many of these men were taking the only action they believed possible at the time, to enable them to play some active role in the struggle for the eventual recovery of Estonian independence. We believe that the 1800 men who returned to Estonia in August 1944 at the urging of the last pre-war Estonian Prime Minister Jüri Uluots, continued in this belief when they returned to Estonia as Soviet forces advanced.

In essence, the main difficulty throughout the German occupation (and afterwards) was that resistance to the Germans would inevitably be construed as support for Communism and the Soviet Union; while resistance to the Soviets would be construed as support for Nazism. Despite the continued service of diplomats of the Estonian Republic in several countries, there was no Estonian government in exile, in whose name resistance could have been undertaken. There was very little “middle ground”.

The attitude until the late summer of 1944 of those few pro-democracy and pro-independence politicians who were still active, was that when the war ended, Estonia would have the opportunity at a peace conference to reassert her claims to independence. In hindsight, this was a forlorn hope. The attempt in September 1944 to restore an independent state and government, and resist the reimposition of Soviet rule, was prevented by the opposition of German forces, the refusal of the Soviets to negotiate, and the weakness of the military units at the disposal of the new government.

The people who left Estonia before the advancing Russians did so because they did not want to find themselves under Soviet occupation again. Among their numbers were those who believed that their cooperation with the Germans would have brought them before Soviet justice. Some, at least, were members of the Directorate, or of the Security Police, or had as members of military units or police battalions guarded camps or towns in which crimes against humanity or acts of genocide had been committed.

These people were, with isolated exceptions, never required to account for their actions before a court of law. The outbreak of the Cold War provided a form of amnesty for those who could claim that their struggle had been against the Soviets, even if in alliance with or subordinated to Germany. Questions about the nature of their activity during the war were, with a few exceptions, not asked. Accordingly, many refugees were able to emigrate freely to England, Australia, Canada, the United States and elsewhere.

Our research examined the fate of numbers of Estonians who had stayed in Estonia, or had fallen into Soviet hands as prisoners, and were put on trial. A few were acquitted. Others were convicted of a range of criminal activities on the basis of credible evidence. But when their convictions were based solely on collaboration with the Germans, as Soviet citizens, the convictions were unsound. Estonia had not joined the Soviet Union by any form of due process, and Estonians had every right to regard themselves as citizens of the Estonian Republic.

We recognise that the repressive policies of both of the Soviet periods of occupation, the inability of Estonia to reassert her independence during or after the German occupation, the losses of life and property that occurred as a result of the war, and the further loss of tens of thousands of Estonians who fled the return of the Soviets, made Estonia and Estonians a victim nation. After the war it was only natural that Estonians in exile and Estonians still in Estonia primarily attributed this victimhood to the “oppressor in residence”, the Soviet Union. This explains why it was difficult to deal with the German occupation.

The Commission believes being a victim does not preclude acts of perpetration. A people which respects the rule of law should recognise crimes when they have been committed, and condemn them and those who committed them.

It is unjust that an entire nation should be criminalized because of the actions of some of its citizens; but it is equally unjust that its criminals should be able to shelter behind a cloak of victimhood.