

VN 4122

Trial - Law Report
Series No. 418

h. 6.

THE TRIAL OF

1. Kriminaloberassistent Ludwig ZIRK,
2. Kriminalassistent Theophil Siegfried SCHADLICH, and
3. Kriminalassistent Alois GAMAUF.

Report by the Norwegian Representative

J. Aars Rynning.

Trial by the Haalogeland Lagmannsrett, March, 1947.

Public Prosecutor: Høyesterettsadvokat Trygve Roald Angell,

Counsel for the Defence: Advokat Lars Aagaard Murbræck.

Charge: Brutal torture of Norwegian citizens.

Indictment.

Defendants ZIRK, SCHADLICH and GAMAUF were charged by the Director of Public Prosecutions with having committed war crimes which were in violation of:

1, cf. # 3 of Law No. 14 of 13th December, 1946, which decide the punishment for acts which were committed in violation of the laws and customs of war by enemy citizens or other aliens who were in enemy service or under enemy orders, and if the said acts were committed in Norway or were directed against Norwegian citizens or Norwegian interests and which augment the punishment if:

a. the act caused grave bodily injury, grave suffering, prolonged deprivation of freedom, or extensive damage to property,

^c
b. Chapters 21, 22 and 25 of the Civil Criminal Code were repeatedly violated, or

d. particularly aggravating circumstances were present, cf.

228, 229, 232, 62 of the Civil Criminal Code which decide the punishment for causing harm to another person's body or health.

Statement of Facts.

Defendant ZIRK (b. 10th May, 1909.) came to Norway in the spring of 1943, and was employed by the Gestapo in Trondheim until 1st December, 1943, when he was appointed chief of the Gestapo Dienststelle in Mosjøen where he remained until the liberation.

Defendant SCHMIDLICH (b. 15th March, 1910.) came to Norway in June, 1940, and was first in charge of the passport control in Meraak¹²² and since May, 1941, he was employed as Kriminalassistent in the Gestapo Dienststelle in Mosjøen where he remained until the liberation. He had the rank of Oberscharführer.

Defendant GAMAUUF (b. 11th February, 1912.) came to Norway in October, 1941, and was first employed in the Sipo in Hammerfest. From January, 1943, until July of the same year, he was employed in Abteilung IV N in Trondheim and from August, 1943, until the liberation he was Kriminalassistent in the Gestapo Dienststelle in Mosjøen. He had the rank of Staffelscharführer.

While employed in the Gestapo Dienststelle in Mosjøen, all three defendants were in charge of the interrogation of Norwegian prisoners. According to witnesses' reports, the defendants, in the course of their office, alone or together, interrogated 108 prisoners using the method of "verschärfte Vernehmung". The method implied the use of threats, instruments of torture, kicks and blows, and suspending the prisoners from the ceiling with their hands and feet bound.

Sentence of the Lagmannsrett on 31st March, 1947.

All three defendants were sentenced to hard labour for life.

Notes on the sentence by the Lagmannsrett.

The acts for which the defendants were charged, were committed against Norwegian citizens and directed against Norwegian rights in so far as they were committed in order to obtain information on the activities of the underground movement. The crimes must, therefore, be considered as war crimes as they were in violation of the laws and customs of war. Reference was here made to the arguments used by the various judges in the case against Karl-Hans Hermann KLINGE. (Trial and Law Report, Series No. 30.)

The Court found that the defendants were fully aware of the criminal character of their acts and that they were carried out in a particularly painful manner causing grave bodily injury and physical and mental suffering. The Court pointed out that the paragraphs contained in the provisions of the German Civil Criminal Code regarding bodily injury, were almost identical with those of the Norwegian Civil Criminal Code - a fact which was confirmed by the German Assistant Counsel for the Defence.

All three defendants had reverted to the plea of superior orders but the Court found that though it could be assumed that ~~the~~ the defendants had reason to believe that their acts would find the approval of their superiors, they had never received any written instructions to use the method of "verschärfte Vernehmung". The Court, therefore, took it for granted that in the majority of cases the defendants had acted on their own initiative when torturing the prisoners.

The Court came to the conclusion that the defendants were guilty of the charges of having violated the various paragraphs of ^{the} Norwegian Civil Criminal Code mentioned in the indictment. They were acquitted of a few counts where not enough evidence was found to support their guilt.

When deciding the punishment, the Court took into consideration the aggravating circumstances that ^{an} ~~the~~ appalling number of brutal crimes had been carried out over a long period. ^{defendants} They had inflicted physical and mental suffering on their victims and had terrorised the whole district. When considering the punishment as regards ^{the} defendant ZIRK, the Court found it ~~as~~ an aggravating circumstance that the defendant had been employed in the German police force for six years before Nazism came into power and must, therefore, have been aware of the ^{proper} conduct of a decent policeman.

When considering the punishment as regards defendant SCHADLICH, the Court found it ~~as~~ an aggravating circumstance that he was responsible for the torture of 53 Norwegians.

As to defendant GAMAUF, The Court found that he had spent several years abroad in various countries and must, therefore, have been particularly aware of the regard for human rights prevailing in democratic countries.

The Court came to the conclusion that all three defendants had deserved the same degree of punishment and unanimously voted for hard labour for life.

The defendants have not appealed.
