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**Records of the United States
Nuernberg War Crimes Trials
United States of America v.**

Josef Altstoetter et al.

(Case III)

February 17, 1947-

December 4, 1947



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Record Group 238

RECORDS OF THE UNITED STATES NUERNBERG WAR CRIMES TRIALS
UNITED STATES OF AMERICA V. JOSEF ALTSTOETTER ET AL.
(CASE III)

FEBRUARY 17, 1947-DECEMBER 4, 1947

On the 53 rolls of this microfilm publication are reproduced the records of Case III (*United States of America v. Josef Altstoetter et al.*, or the "Justice" Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal (IMT) held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs, and final pleas of the defendants as well as prosecution and defense exhibits and document books in one language or the other. Also included in this publication are a minute book, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 29 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. Most of the prosecution and defense statements and answers are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. The unbound prosecution exhibits, numbered 1-639, are essentially those documents from various Nuernberg record series offered in evidence by the prosecution in this case. The defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically. Both prosecution and defense document books consist of full or partial translations of exhibits into the English language. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

The minute book, in one bound volume, is a summary of the transcripts. The official court file, in five bound volumes, includes the progress docket, the indictment, amended indictment, and the service thereof; appointments and applications of defense counsel and defense witnesses and prosecution comments thereto; defendants applications for documents; motions; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Clemency petitions of the defendants, in five bound volumes, were directed to the military governor, the Judge Advocate General, and the Supreme Court of the United States. The finding aids summarize transcripts, exhibits, and the official court file.

Case III was heard by U.S. Military Tribunal III from January 4, 1947, to December 4, 1947. The records of this case

are, as are the records of the other Nuernberg and Far East (IMTFE) war crimes trials, part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The Altstoetter case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weizsaecker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the IMT against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943, Executive Order 9547 of May 2, 1945, the London Agreement of August 8, 1945, the Berlin Protocol of October 6, 1945, and the IMT Charter.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances Nos. 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. The procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the IMT and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

The crimes charged in the Altstoetter case pertained to the deteriorating administration of justice in the Third Reich. In collusion with organizations such as the SS and SD, members of the Justice Ministry aided and gave effect to statutes, decrees, and orders intended to deny due process of law to individuals in Germany and in areas controlled by Germany. People's courts (Volksgerichtshof) held original and appellate jurisdiction in cases of high treason while special courts, attached to courts of appeal (Oberlandesgerichte) dealt with political cases. Both were notorious for the severity of punishment, secrecy of proceedings, and denial of all fairness to those accused who offended the "healthy sentiment of the people."

Jews, Poles, gypsies, and nationals of the eastern territories, especially, were subjected to brutal treatment and often exterminated. Many civilians in occupied areas were designated as asocial or transported away for secret trial in the Reich under the authority of the "Night and Fog Decree" with their whereabouts kept secret.

The crimes charged in the Altstoetter case also included participation in the sterilization of so-called "racially impure" persons through special hereditary courts. Large numbers of these "racially impure" persons or persons suffering from hereditary diseases were sterilized. On others, classified as "useless eaters," euthanasia was practiced.

The German judicial process was perverted to protect perpetrators of these crimes and brutalities, which took place in concentration camps and elsewhere, by granting immunities, pardons, and amnesties. This favorable treatment was thus in stark contrast to the discriminatory measures taken against Jews, Poles, gypsies, and other designated asocials.

The transcripts of the Altstoetter case include the indictment of the following 16 persons:

Josef Altstoetter: Chief (Ministerialdirektor) of the Civil Law and Procedure Division (Abteilung VI) of the Reich Ministry of Justice and Oberfuehrer in the SS.

Wilhelm von Ammon: Ministerial Counsellor (Ministerialrat) of the Criminal Legislation and Administration Division (Abteilung IV) of the Reich Ministry of Justice and coordinator of proceedings against foreigners for offenses against Reich occupational forces abroad.

Paul Barnickel: Senior Public Prosecutor (Reichsanwalt) of the People's Court (Volksgerichtshof) and Sturmfuehrer in the SA.

Hermann Cuhorst: Chief Justice (Senatspraesident) of the Special Court (Sondgericht) in Stuttgart, Chief Justice of the First Criminal Senate of the District Court (Landgericht) in Stuttgart, member of the Leadership Corps of the Nazi Party at Gau executive level, and sponsoring member (Foerderndes Mitglied) of the SS.

Karl Engert: Chief (Ministerialdirektor) of the Penal Administration Division (Abteilung V) and of the Secret Prison Inmate Transfer Division (Abteilung XV) of the Reich Ministry of Justice, Oberfuehrer in the SS, Vice President of the People's Court (Volksgerichtshof), and Ortsgruppenleiter in the NSDAP Leadership Corps.

Guenther Joel: Legal Adviser (Referent) to the Reich Minister of Justice concerning criminal prosecutions, Chief Public Prosecutor (Generalstaatsanwalt) of Westphalia at Hamm, and Obersturmbannfuehrer in the SS.

Herbert Klemm: State Secretary (Staatssekretaer) of the Reich Ministry of Justice, Director (Ministerialdirektor) of the Legal Education and Training Division (Abteilung II) in the Ministry of Justice, Deputy Director of the National Socialist Lawyers League (NS Rechtswahrerbund), and Obergruppenfuehrer in the SA.

Ernst Lautz: Chief Public Prosecutor (Oberreichsanwalt) of the People's Court.

Wolfgang Mettgenberg: Representative of the Chief (Ministerialdirigent) of the Criminal Legislation and Administration Division (Abteilung IV) of the Reich Ministry of Justice, particularly supervising criminal offenses against German occupational forces in occupied territories.

Guenther Nebelung: Chief Justice of the Fourth Senate of the People's Court, Sturmfuehrer in the SA, and Ortsgruppenleiter in the NSDAP Leadership Corps.

Rudolf Oeschey: Judge (Landgerichtsrat) of the Special Court in Nuernberg and successor to the defendant Rothaug as Chief Justice (Landgerichtsdirektor) of the same court, member of the Leadership Corps of the Nazi Party at Gau executive level (Gauhauptstellenleiter), and an executive (Kommissarischer Leiter) of the National Socialist Lawyers League.

Hans Petersen: Lay Judge of the First Senate of the People's Court, Lay Judge of the Special Senate (Besonderer Senat) of the People's Court, and Obergruppenfuehrer in the SA.

Oswald Rothaug: Senior Public Prosecutor (Reichsanwalt) of the People's Court, formerly Chief Justice of the Special Court in Nuernberg, and member of the Leadership Corps of the Nazi Party at Gau executive level.

Curt Rothenberger: State Secretary (Staatssekretaer) of the Reich Ministry of Justice, deputy president of the Academy of German Law (Akademie fuer deutsches Recht), and Gau-fuehrer of the National Socialist Lawyers League.

Franz Schlegelberger: State Secretary and Acting Reich Minister of Justice.

Carl Westphal: Ministerial Counsellor (Ministerialrat) of the Criminal Legislation and Administration Division (Abteilung IV) of the Reich Ministry of Justice and officially responsible for questions of criminal procedure and penal execution within the Reich, and Ministry co-ordinator for nullity pleas against adjudicated sentences.

The indictment consisted of four counts. Count one charged participation in a common design or conspiracy to commit war crimes or crimes against humanity. The count was dismissed, however, when the tribunal ruled that it had no jurisdiction to pass on it, hence no defendant was found guilty of count one. Count two was concerned with war crimes and count three, with crimes against humanity. All 16 defendants were charged with these counts; 7 were found guilty of count two and 7 were acquitted. For defendant Engert a mistrial was declared because he attended only 2 days before the tribunal, and defendant Westphal committed suicide. Nine were found guilty of count three, with five acquittals. Count four charged six defendants with membership in a criminal organization; three were found guilty and three were acquitted.

The transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty), opening and closing statements of defense and prosecution, and the judgment and sentences, which acquitted 4 of the 16 defendants. Life imprisonment was imposed on defendants Klemm, Oeschey, Rothaug, and Schlegelberger, while varying prison terms were given to defendants Altstoetter, von Ammon, Joel, Lautz, Mettgenberg, and Rothenberger.

The English-language transcript volumes are arranged numerically, 1-29; pagination is continuous, 1-10936. The German-language transcript volumes are numbered 1a-29a and paginated 1-10665. The letters at the top of each page indicate morning, afternoon, and evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received

documentary evidence for consideration by the tribunals). A number of pages are added to the transcript volumes and given number and letter designations, such as page number 4045a, while others are not numbered.

Of the many documents assembled for possible prosecution use, 639 were chosen for presentation as evidence before the tribunal. These included statutes, interpretations of laws, official instructions to judges, case records and sentences, affidavits of various individuals, texts of several of Hitler's speeches, minutes of meetings, reports and proposals, court orders, and correspondence.

The first item in the arrangement of the prosecution exhibits is usually a certificate listing the document number, a short description of the exhibit, and a statement about the location of the original document of the exhibit. The certificate is followed by the document, the actual prosecution exhibit (most of which are photostats), and a few mimeographed articles. In rare cases the exhibits are followed by translations or additional certificates. The following exhibits are original documents:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
2	None	242	NG 855
65	PS 1964	249	None
209	NG 485	283	NG 535
213	NG 464	290	NG 030
218	NG 488	379	None
222	NG 738	411	NG 911
226	NG 662	442	NG 832
231	NG 469	479	NG 680
508	PS 1393	572	NG 1470
556	NG 982	576	NG 1884

No certificate is attached to several exhibits, such as numbers:

2	217-218	378-379	508
112	222-227	403	538
148	231	411	555
153	242	425	572
180	249	443	574
192a	271	479	576
208-213	301	505	

Exhibits 192, 201, and 509 are followed by exhibits 192a, 201a, and 509a, respectively.

Other than affidavits, the defense exhibits consist of newspaper clippings, excerpts from law gazettes, journals, books,

court decisions and other publications, court orders, verdicts, judgments, decrees, reports, personnel records, and other items. The 1,583 exhibits for the defense are arranged by name of defendant and thereunder by exhibit number. Like the prosecution exhibits, the defense exhibits are preceded by a certificate if available.

The translations in the prosecution document books are preceded by indexes listing prosecution document numbers, biased descriptions, and page numbers of the translation. They are generally listed in the order in which the prosecution exhibits were introduced into evidence before the tribunal. The document books of the prosecution are preceded by a master index. Pages 15-25 in prosecution document book I, supplement C, document NG 784, are missing. Some document books, particularly book IIIG, are prefaced with correction sheets. Books XII, XVI, and XIX are followed by addenda. The document books consist largely of mimeographed pages.

The defense document books are similarly arranged. Each book is preceded by an index giving document number, biased description, and page number for each exhibit. The corresponding exhibit numbers are generally not provided. There are several unindexed supplements to numbered document books. Defense opening statements and final pleas are arranged alphabetically by name of defendant. Prosecution statements pertain to all defendants. Pagination is consecutive, yet there are many pages where an "a" or a "b" is added to the numeral.

At the beginning of roll 1 are filmed key documents from which the tribunal derived its jurisdiction: The Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the IMT Charter, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Included with these documents is a list of the names and functions of the members of the tribunal and counsels.

These documents are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by summaries of the daily proceedings, thus providing an additional finding aid for the transcripts. The exhibits are listed in an index, which notes the type of exhibit, exhibit number and name, corresponding document number and document book and page, a short description of the exhibit, and the date when it was offered in court. The official court file is indexed in the court docket, which is followed by a list of witnesses.

Not filmed in this publication are such records as German language document books because they largely duplicate court exhibits.

The records of the Altstoetter case are closely related to other microfilmed records in Record Group 238, specifically: prosecution exhibits submitted to the IMT, T988; NI (Nuernberg Industrialist) Series, T301; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; and records of the Brandt case, M887; the Milch Case, M888; the Flick Case, M891; the List case, M893; the Greifelt case, M894; and the Ohlendorf case, M895. In addition, the record of the IMT at Nuernberg has been published in *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947), 42 vols. Excerpts from the subsequent proceedings have been published as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (U.S. Government Printing Office), 15 vols. The Audiovisual Archives Division of the National Archives and Records Service holds motion pictures and photographs of many sessions of the IMT and of the 12 U.S. proceedings, and sound recordings of the IMT proceedings only.

John Mendelsohn wrote these introductory remarks.

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