The Frankfurt Auschwitz Trial, 1963–1965

*Genocide, History, and the Limits of the Law*

The Frankfurt Auschwitz trial was the largest, most public, and most important trial of Holocaust perpetrators conducted in West German courts. Drawing on a wide range of archival sources, Devin O. Pendas provides a comprehensive history of this momentous event. Situating the trial in a thorough analysis of West German criminal law, the book argues that in confronting systematic, state-sponsored genocide, the Frankfurt court ran up against the limits of law. Because many of the key categories of German criminal law were defined with direct reference to the specific motives of the defendants, the trial was unable to grasp adequately the deep social roots and systematic character of Nazi genocide. Much of the trial’s significance came from the vast public attention it captured, and this book provides a compelling account of the divided response to the trial among the West German public.

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For my mother and grandmother and in memory of my grandfather
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Abbreviations

AA Auswärtige Amt
AWJD Allgemeine Wochenzeitung der Juden in Deutschland
BAB Bundesarchiv, Berlin-Lichterfelde
BAK Bundesarchiv, Koblenz
Bgf Bundesminister für gesamtdeutsche Fragen
BGH Bundesgerichtshof
BGHSt Entscheidungen des Bundesgerichtshofs in Strafsachen
BK Bundeskanzleramt
BMI Bundesministerium des Innern
BMJ Bundesministerium der Justiz
BPA Presse- und Informationsamt der Bundesregierung
BVB Bund für Volksbildung, Frankfurt
BVG Bundesverfassungsgericht
CC Allied Control Council
CIC Comité International des Camps
DNZ Deutsche National-Zeitung und Soldaten-Zeitung
FAZ Frankfurter Allgemeine Zeitung
FBI Fritz Bauer Institut
FBI SAP Fritz Bauer Institut, Sammlung Auschwitz-Prozeß
FDP Freie Demokratische Partei
FFStA Frankfurt Staatsanwaltschaft
FFStA HA Frankfurt Staatsanwaltschaft, Handakten
FNP Frankfurter Neue Presse
FR Frankfurter Rundschau
FRG Federal Republic of Germany
GDR German Democratic Republic
GVG Gerichtsverfassungsgesetz
HHA Hessisches Hauptarchiv
HMJ Hessische Ministerium der Justiz
HVP Hauptverhandlungsprotokoll
## Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
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<tbody>
<tr>
<td>IAC</td>
<td>International Auschwitz Committee</td>
</tr>
<tr>
<td>IfZ</td>
<td>Institut für Zeitgeschichte</td>
</tr>
<tr>
<td>MDR</td>
<td><em>Monatsschrift für Deutsches Recht</em></td>
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<td>MStGB</td>
<td>Militärstrafgesetzbuch</td>
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<tr>
<td>NDP</td>
<td>Nationaldemokratischen Partei Deutschlands</td>
</tr>
<tr>
<td>NJW</td>
<td><em>Neue Juristische Wochenschrift</em></td>
</tr>
<tr>
<td>OKW</td>
<td>Oberkommando der Wehrmacht</td>
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<tr>
<td>PA</td>
<td>Politische Abteilung</td>
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<tr>
<td>RG</td>
<td>Reichsgericht</td>
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<tr>
<td>RGSt</td>
<td><em>Entscheidungen des Reichsgerichts in Strafsachen</em></td>
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<tr>
<td>RSHA</td>
<td>Reichssicherheitshauptamt</td>
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<tr>
<td>SAFF</td>
<td>Stadtsarchiv, Frankfurt am Main</td>
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<tr>
<td>SAPMO</td>
<td>Stiftung Archiv der Parteien und Massenorganisationen der DDR</td>
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<tr>
<td>SED</td>
<td>Sozialistische Einheitspartei Deutschlands</td>
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<tr>
<td>SPD</td>
<td>Sozialdemokratische Partei Deutschlands</td>
</tr>
<tr>
<td>StA</td>
<td>Staatsanwaltschaft</td>
</tr>
<tr>
<td>StGB</td>
<td>Strafgesetzbuch</td>
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<tr>
<td>StPO</td>
<td>Strafprozeßordnung</td>
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<tr>
<td>SZ</td>
<td><em>Süddeutsche Zeitung</em></td>
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<tr>
<td>TR</td>
<td>Tape Recording of Main Proceedings, Frankfurt Auschwitz Trial</td>
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<tr>
<td>UDWV</td>
<td>Union Deutscher Widerstandskämpfer- und Verfolgtenverbände</td>
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<tr>
<td>UIRD</td>
<td>Union Internationale de la Résistance et de la Déportation</td>
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<tr>
<td>VFM</td>
<td>Verband für Freiheit und Menschenwürde</td>
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<tr>
<td>WJC</td>
<td>World Jewish Congress</td>
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<tr>
<td>ZK SED</td>
<td>Zentralkomitee der Sozialistische Einheitspartei Deutschlands</td>
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1 Court examination of Auschwitz I: Trial participants going through the entry gate. Lead prosecutor Dr. Hanns Großmann is in the foreground. Photo courtesy of the Fritz Bauer Institute.

2 Court examination of Auschwitz I: Civil counsel Henry Ormond (right) and Kazimierz Smolen, director of the Auschwitz Museum (foreground). Photo courtesy of the Fritz Bauer Institute.
3 Court examination of Auschwitz I: Photographers and journalists following the trial participants. Kazimierz Smolen is visible on the left, with the white roll of paper under his arm. Photo courtesy of the Fritz Bauer Institute.

4 Court examination of Auschwitz II: Civil counsel Friedrich Karl Kaul (middle), civil plaintiff Mieczyslaw Kieta (left), civil counsel Joachim Noack, Kaul’s assistant (right). Photo courtesy of the Fritz Bauer Institute.
5 Court examination of Auschwitz II: Examination of the new ramp. Defendant Dr. Franz Lucas is in the foreground. In the background, the camp gate is visible. Photo courtesy of the Fritz Bauer Institute.

6 Court examination of Auschwitz II: Measuring distances on the new ramp. Bailiff Walter Lanz (first from left), Judge Walter Hotz (second from left), Defense Counsel Herbert W. Naumann (third from left), and defense counsel Eugen Gerhard (fourth from left). Photo courtesy of the Fritz Bauer Institute.
7 Court examination of Auschwitz: Trial participants waiting at the Warsaw airport. Photo courtesy of the Fritz Bauer Institute.
Court examination of Auschwitz I: Trial participants exiting the camp through the main gate. Defense counsel Georg Bürger (first from left), civil counsel Friedrich Karl Kaul (second from left), Polish representative Jan Sehn (third from left), Judge Walter Hotz (fifth from left), Kazimierz Smolen (sixth from left). Photo courtesy of dpa.
Court session in the plenary hall of the Frankfurt City Hall (Römer): On the wall is a map of Auschwitz I; in front is a model of a crematorium and a map of the entire Auschwitz complex. Photo courtesy of dpa.

Lead defendant Robert Mulka (left) speaking with an unknown reporter on the opening day of the trial. Photo courtesy of dpa.
11 Defendants Heinrich Bischoff, Herbert Scherpe, Josef Klehr, Robert Mulka, and Stefan Baetzki (from left to right). Photo courtesy of dpa.

12 In the courtroom, 32nd court session: Defense counsel Engelbert P. Joschko (right) and Karlheiz Staiger (middle) speaking with defendant Johann Schobert (left). Photo courtesy of dpa.
13 Opening day: Civil counsel Friedrich Karl Kaul talking to an unknown journalist. Photo courtesy of Keystone Press Service.