



Комісія Людських та Громадянських Прав – Commission on Human and Civil Rights

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The Honourable Angela Merkel  
Chancellor of the Federal Republic of Germany  
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July 15, 2009

Honourable Madame Chancellor,

We are writing to you in the matter of Mr. John Demjanjuk, formerly of Cleveland, Ohio, who has been stripped of his US citizenship and deported from the United States to Germany at the request of German authorities.

As you undoubtedly know, Mr. Demjanjuk was accused in the past of being a guard at Nazi concentration camps during World War II, including, in particular, of being the notorious guard called "Ivan the Terrible" in the infamous Treblinka extermination camp. He was stripped of his US citizenship and extradited in 1986 to stand trial in Israel on these charges. He was convicted in 1988 based on faulty eye witness identification and sentenced to death for crimes against humanity. However, his conviction was overturned in 1993 by the Supreme Court of Israel. He returned to his home in the United States, and his US citizenship was reinstated.

Subsequently, he was again accused of misrepresenting his past when he migrated to the US in 1952 by allegedly concealing his service as a guard at Nazi concentration camps during WW II. His US citizenship was again revoked and he was deported from the US to Germany, where he is now accused of complicity in the death of some 29,000 persons at the Nazi concentration camp in Sobibor (in German occupied Poland) during the Second World War.

It has been pointed out by many scholars and observers that Germany has passed legislation, which effectively provided an amnesty from prosecution for German Nazis, including SS concentration camp commanders and their German subordinates (see, Jörg Friedrich's *Die kalte Amnestie* [The Cold Amnesty], Ernst Klee's *Was sie taten, Was sie wurden* [What They Did and What They Became] and John P. Teschke's *Hitler's Legacy*)<sup>1</sup>. Only a small fraction of German Nazis accused of crimes were convicted and of these most received light sentences<sup>2</sup>. Furthermore, Germany has laws that prohibit extradition of its own nationals to stand trial in foreign jurisdictions<sup>3</sup>, and generally does not recognize and enforce foreign convictions of German nationals, including those convicted of war crimes<sup>4</sup>. Thus, it is unseemly and hypocritical of Germany to put on trial a non-German Slavic "Untermensch" (to use Nazi terminology). Mr. Demjanjuk was, as is known, a Soviet Red Army soldier taken prisoner by the Germans during WW II and presumably pressed into

service as a "Wachmann" by the German SS. The horrible treatment by the Germans of Soviet prisoners of war is well documented.

It is all too easily forgotten that the people of the countries occupied by Germany in WW II were, first and foremost, victims of brutal Nazi occupation authorities, especially in Eastern Europe. We appeal to you to ensure that the Demjanjuk case does not turn into a show trial intended to spill blame for the Holocaust on non-Germans<sup>5</sup>, and we appeal to you to make a public statement to this effect.

The Supreme Court of Israel acquitted John Demjanjuk of charges not only of being Ivan the Terrible of Treblinka, but also shortly thereafter dismissed petitions to bring him to trial on charges of war-crimes at Sobibor or any other concentration camp. The Supreme Court ruled that "a further trial would infringe the rule of 'double jeopardy' in that Demjanjuk would be standing trial for offenses in respect of which he had already been tried and acquitted." Decision of Israel Supreme Court, August 18, 1993 (<http://www.jewishvirtuallibrary.org/jsource/Holocaust/Demjanuk1.html>).

Given Mr. Demjanjuk's advanced age and his serious medical condition<sup>6</sup>, his many years of law-abiding residency in the United States and his acquittal of war crimes by the Supreme Court of Israel, after spending seven years in solitary confinement in Israeli prison for a crime of which he was acquitted, it would be appropriate that he would be treated compassionately by German authorities, not be subjected to another trial, but rather be released from imprisonment and allowed to live out his remaining days in peace and freedom.

We look forward to receiving your reply.

Sincerely yours,



Jurij Darewych  
Chair

cc The Honourable Barack Obama, President of the United States of America  
The Honourable Viktor Yushchenko, President of Ukraine  
The Honourable Terry Davis, Secretary General, Council of Europe

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<sup>1</sup> Under the German legal system a statute of limitations was established so that manslaughter committed during the Third Reich could be prosecuted only until 1960 and murder until 1965. The German Parliament voted in 1965 and 1969 to extend the statute of limitations. Albeit, the law was changed in 1979 so that genocide and murder can be prosecuted without limit. See: Michael Greve, *Der justitielle und rechtspolitische Umgang mit den NS-Gewaltverbrechen in den sechziger Jahren* (Frankfurt, New York and Vienna: Peter Lang, 2001), K. Freudiger, *Die juristische Aufarbeitung von NS-Verbrechen. Beiträge zur Rechtsgeschichte des 20. Jahrhunderts* (Tübingen: Mohr Siebeck, 2002), J. P. Teschke, *Hitler's Legacy* (New York, Peter Lang, 1999/2001).

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<sup>2</sup> Some 106,000 persons were indicted and investigated for Nazi crimes in Germany from 1945 till 1998, of which 6,495 were sentenced and of these 164 were sentenced to life imprisonment. See M. Greve *op. cit.*, J. P. Teschke, *op. cit.*; also, C. F. Rüter and D. W. De Mildt *Justiz und NS-Verbrechen* v. 1-28 (Amsterdam: Amsterdam University Press, 1968 -2011).

<sup>3</sup> Basic Law for the Federal Republic of Germany, Article 16.

<sup>4</sup> A recent case reported in the press (AP June, 2009) is that of nine members of the Nazi SS sentenced *in absentia* in Italy to life in prison for massacres of over 350 civilians, including women and children, near the town of Fivizzano in August 1944. There are many other cases stretching over the past 60 years.

<sup>5</sup> The prominent German magazine Spiegel in an article dated 14 April 2009 states “The Holocaust was a crime ordered and committed by Germans, but without the help of Lithuanians, Latvians, Ukrainians, ethnic Germans living in Eastern Europe (known as “*Volksdeutsche*”) and other Eastern Europeans, the death toll would not have been as high. Historians estimate the number of non-German “killing workers” (a term coined by German writer Ralph Giordano) at about 200,000.” (*SPIEGEL Online Englisch vom 14.04.2009*). It is noteworthy that only some nationalities are identified explicitly, and only from Eastern Europe. No sources are cited as to which historians come to the figure of 200,000 non-German “killing workers” nor how they arrive at this number.

<sup>6</sup> Report by Dr. med. Albrecht Stein of Munich, dated June 17, 2009.