

BETWEEN THE LINES: BELGIAN DIPLOMATIC POLITICS AND THE TRIAL OF GERMAN WAR CRIMES. 1919-1926

■ - *Eduard Clappaert, Martin Kohlrausch*¹ -

In March 1918, a few months after the US had entered the Great War, confronted with the need to mobilize the home front, the Hollywood film 'The Kaiser, the Beast of Berlin' came out. The heavily advertised and very successful film focused, as large parts of the Entente propaganda did, on Kaiser Wilhelm II, only that 'The Beast of Berlin' told a rather fantastic story. After reiterating the German horrors from Louvain to the Lusitania, the film envisaged a happy, albeit heavily hollywoodesque, ending. The US brought the war to an end and the 'Beast of Berlin' was captured. The film culminates in the allied generals handing over Wilhelm II to King Albert I. The imprisoned German emperor is then confronted with a Belgian smith whose daughter German soldiers had tried to rape in the film's beginning, and who is therefore symbolically settling the bill for the whole Belgian people.

While we know that not much of the film's ending lived up to what really happened – not least due to the US' heavy reluctance to move forward in trying the Kaiser, this is still a telling document². The film reflects a very clear notion that the deeds of the German troops in Belgium dramatically exceeded what could be expected – and accepted - during a war. What is more, the film secondly proves that by early 1918 there existed a publically established idea that the German war crimes should be put on trial. Thirdly, the film shows that the respective efforts were deliberately and unintentionally almost necessarily part of the propaganda efforts of the belligerent camps and intrinsically intertwined with the workings of the public opinion – a fact, not ending in November 1918.

In recent years research on the effects of the Great War increasingly highlighted that not only the dramatic effects of the war itself, but in particular the way the war was memorized and the way European societies came to terms with the war defined its lasting influence³. When in Versailles the German ex-Kaiser, in Adam Tooze's words, was "criminalized", the Entente moved on largely uncharted ground⁴. Of course, earlier peace treaties like the Vienna-settlement had addressed questions of guilt and responsibility of political leaders but did so only vaguely in juridical terms. The centuries-old idea of an international court would only materialize in 1922 in the form of the Permanent Court of International Justice within the framework of the League of Nations and with a strict focus on international law⁵.

The steps set in 1919 aspired to bring to the courtroom issues formerly regarded as predominantly political and military. The very fact that already during the war lawyers, intellectuals and eventually also politicians came to think about juridical consequences of the burning of Louvain or the massacre in Dinant reflected the new quality of the Great War. Isabel Hull argues that it was the evident failure of the strategy of reprisals – and the enormous unintended costs this strategy incurred

– which brought a tribunal on war crimes high on the agenda already in early 1918⁶. Recent works on the establishment of the postwar international order have stressed the link between the war and the short window of opportunity to push through liberal ideas discussed long before. The Wilsonian moment in late 1918 and early 1919 did not only entail new hopes for national self-determination but also for the advocates of international law, itself in its modern form a product of the 19th century⁷. Mark Mazower's study on the idea of international co-operation and more recently Tooze's work on the particular American position in the establishment of a new international order after the Great War explain in detail how the situation of 1917, with the departure of authoritarian Russia from the war and the entry of a putatively uninterested USA, provided the framework and the driving force for the moralization of the war⁸. The establishment of a new and better postwar order, based on internationalist principles, rose to the pre-eminent justification of the war effort. Also in this sense the Great War saw a "revolution of rising expectations"⁹.

While it is evident that international justice had a central place in such concepts, and the theme was prominently present in the Treaty of Versailles and

1. This article draws in the most significant parts on the thesis "‘Poor Little Belgium’: de juridische verwerking van de Duitse oorlogsmisdaden in België na de Eerste Wereldoorlog (1919-1925)" by EDUARD CLAPPAERT.

2. On the position of the US vis-à-vis a trial of Wilhelm II: DAVID CROWE, *War Crimes, Genocide, and Justice: A Global History*, New York, 2014, p. 94–96.

3. ROBERT GERWARTH, *The Vanquished: Europe and the Aftermath of the Great War*, London 2016.

4. On the problem of the extradition of Wilhelm II see, next to the work of Crowe: NIGEL J. ASHTON, DUCCO HELLEMA, "Hanging the Kaiser: Anglo-Dutch relations and the fate of Wilhelm II, 1918–20", *Diplomacy & Statecraft*, 11, 2000 (2), p. 53–78; MARTIN KOHLRAUSCH, *Der Monarch im Skandal. Die Logik der Massenmedien und die Transformation der wilhelminischen Monarchie*, Berlin 2005, p. 397 and JAKKO PEKELDER, "De dagboeken van Sigurd van Ilseman als historisch document over Wilhelm II", in SIGURD VON ILSEMAN, *Wilhelm II in Nederland 1918-1941. Dagboekfragmenten bezorgd door Jakko Pekelder en Wendy Landewé*, Soesterberg, 2015, p. X–XLVIII, here XIII. As a sort of Gedankenexperiment, though on a thin historical basis, the book by HANS ANDRIESEN, PAUL MEVIS, WILLEM SINNINGHE DAMSTÉ, *Het proces tegen Wilhelm II Een vonnis over de schuld van de Duitse keizer aan WO I*, Tiel, 2016, plays through a fictional trial of Wilhelm II.

5. MARK MAZOWER, *Governing the World: The History of an Idea*, London, 2012, p. 135–136.

6. ISABEL HULL, *A Scrap of Paper: Breaking and Making International Law During the Great War*, Cornell, 2014, p. 310–316.

7. The term 'Wilsonian moment' was coined by Erez Manela mainly with a view to self-determination beyond Europe but also with a view to redefining the international order. EREZ MANELA, *The Wilsonian Moment: Self-Determination and the International Origins of Anticolonial Nationalism*, New York, 2007.

8. MARK MAZOWER, *Governing the World*, p. 118–128; ADAM TOOZE, *The Deluge: The Great War and the Remaking of Global Order 1916–1931*, London, 2014, p. 8. See also: ZARAH STEINER, *The Lights that Failed: European International History 1919–33*, Oxford, 2005, p. 15–40.

9. JÖRN LEONHARD, *Die Büchse der Pandora. Geschichte des Ersten Weltkriegs*. München, 2014, p. 706–707.

thus in the wider framework of establishing a new international postwar order, including the establishment of the League of Nations, the issue of war crimes is conspicuously absent in the latter studies. On the other hand, those works which deal with the legal treatment of war crimes from a narrower juridical perspective are prone to underestimate the political impact of an issue which produced few visible results¹⁰. A third relevant strand of literature has tackled the issue of war crimes directly and asked for the substance of what many contemporary Germans came to see as mere products of propaganda. Alan Kramer's 'Dynamics of Destruction', building on the seminal study by the same author and John Horne of 2001 elucidated the war against civilians waged by the German troops in Belgium and Northern France¹¹. Hull has placed these crimes in the framework of a wider German military culture¹². Yet, these works focus predominantly on the events during wartime and ask in particular where to place these in the history of military violence. Far less attention is paid to postwar justice.

While, since Robert Willis' pioneer study on diplomacy and the persecution of war crimes in the interwar years, the actions of the French and British governments and, as a far more passive actor, the US, are rather well understood, the role of the Belgian government has hardly generated historical interest¹³. This is all the more surprising as Belgium was the site of those war atrocities which involved by far the highest number of victims and German perpetrators. Belgium obviously played, in comparison with France and the UK, a minor

role in the military outcome of the war, but it was certainly no marginal case for the question of how to judicially deal with the war. The German infringement of Belgian neutrality in August 1914 but also the manifold war crimes committed by German troops on Belgian territory in particular during the first weeks of four years of occupation made Belgium rather a central case¹⁴. The role of Belgian politicians and diplomats is thus particularly relevant to assess the chances and limits of pushing through international law after 1918.

This article will not, relevant thought this may be, investigate the changes brought about in international law as such in the interwar period. Nor will it reiterate in detail what happened during the very few trials which actually took place in Leipzig or the arrests made by Belgian and French authorities on occupied German territory before the Versailles Treaty came into effect¹⁵. Rather, this article will specifically ask how the Belgium government positioned itself in a question which concerned the country more than any other. The article will thus contribute to the pertinent question of under which conditions international law could be pushed through by international agreements - such as in this case the Versailles Treaty - focusing on a morally heavily charged issue.

I. Disillusion at Versailles

"Belgium is the first and most illustrious victim of Germany. It is on its territory that the German

10. DAVID CROWE, *War Crimes, Genocide, and Justice*, p. 94–101. More general MICHAEL BRYANT, *A World History of War Crimes. From Antiquity to the Present*, London, 2015 and BARTŁOMIEJ KRZAN (ed.) *Prosecuting International Crimes: A Multidisciplinary Approach*, Leiden, 2016.

11. ALAN KRAMER, *Dynamic of Destruction: Culture and Mass Killing in the First World War*, Oxford, 2007; JOHN N. HORNE & ALAN KRAMER, *German Atrocities, 1914: A History of Denial*, New Haven, 2001.

12. ISABEL HULL, *Absolute Destruction: Military Culture and the Practices of War in Imperial Germany*, Cornell 2005.

13. The works contributing so far most to understanding the Belgian case - though each of these not with a focus on Belgium - are JAMES F. WILLIS, *Prologue to Nuremberg, the Politics and Diplomacy of Punishing War Criminals of the First World War*, Westport, 1982; GERD HANKEL, *The Leipzig Trials: German War Crimes and their Legal Consequences after World War I*, Dordrecht, 2014; and JOHN N. HORNE & ALAN KRAMER, *German Atrocities*.

14. SOPHIE DE SCHAEPELDRIJVER, *De Groote Oorlog: het Koninkrijk België in de Eerste Wereldoorlog*. Amsterdam 1997 (revised edition 2014).

15. For details on the Leipzig trials, see GERD HANKEL, *The Leipzig Trials: German War Crimes and their Legal Consequences after World War I*, Dordrecht, 2014.

*Empire opened their series of crimes and it's there they have perpetrated proportionally the largest number and most serious crimes. The martyrdom of Belgium has become the classic example of the German acts of barbarism. The active sympathies of the civilized world are focused on us*¹⁶."

In these drastic words the Belgian lawyer and delegate at the Paris peace conference, Edouard Rolin-Jaquemyns, reported his high hopes to the Belgian Foreign Minister Paul Hymans in February 1919. Rolin-Jaquemyns was one of the fifteen members of the "Commission on the Responsibility", an international panel of legal experts founded in Paris in late January the same year. Among other tasks, the commission was charged to inquire into the degree of individual responsibility for war crimes committed by the German forces and their allies, and the possible constitution and procedure of a tribunal appropriate for the trial of those responsible. Rolin-Jaquemyns' letter perfectly illustrates the - in retrospect somewhat naïve - hope the Belgians cherished in the early stage of the peace talks, to have a decisive voice in the negotiations on the punishment of German war criminals. Yet, the fact that Belgium could appoint only one delegate to the commission (the same number as Greece, Yugoslavia or Romania), already foreshadowed that the great powers would eventually give little consideration to the Belgian aspirations¹⁷.

Initially, however, France, Britain and Belgium shared the same interest in the punishment of individual war criminals. Rallied by his French and British colleagues, Rolin-Jaquemyns showed

himself a staunch proponent of the revolutionary plan to set up a permanent international court, before which individuals accused of crimes against the laws and customs of war and laws of humanity could be tried. The Belgian delegate was convinced that Belgium had a right to the first place in the witness stand at the international tribunal. He thus reflected how matters of international justice and national prestige were intertwined from the very moment the war ended¹⁸.

Rolin-Jaquemyns was convinced that the Belgian political decision makers and high-ranking juridical experts were well-prepared to make their case. From August 1914 until 1917, a Belgian commission of inquiry had prepared 23 reports, in which numerous testimonials of war crimes, committed by the German forces during the invasion in about 300 Belgian towns and cities, had been compiled. This commission of inquiry was re-established in mid-February 1919, in order to continue the investigation of war crimes committed during the occupation¹⁹. In a note to the Commission on the Responsibility in Paris, the re-established Belgian commission of inquiry made the following conclusion: "The violations of human rights committed on Belgian territory by hostile armies allow Belgium to make terrible indictments against Germany, its leaders and its military authorities. Just like the war Germany has unleashed, those repeated attacks are the result of a deliberate doctrine, that knowingly subjects the respect for all human rights to the military interest. We are not dealing here with isolated abuses [...] but with true criminal practices²⁰."

16. Rolin-Jaquemyns to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Novembre 1918 – Janvier 1920*, CL.B.324 I [13 February 1919]).

17. JAMES F. WILLIS, *Prologue to Nuremberg, the Politics and Diplomacy of Punishing War Criminals of the First World War*, Westport, 1982, p. 68-69; on the status of Belgium vis à vis the Entente powers and as not officially belonging to the victorious powers: SALLY MARKS, *Innocent Abroad: Belgium at the Paris Peace Conference of 1919*, Chapel Hill, 1981 p. 24.

18. Rolin-Jaquemyns to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Novembre 1918 – Janvier 1920*, CL.B.324 I [13 February 1919]).

19. Histoire du producteur et des archives (Algemeen Rijksarchief, *Ministère de la Justice. Commission d'Enquête sur la Violation du Droit des Gens*, F0072, [s.d.]).

20. Note sommaire au sujet des infractions au droit des gens (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Novembre 1918 – Janvier 1920*, CL.B.324 I [19 February 1919]).

Based on the available evidence, including the 23 Belgian reports prepared during the war, the Commission on the Responsibility came to a similar conclusion in March 1919, ruling that the Central Powers had waged war on the basis of “barbarous and illegitimate methods” and had systematically violated the laws and customs of war and the basic principles of humanity²¹. However, the question of how to punish those responsible for those crimes would prove much more difficult to answer.

Early on during the negotiations on the matter, a fault line became apparent between the Europeans on the one hand and the Americans on the other. As mentioned above, the European governments – mainly Britain, France and Belgium – were in favour of the creation of a permanent international court, before which individuals guilty of violating the laws and customs of war and the laws of humanity could be tried. The American delegates strongly opposed this far-reaching idea, for two main reasons. Firstly, they were afraid of creating a problematic precedent in international law. Secondly, the Americans specifically rejected the principle of criminal prosecution of persons guilty of crimes against human rights. The underlying ideas, they ruled, were too vague and arbitrary and varied according to the individual conscience. Instead, the American delegates proposed to solely try those responsible for the violations of laws and customs of war before national military tribunals²².

Eventually Georges Clemenceau and David Lloyd George - without involvement of Belgium - agreed to abandon the idea of establishing a permanent international court and the legal punishment of violations of human rights. By way of compromise, it

was instead determined in articles 228 to 230 of the Versailles Peace Treaty that the Allied and associated powers had the right to bring before national or mixed military tribunals persons accused of having committed acts in violation of the laws and customs of war. Article 227 of the treaty further stipulated that ex-Kaiser Wilhelm II would be tried before a special tribunal, for “a supreme offence against international morality and the sanctity of treaties”²³.

Remarkably, Britain and France, without consulting the Belgian government, decided that Belgium would have to accuse Wilhelm II of the violation of the Belgian neutrality. Moreover, the Belgians would have to demand his extradition from the Netherlands, where the ex-Kaiser had sought asylum. When the Belgian Minister of Foreign Affairs Paul Hymans was informed about these decisions he refused outright, for several reasons. Firstly, the Belgian government feared making a martyr of the ex-Kaiser. Secondly, just like the Americans, they considered the violation of a treaty a political offense, which could only be condemned morally, not judicially²⁴. Thirdly, it would be impossible for the Kingdom of Belgium, which recognised royal immunity, to take the lead in prosecuting another monarch. Furthermore King Albert I had always strongly opposed trying a fellow-monarch²⁵. Finally, demanding the extradition of the ex-Kaiser from the Netherlands would put a huge additional strain on the Dutch-Belgian relationship, at a time when both countries were already at odds²⁶. Ultimately, the allied High Council accepted the Belgian refusal to act as prosecutor against Wilhelm II, but it was decided that Belgium would have to testify against the ex-Kaiser once he was to appear before an international court²⁷. The months following the

21. JAMES F. WILLIS, *Prologue to Nuremberg*, p. 72.

22. *Ibid.*, 75-76.

23. *Ibid.*, 75-80.

24. Note of Hymans on the extradition of the ex-Kaiser (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Novembre 1918 – Janvier 1920*, CL.B.324 I [25 April 1919]).

25. SALLY MARKS, “My Name is Ozymandias”: The Kaiser in Exile”, in *Central European History*, nr. 2, 1983, p. 138.

26. JAMES F. WILLIS, *Prologue to Nuremberg*, p. 104-105. On the strained relation between Belgium and the Netherlands at Versailles see: HUBERT P. VAN TUYLL VAN SEROOSKERKEN, *Small Countries in a Big Power World. The Belgian-Dutch Conflict at Versailles, 1919*, Leiden, 2006.

27. SALLY MARKS, *Innocent Abroad: Belgium at the Paris Peace Conference of 1919*, Chapel Hill, 1981, 312-313.

signing of the peace treaty, the Belgian government disassociated itself from any further attempts made by the French and British to force the extradition of Wilhelm II from the Netherlands. Instead, from mid-1919 onwards, it focused on the implementation of articles 228 to 230 of the peace treaty.

II. The punishment articles: a paper tiger

Articles 228 to 230 could, at least theoretically, offer an opportunity to respond to the call for justice and retribution which resonated strongly in the Belgian public and thus put pressure on the Belgian government. However, the implementation of the “punishment articles” would soon prove extremely problematic for the former Entente powers. On August 1, 1919, barely a month after the signing of the peace treaty, the German Finance Minister Matthias Erzberger requested a postponement of the extraditions, being a precondition to trial former German military staff in Belgium, warning that the country would fall prey to a Bolshevik coup without the support of the army and former officers.²⁸ By way of compromise, Clemenceau opted for a symbolic approach, by which the extradition demands would be limited to a small number of notorious criminals as a first step in the full implementation of the peace treaty. By the end of October 1919, however, it became clear that no allied or associated government had taken any effective steps in reducing the number of Germans demanded for extradition. In total, the victors demanded the extradition of about 3000 alleged war criminals, of which 1058 by Belgium alone²⁹.

In November 1919 a special commission was appointed to draw up an abridged list of alleged

war criminals demanded for extradition. When this new list of 1590 names was presented to the allies in London a month later, it was rejected outright by Lloyd George, who insisted on limiting the list to a total of 50 to 60 names. Although Clemenceau had shown himself in favour of a “symbolic punishment” earlier, he now claimed that, under pressure of the French public, it would be impossible to reduce the list any further. The Belgian government was - for the same reason - equally reluctant to a reduction, but had nevertheless condensed their list to 632 names. Yet, the Belgian delegate in London explained, if the interested powers considered it inevitable, Belgium would agree to a further reduction, provided that the French would take the lead in the reduction of their list. He further emphasized the importance of delivering a joint list of accused to the German government, fearing that otherwise the Germans might try to conclude separate agreements with the various governments – a justified fear, as would later turn out. Eventually all parties agreed to limit the list of accused to a minimum. The Belgian government thereupon ordered Fernand Passelecq, the author of *Le Troisième Livre Gris Belge*, to cut the Belgian list by at least fifty percent³⁰.

A final agreement was reached on January 20, 1920, when Clemenceau, Lloyd George and the Italian Prime Minister Francesco Saverio Nitti approved a definitive list of 854 alleged war criminals, 334 of whom were accused by Belgium³¹. The Belgian list featured several prominent military and political figures, among whom former Chancellor Theobald von Bethmann-Hollweg, accused of violating the Belgian neutrality and deporting Belgian citizens. Belgium also accused the former Bavarian Crown Prince Rupprecht and Paul von Hindenburg for deportations and generals Alexander von Kluck and Karl von Bülow for arson and executions of

28. Though Erzberger's claim was probably exaggerated the question of extradition indeed stirred the German public considerably and even generated sympathies for the otherwise highly unpopular Wilhelm II: MARTIN KOHLRAUSCH, *Monarch im Skandal*, p. 324, 391, 397.

29. JAMES F. WILLIS, *Prologue to Nuremberg*, p. 116-118.

30. Rolin-Jaquemyns to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Novembre 1918 – Janvier 1920*, CL.B.324 I [29 December 1919]).

31. JAMES F. WILLIS, *Prologue to Nuremberg*, p. 119-120.

civilians in Aarschot and Andenne. In addition, the Belgians indicted numerous lesser-known officers and soldiers, especially for crimes committed during the German invasion of Belgium³².

When news reached Germany that the allied powers would soon make their extradition demands, nationwide protests broke out against what was considered as an insult of the German national honour.³³ The German government, warning the allies that extraditions would lead to civil war and the advance of Bolshevism in Germany, proposed to try the accused before a German tribunal instead. Sharing the fear for a Bolshevik revolution in Germany, Lloyd George considered the possibility to try the accused before a German court in occupied territory, but with allied prosecutors and auditors. The new French Premier Millerand was willing to take that idea into consideration, but only after demanding the extradition of the accused first. The French ambassador in Berlin also opposed the British proposal, arguing that it would be difficult to find neutral judges with a guarantee of impartiality for both parties, a position shared by the Belgian ambassador in Berlin, Count André de Kerchove³⁴. Eventually the proposal was rejected, though it did not completely disappear from the British agenda.

In a final attempt to subvert the allied extradition demands, the Germans sought to conclude a secret agreement with the Belgian government. In late January 1920, the German Finance Minister Erzberger claimed that Emile Franqui, director of the Belgian Société Générale and president of the *Belgian Comité National de Secours et d'Alimentation* during the war, had agreed that the Belgians would reduce their list of accused to 100 names and drop their extradition demands, in exchange

for the payment of a substantial compensation of 5.5 billion marks by Germany. The Belgian government distanced itself from any such commitment, stating that Franqui was not authorized to decide on this. Germany would have to pay up, irrespective of the Belgian extradition demands³⁵.

In order to enforce the alleged agreement, de Kerchove was received at the Reich Chancellery to meet with Chancellor Gustav Bauer on January 29, 1920. During this meeting, Bauer acknowledged that the ambassador was facing the “enormously difficult task of restoring the relations between two neighbouring countries after they had been broken by a terrible war” and stated that Germany would put every effort to help Belgium and repair the damage done to her. “It is now the duty of Germany to restore those missteps. That would be proof that the Germany of 1920 is no longer the Germany of 1914 and that Germany rejects everything that has happened in Belgium”, the Chancellor concluded. According to de Kerchove, this was the first time a German statesman had ever expressed his regret for the invasion. However, Bauer also explained the extremely difficult domestic situation in terms of food supply and finance in which Germany found itself at that time, warning against the rise of Bolshevik movements. He further informed the ambassador that the *Reichstag* had approved the alleged agreement between Franqui and Erzberger and that he hoped that the Belgian government would now fulfil its promise. When de Kerchove replied that he had never heard about such a commitment in Brussels, Bauer responded that it was a secret agreement. De Kerchove did not give in, replying that the Belgian people, which was still as outraged as in 1914, would not rest until it had found justice³⁶.

32. Lijst met door België beschuldigde personen (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables*. Art 228 du traité de Versailles. Correspondance. Novembre 1918 – Janvier 1920, CL.B.324 I [s.d.]).

33. JOHN HORNE & ALAN KRAMER, *German Atrocities, 1914: A History of Denial*, New Haven, 2001, p. 342.

34. De Kerchove to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables*. Art 228 du traité de Versailles. Correspondance. Novembre 1918 – Janvier 1920, CL.B.324 I [26 January 1920]).

35. De Kerchove to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables*. Art 228 du traité de Versailles. Correspondance. Février 1920, CL.B.324 II [3 February 1920]). See also: SALLY MARKS, *Innocent Abroad*, p. 347-350.

36. De Kerchove to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables*. Art 228 du traité de Versailles. Correspondance. Novembre 1918 – Janvier 1920, CL.B.324 I [29 January 1920]).

When the list of 854 accused was finally handed over to the German delegation in Paris on February 3, 1920, it was returned to Millerand by Kurt von Lersner. The latter thereupon resigned as head of the delegation and left Paris the next day. Upon his arrival in Berlin, he forwarded a copy of the list of accused to the German press, which published it integrally on February 5³⁷. Shortly thereafter, the Belgian ambassador in Berlin testified that an extreme excitement and nervousness was noticeable in all classes of the German society, which led to violent incidents in the streets³⁸. The French ambassador in Berlin argued that the allied powers could not let themselves be intimidated by this German resistance, but instead had to hold on unyieldingly to their demands. De Kerchove disagreed, explaining that the former Entente powers would be unable to enforce their demands by force. A military intervention would drive the Germans into a Bolshevik alliance and a blockade against Germany would be rejected by Italy, Britain and the US. The promised German compensation of 5.5 billion marks complicated matters even further, because if the Belgian government would not adjust her tough stance towards the Germans, they would surely refuse to pay up, the ambassador further warned. He believed that the German proposal to try the accused before a German court in occupied territory could be a possible solution to the dilemma, because no one would have to be extradited and the tribunal could stay under allied supervision³⁹.

The Belgian ambassador in Paris, Edmond de Gaiffier d'Hestroy, by contrast showed himself a proponent of the uncompromising French line. During a meeting of the Conference of Ambassadors in Paris, on February 6, 1920, he opposed the British proposal for a further reduction of the number of accused, arguing that the public opin-

ion would never allow that such criminals would enjoy immunity. The suggestion of the British Lord Chancellor F.E. Smith to accept the German proposal, to try the defendants before a German court, was as also rejected by de Gaiffier. However, the idea to establish a special court to offer more guarantees of impartiality, possibly under the auspices of the League of Nations, would have the support of the Belgian government. Eventually the allied delegates agreed that the list of accused would be handed over to the German government, before considering further steps⁴⁰.

Despite his seemingly uncompromising stance, de Gaiffier recognised the difficulties of implementing articles 228 to 230 of the peace treaty. He was of the opinion that demanding the extradition of the accused on the basis of a treaty had been a mistake, because it was contrary to the principles of international law and tradition. Yet the articles had been approved by the victors as well as the vanquished and to nullify that decision would be a political misstep, he wrote to Belgian Foreign Minister Hymans. For the first time the former Entente powers had to decide whether Germany should or should not implement the peace treaty. If they should split, Germany, whose goal it was to separate the allies, would widen that gap and put the whole peace treaty into questioning, the ambassador further warned. He wondered whether the allies would also nullify the question of German reparations, because "in that case, the victorious countries will be ruined: they will have to become the bankers of the vanquished". Moreover, the French and Belgian public opinion would not tolerate impunity for "crimes whose horrors surpassed the imagination. At all costs, let us maintain a united front," the ambassador concluded⁴¹.

37. 'Het Volk' (6 February 1920), p. 1.

38. De Kerchove to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Février 1920*, CL.B.324 II [6 February 1920]).

39. Ibidem.

40. De Gaiffier to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Février 1920*, CL.B.324 II [7 February 1920]).

41. De Gaiffier to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Février 1920*, CL.B.324 II [9 February 1920]).

De Gaffier's anxiety about the reparation payments was justified. On February 9, 1920, the German Foreign Minister Hermann Müller officially proclaimed that the aforementioned German-Belgian agreement to pay a compensation of 5.5 billion marks to Belgium should be considered null and void, because of the Belgian involvement in the extradition demands.⁴² Just two days earlier the German Chancellor Bauer had announced that the German government would not, in any case, give in to the allied demands for extradition.⁴³ The German refusal once more led to an open confrontation between the French and British. Millerand was hoping to impose sanctions on Germany, such as the prolonged occupation of German territories. Furthermore, he suggested trying the German defendants in absentia. Lloyd George strongly opposed these ideas at a meeting of allied leaders in London on February 12, arguing that the allies could no longer stick to a literal interpretation of the treaty. After all, public opinion had changed and there was a general desire to return to normal daily life. He was convinced that the best possible solution would be to agree to the German proposal to try the accused before a German court in occupied territory. When Millerand eventually gave in, Belgium had no choice but to follow⁴⁴.

Although the punishment of German war criminals had been one of the most important preconditions for peace in the British and especially French and Belgian public opinion, the Allied concession generally caused little public protest. Aside an objective coverage, little criticism was voiced in the Belgian press. Yet some critical voices could be heard. Especially those who were familiar with the nature of the German war crimes and the German attitude toward offenders and victims were dismayed.⁴⁵

III. The long road to Leipzig

On February 20, 1920, an allied commission was appointed in London to select and prepare the accusations for the first court cases that would appear before the Supreme Court in Leipzig. Before the final selection, the allied governments had to reduce their list of accused to a minimum number of cases, mainly by removing all individuals and cases that were politically debatable or legally unfeasible. This regularly caused tensions among the victors. Although the Allied High Council had ordered to omit high-ranking figures, the British refused to remove the German Admiral Alfred von Tirpitz from their list, while France wanted to indict Hindenburg for his involvement in the deportation of French women. This was much to the dismay of the Belgian government, who had omitted those responsible for the deportation of Belgian civilians, including Hindenburg and Bethmann-Hollweg. The Belgian delegate Rolin-Jaquemyns reminded his colleagues of the High Council's order, but the French delegate Ignace denied ever having received such an order. When Rolin-Jaquemyns threatened that Belgium would no longer reduce its list either, Ignace finally promised to reconsider the case. Eventually the British Lord-Chancellor acknowledged that times had changed and that they indeed could no longer prosecute high-ranking political and military figures⁴⁶.

On February 23, 1920 the Belgian delegates in Paris presented their selection of "test cases" to the government. They had selected eight cases from the original Belgian list of accused. In total 33 Germans were involved in those cases, which were further divided into three categories. Each category included a traumatic aspect of the war:

42. De Kerchove to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Février 1920*, CL.B.324 II [9 February 1920]).

43. De Kerchove to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Février 1920*, CL.B.324 II [8 February 1920]).

44. JAMES F. WILLIS, *Prologue to Nuremberg*, p. 123-124.

45. JEFF LIPKES, *Rehearsals: The German Army in Belgium, August 1914*, Leuven, 2007, p. 591.

46. Session of the subcommittee responsible for reducing the list of accused (Diplomatiek archief Buitenlandse Zaken *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Février 1920*, CL.B.324 II [22 February 1920]).

the invasion, occupation and deportation of Belgian civilians. In the first category, concerning atrocities committed during the German invasion, the Belgian delegates had deliberately chosen both a massacre in Flanders and in Wallonia. On the one hand, the Belgians accused six German soldiers who had ordered the execution of more than one hundred civilians in Aarschot on 19 and 20 August 1914. On the other hand, Belgium accused nine German officers, who were held responsible for the execution of over 300 civilians and the burning of some 200 homes in Andenne on 20 and 21 August 1914. Andenne was also chosen because the German General Karl von Bülow had officially recognised his responsibility for the executions in the city. The particularly gruesome massacres of Louvain and Dinant were knowingly omitted, to indicate that in the first case it only constituted a kind of “initial test” of the German High Court⁴⁷. Moreover, so many people were involved in the incidents in both Dinant and Louvain, that it would have been impossible to select a small number of perpetrators⁴⁸.

The second category, concerning the German occupation, included two cases of war crimes. The first case was against an officer of the *Kommandantur* Beernem who had played an important role in deportations in the judicial districts of Bruges, Ghent and Dendermonde. He was also involved in robberies and extortion in Beernem and Oedelem. As Passelecq and Rolin-Jaquemyns described, the case symbolized the immorality of some German officers of the *Kommandantur*. The second case involved the arrest and torture of a group of boys in Geraardsbergen by two agents of the *Secret Feldpolizei*, whose crimes symbolized the cruelty of the Germans against Belgian

citizens, regardless of their age. The third category of war crimes involved four specific cases of abuses against Belgian deportees, prisoners and prisoners of war. The first case concerned abuses against Belgian forced labourers in the *Zivil-Arbeiter Bataillon* n° 16, behind the German front. The second and third cases involved German atrocities against Belgian deportees and prisoners of war in the camps of Sedan, Preussisch Holland and Tossendorf. The fourth case involved atrocities committed against female prisoners in the prison of Siegburg⁴⁹.

On February 27, 1920 the Belgian proposal was presented to the allied subcommittee, which selected three to five cases for each country. The complete list of “test cases” was completed by March 31. The allied commission had determined that the *Reichsgericht* had to try 45 Germans in the first round of indictments⁵⁰. From the original eight Belgian cases, three incidents had been selected, for which fifteen Germans would be tried. These were the cases involving the arrest and torture of Belgian children in Geraardsbergen, the mistreatment of Belgian prisoners of war in Sedan and the massacre of Andenne⁵¹. The complete list of accused was eventually passed on to the German Government in Berlin on May 7, 1920⁵². Shortly after the German government had received the final list of accused, it was published in its entirety by the German news agency Wolff. Besides a few right-wing nationalist newspapers, the German press paid remarkably little attention to the issue. Surprisingly, however, several German newspapers did react very agitated to the statements made by the Belgian foreign minister Hymans, who had called the German accused “scoundrels” (“*canailles*”) during a previous interpellation in

47. Passelecq to Vandervelde (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Février 1920*, CL.B.324 II [23 February 1920]).

48. Séance de la Commission interalliée des responsabilités (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Février 1920*, CL.B.324 II [20 February 1920]).

49. Passelecq to Vandervelde (Diplomatiek archief Buitenlandse Zaken *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Février 1920*, CL.B.324 II [23 February 1920]).

50. Ibidem. See also JAMES F. WILLIS, *Prologue to Nuremberg*, p. 128.

51. JOHN HORNE & ALAN KRAMER, *German Atrocities, 1914*, p. 345.

52. JAMES F. WILLIS, *Prologue to Nuremberg*, p. 129.

the Senate. To them, this illustrated the spirit of hatred towards Germany that still prevailed in Belgium. In a reaction to minister Hymans, the Belgian ambassador in Berlin, de Kerchove, wrote: "The German press and public opinion cannot seem to understand that the Belgians would not just forget the torture and humiliation they had to endure during the occupation."⁵³

After the list was handed over to Germany, the start of the trials was delayed for another nine months, due to legal problems and political obstacles. The preparation of lawsuits proved particularly difficult for both the Allies and the Germans. Indeed, the facts had mostly occurred some five years earlier, many accused were deceased or had disappeared and material evidence proved virtually untraceable. Interviewing allied witnesses was also a problem, since many refused to travel to Leipzig⁵⁴. Several allied officials were of the opinion that the Germans were deliberately delaying the trials. In response to the allied distrust and as proof of their sincerity, the *Reichsgericht* decided to start a number of trials against German war criminals in January 1921. These first cases did not appear on any of the allied lists, but the German Supreme Court decided that it had sufficient evidence to effectively convict the accused. Indeed, all in all four German soldiers who had – in comparison committed lesser crimes, were sentenced to two to five years of imprisonment⁵⁵.

Later it would become clear that the *Reichsgericht* had imposed much harsher punishments on the soldiers who had been indicted by Germany, than those who had been accused by the Allies⁵⁶. Still, those first German test cases could not convince

the allied leaders. Dissatisfied with the slow progress of the trials and the provocative German attitude regarding reparations payments and disarmament, the allied leaders issued an ultimatum to the German government at the London Conference of March 1921. When the Germans failed to respond positively to the demand, Belgian and French troops occupied several cities of the Ruhr valley, threatening to extend the occupation to the whole Ruhr area. Alarmed by this threat, the new German government under chancellor Josef Wirth promised to pursue the full implementation of the peace treaty, in order to prevent further sanctions. Three weeks later, the first official trials in Leipzig would commence⁵⁷.

IV. The Leipzig trials: milestone or parody of justice?

The British cases were the first to be handled by the *Reichsgericht*. This was a conscious political choice. By satisfying the British as soon as possible, the German government hoped to reduce the incentive for further trials. Moreover, the British had carefully chosen their cases and had only accused low-ranking officers and soldiers, against whom sufficient German and allied evidence was available. As a result, the British cases were relatively easy to discuss, without further discrediting the German army – and thus steer up public opinion in Germany⁵⁸.

After the British trials, in which three of the accused German soldiers were found guilty, the *Reichsgericht* launched the first Belgian case, against Max Ramdohr, alias the "*Beul van Geeraards-*

53. De Kerchove to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. Mars 1920 – Décembre 1920*, CL.B.324 III [19 May 1920]).

54. JAMES F. WILLIS, *Prologue to Nuremberg*, p. 129-130.

55. De Kerchove to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1ste trimèstre 1921*, CL.B.324 IV [s.d.]).

56. JAMES F. WILLIS, *Prologue to Nuremberg*, p. 130.

57. JOHN HORNE & ALAN KRAMER, *German Atrocities, 1914*, p. 347. The most recent treatment of the Leipzig trial is: JÜRGEN MATTÄUS, "The Lessons of Leipzig. Punishing German War Criminals after the First World War", in: PATRICIA HEBERER, *Atrocities on Trial: Historical Perspectives on the Politics of Prosecuting War Crimes*, p. 3-23.

58. JAMES F. WILLIS, *Prologue to Nuremberg*, p. 132-134.

bergen". Ramdohr, an agent of the Geheime Feldpolizei during the war, was accused of using coercive methods in an interrogation to extort confessions and statements from several boys, aged eight to twelve, in the Belgian town of Geraardsbergen in the autumn of 1917. Armed with medical certificates from three Belgian doctors, the boys had testified after the war that they had been beaten and tortured by Ramdohr⁵⁹.

The trial against Ramdohr, which began on June 8, 1921 was disastrous for the Belgian government for several reasons. From the beginning, the courtroom was dominated by a tense and hostile atmosphere. The three Belgian deputies for example refused to shake the hand of Germans. On the other hand, the German spectators clearly demonstrated their anti-Belgian sentiments. Furthermore, the young Belgian witnesses made a bad impression during their testimony. Understandably as this was, given the young age of the witnesses and the fact that for the first time in years the boys stood face to face with their torturer, the judges did not take these circumstances into account. The biggest mistake of the Belgians was to accuse a high-ranking, respected German, without backing their accusations up with sufficient German evidence or testimonies. As a result, Ramdohr was found not guilty by the *Reichsgericht* on June 12, 1921. The acquittal was applauded by the German spectators in the courtroom⁶⁰. Later the British lawyer and observer in Leipzig, Claud Mullins, would write that the Ramdohr trial was arguably the least satisfactory of all post-war trials⁶¹.

Ramdohr's acquittal caused widespread outrage and anger among the Belgian population, which also echoed in the press. A correspondent of *Le Soir* who had followed the debates in

Leipzig for two days responded the day after the acquittal that the judgment of the German Supreme Court "degraded justice to a caricature and reflected the Prussian attitudes against which the allies had picked up the arms"⁶². A journalist from *De Standaard* who had gone to Geraardsbergen just after Ramdohr's acquittal, wrote on June 13, 1921: "The people are excited, there is no threat of a revolution [...] But if they read the rapport of the verdict, their blood starts to boil"⁶³. Clearly, the trial in Leipzig had far from resolved the problem of punishing German war criminals, but had instead fuelled the mutual hatred between Belgium and Germany, in the public opinion as well as in politics.

On June 15, 1921, after being recalled from Leipzig after Ramdohr's acquittal, the Belgian observers presented their scathing rapport on the trial to the Belgian government. In their report they referred to the impartial attitude of some members of the court. The role of the Flemish interpreter was another thorn in the side of the Belgian observers. Apparently the interpreter had been a Belgian soldier during the war who, after being taken prisoner in Namur, had joined the pro-German activism and had deserted after the armistice. However, in their report the Belgian observers failed to mention that the Belgian boys had made a very bad impression during their interrogation before the court. Instead, they stated that the witnesses had made a deep impression of sincerity. They further argued that if a Belgian sergeant had been accused of similar offenses committed against German children, he would have surely been convicted by a Belgian court. Therefore, the lawyers concluded, the verdict of the *Reichsgericht* was "a parody of justice"⁶⁴. It was now the government's task to decide whether Belgium's

59. GERD HANKEL, *The Leipzig Trials*, p. 108-119.

60. Ibidem.

61. CLAUD MULLINS, *The Leipzig trials. An account of the war criminals' trials and a study of German mentality*, London, 1921, p. 150.

62. *Le Soir* (13 June 1921), p. 1.

63. *De Standaard* (13 June 1921), p. 1.

64. Report by the Belgian observers in Leipzig (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 2^e trimestre 1921*, CL.B.324 V [15 June 1921]).

first “test case” in Leipzig had been satisfactory and whether the cooperation with the *Reichsgericht* should be continued.

On June 16, 1921, Minister of Justice Emile Vandervelde informed the Belgian Chamber of Representatives about the findings of the Belgian observers in Leipzig. Their conclusion, that the sentence appeared to be a true denial of justice, was greeted with cheers in the Chamber. Vandervelde further promised that the Belgian government would respond to the “deep, unanimous feelings of the Belgian people”, by protesting to the German Foreign Minister against “a judgment that had aroused a general outcry in our country.” Germany had to be reminded that Belgium would stick firmly to its right to try the war criminals before her own military tribunals. Therefore, Belgium had to cooperate with the other allied governments to ensure an effective sanction, Vandervelde concluded. The Chamber gave the minister a unanimous and long ovation. A Member of Parliament, Edouard Falony, responded: “We cannot allow thugs (*“des brigands”*) to judge thugs!”⁶⁵.

V. Belgian protests in Berlin

Vandervelde kept his word. On June 17, 1921, a meeting took place between the German Foreign Minister Friedrich Rosen and the Belgian ambassador in Berlin, Georges della Faille de Leverghem. Della Faille told Rosen that the acquittal of Max Ramdohr had caused an outrage in Belgium and that he had been ordered to protest against the verdict on behalf of the Belgian government. Rosen responded that he understood the Belgian resentment, but doubted that the Belgian government was already in possession of the so-called

Urteilsbegründung, the basic motivations for the verdict. Without knowledge of these considerations, the government could not possibly have a well-founded opinion, Rosen stated. He further made clear that the German government did not doubt the sincerity of all Belgian testimonies, only those that were made during the trial. Finally the German minister made it clear that he was displeased with the statements of the Belgian Chamber President, who in the wake of Vandervelde’s had labelled the verdict as “the travesty of justice of Leipzig.” Rosen pointed out that the *Reichsgericht* was the highest court of Germany and that the statement of the Chamber President was therefore very offensive to the German judiciary⁶⁶.

In the meantime, the “scandal of Leipzig” continued to arouse indignation among all layers of the Belgian population. In late June, two Belgian organizations of former prisoners of war from Leuven and East Flanders wrote letters to the *Fédération Nationale des Anciens Prisonniers de Guerre* in Brussels, in which they protested against the acquittal of Ramdohr. For both groups the issue was after all highly sensitive. One of the letters concluded: “We advocate neither hatred nor revenge, but we want justice. We want, just like Christ, that [the guilty] acknowledge their guilt and make amends⁶⁷”.

On June 27, 1921, the Belgian ambassador in Paris de Gaiffier wrote a dismal letter to the Belgian Foreign Minister Jaspar, in which he warned that it was an illusion to wait for a fair judgment of a national tribunal, when the honour of that country was at stake. The ambassador, fearing that the German war crimes would go unpunished under the current circumstances, suggested to file a personal complaint against the acquittal of Ramdohr at the Conference of Ambassadors in Paris. Although

65. *Le Soir* (18 June 1921), p. 2.

66. Della Faille to Vandervelde (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 2^e trimestre 1921*, CL.B.324 V [18 June 1921]). On the, apparently not always easy relation between della Faille and Rosen see the latter’s memoirs: FRIEDRICH ROSEN, *Aus einem diplomatischen Wanderleben III/IV*, Wiesbaden, 1959, p. 290, 364.

67. *La Nation Belge* (22 June 1921), p. 1. See also: *Le Soir* (27 June 1921), p. 1.



The first session of the Reichsgericht in Leipzig, 1921. Source : Bibliothèque Nationale de France.

the Conference would not be able to undo the allied concession to Germany, it would be able to exert pressure on Germany to reconsider the “scandalous acquittals of Leipzig”⁶⁸. In order to secure French support for this plan, the Belgians had to wait until the first French case was handled in Leipzig.

The German General Karl Stenger was accused by France of having ordered to kill all captured and wounded French soldiers during the battle for Alsace Lorraine. Despite the fact that there was sufficient evidence, the highly respected Stenger was acquitted by the *Reichsgericht* on July 7, 1921. His subordinate major was found guilty of negligent homicide and convicted to a minimal prison sentence of two and a half years⁶⁹. In France, just like in Belgium, the verdict caused massive indignation. In response to Stenger’s acquittal, the French government ordered her ambassadors in Brussels and London to request a joint protest in Berlin against the “scandalous acquittals” in Leipzig. When Foreign Minister Jaspar received the French ambassador de Margerie in Brussels on July 8, he assured the ambassador that the Belgian government would participate in a joint protest in Berlin, provided that the British would participate as well. In case the British government would refuse the French proposal, the matter could be referred to the Allied Supreme Council⁷⁰.

As minister of Justice Vandervelde wrote to Jaspar on July 14, the Belgian government now faced two possibilities for the future. On the one hand they could participate in a joint protest against the rulings of the *Reichsgericht*, as the French government had requested. However, that protest had to be unanimous, because if only one country would

protest, Germany would try to pit the allies against each other and the impact on global public opinion would be much smaller, Vandervelde warned. On the other hand the allies could cancel their cooperation with the German Supreme Court in Leipzig and withdraw their dossiers, as the Belgian ambassadors in Paris and Berlin had suggested. Vandervelde considered this inopportune. By accepting to the trials in Leipzig, the allies had also accepted that some trials could end in acquittals. Until now, three of the 45 “test cases” had ended in an acquittal, too small a number to take drastic measures such as the withdrawal of the cases, he opined. If there would be unjustified acquittals in the future, the allies should collectively take appropriate action. They could for example try the accused in absentia. If the convicted Germans would ever set foot on allied territory, they would be arrested. To facilitate this, Vandervelde proposed to extend the statute of limitations of war crimes⁷¹. In any case, France and Belgium had to secure the British support to act effectively in the future. However, Britain had not decided its course of action yet. The final British trial in Leipzig would prove decisive.

This trial took place in mid-July 1921. Two German officers, involved in the sinking of the Canadian hospital ship “Llandovery Castle”, were held responsible for the killing of defenceless people in lifeboats. Because they had acted impulsively, both were charged with manslaughter and sentenced to four years imprisonment, the heaviest penalties imposed in Leipzig⁷². Despite the opposition of several MPs, the British Solicitor-General, Ernest Pollock, stated that the trials were a milestone in the history of international law. A motion for a special parliamentary debate on the trials was

68. De Gaiffier to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance*, 2^e trimestre 1921, CL.B.324 V [27 June 1921]).

69. GERD HANKEL, *The Leipzig Trials*, p. 89-103.

70. De Gaiffier to Vandervelde (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance*, 3^e trimestre 1921, CL.B.324 VI [8 July 1921]).

71. Della Faille to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance*, 3^e trimestre 1921, CL.B.324 VI [9 July 1921]).

72. JAMES F. WILLIS, *Prologue to Nuremberg*, p. 138.

rejected by the House of Commons⁷³. During a meeting with the Belgian ambassador della Faille in Berlin on July 28, D'Abernon acknowledged that the judgment in the "Llandovery Castle" trial was partly motivated by political interests and that the verdicts were in fact inadequate. Yet, he concluded that the British government had more important things to deal with than the punishment of war crimes, thus confirming that for most British politicians the issue did not range high on the agenda any longer⁷⁴.

Since the British government saw no need to take new steps against German war criminals, Belgium and France decided to protest to the German government autonomously. During the negotiations on a proposal that they would submit collectively to the Allied High Council, the French Government pressed for the extradition of the original number of German accused and to try them before Allied national tribunals. If this proposal were to be rejected, both countries could request the assistance of the League of Nations to establish a neutral tribunal under its control⁷⁵. However, the Belgian government was not very eager to make such drastic demands. Instead, it decided to protest against the acquittal of Ramdohr in Berlin.

Late July 1921 two more meetings took place in Berlin between the Belgian ambassador della Faille and the German Foreign Minister Rosen. Rosen responded to della Faille's objections on the conduct of the trials that he personally regretted the verdict, like many other Germans, especially since it created an obstacle to the restoration of good relations between Germany and Belgium. However, the minister added that it was the opinion of all those involved in the trial that the judges

could have never made judgments based on the dubious testimonies of the Belgian witnesses. He also promised to examine the report of the Belgian observers with most objectivity⁷⁶. In fact, Rosen, though certainly in comparison with other German politicians being more seriously interested in a reconciliation with Belgium, stuck to his interpretation, namely that the impartiality of the Reichsgericht was beyond doubt⁷⁷. Thus the Ramdohr case was definitively closed for the German government.

VI. Cracks in the Entente

When the Allied Supreme Council met on August 12 to discuss the results of the Leipzig trials, they were faced with three options for the future. The most radical option was to fall back on the peace treaty and force the extradition of the accused by Germany. A second option was to try the accused in absentia, as some French and Belgians officials had already proposed. A third possibility was to continue the course of business and submit new court cases to the Reichsgericht, an option favoured by the British government. The Belgian Foreign Minister Jaspar, however, protested against the British proposal, stating that the Belgian people would never agree to a continuation of the trials after the acquittal of Ramdohr. Instead the people demanded that the accused in the cases Andenne and Sedan would be tried in absentia. This had nothing to do with material interests, Jaspar concluded, it was just a matter of justice. The choice to try the accused in absentia had to be taken with the full consent of all allied powers, he further warned. Otherwise, Germany could try to pit the Allies against each other,

73. JOHN HORNE & ALAN KRAMER, *German Atrocities, 1914*, p.347-348.

74. Della Faille to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance, 3^e trimestre 1921*, CL.B.324 VI [29 July 1921]).

75. Della Faille to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance, 3^e trimestre 1921*, CL.B.324 VI [18 July 1921]).

76. Della Faille to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance, 3^e trimestre 1921*, CL.B.324 VI [30 July 1921]).

77. Rosen to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance, 3^e trimestre 1921*, CL.B.324 VI [13 August 1921]).

by adopting a more lenient attitude towards certain countries than to others⁷⁸.

Jaspar's proposal to try defendants in absentia could not count on the support of the British foreign minister George Curzon. In fact, Curzon had already opposed the plan of the French Prime Minister Millerand to prosecute the Kaiser in absentia a year earlier. Personally he did not see the added value for the global public opinion of convictions by allied tribunals, without German defence. Eventually, Curzon, Jaspar and the Italian Foreign Minister, Pietro Tomasi della Torretta, agreed to the proposal of the French foreign minister Briand, to set up an international judicial committee to examine the followed procedures and verdicts of the Reichsgericht and formulate possible steps for the future⁷⁹. In early September 1921 the Belgian government selected Jean Servais, Public Prosecutor at the Court of Appeal of Brussels, and Théodore Elewyck, who had already been an observer in Leipzig, as representatives for the legal committee. Minister Jaspar clarified that it was their task to prove definitively that the trial against Max Ramdohr had been a denial of justice, which according to Jaspar was the result of political pressure on the conscience of the judges⁸⁰.

While the Belgians were preparing themselves for the meeting of the committee, the French Justice Minister Bonnevey took the remarkable decision to try several Germans accused in absentia, without consulting the other allies. On October 4 a French court martial in Lille sentenced three German officers to death in absentia for war crimes committed in Le Cateau-Cambrésis, Bauvin and -

most notable – the Belgian town of Tamines, where 384 civilians had been executed.⁸¹ The Belgian Government heavily criticized these French trials, arguing that France should have consulted the Allied Supreme Council first. Moreover, Belgium had long planned to sentence German war criminals in absentia, but had refrained from doing so out of respect for the agreement of August 13, 1921⁸².

For a while the Belgian government considered following the French example. However, Maurice Dullaert, Director General of the Belgian Ministry of Justice, pleaded to continue the hearing of witnesses in the other two Belgian cases for the time being, because Belgium had already transferred the largest part of the requested records of those cases to the Reichsgericht. Furthermore, Dullaert had discovered that the Reichsgericht would try to exonerate the German defendants in the Andenne case, by justifying their crimes as reprisals against Belgian franc-tireurs. Eventually the Belgian government agreed to Dullaert's proposal to continue the transfer of evidence, arguing that if the accused would be acquitted, the German court would not be able to blame the Belgians for the acquittal, as had happened after the Ramdohr trial. Furthermore, future scandalous acquittals would assure the Belgian government of the support of the Belgian and international public opinion⁸³.

When the Inter-Allied Commission on the Leipzig Trials finally met in Paris on 6 January 7, 1922, the international jurists reached a double, scathing verdict. First of all, it was their unanimous opinion that, except perhaps in a few of the cases, "the conduct of the proceedings before the Reichs-

78. Session of the Supreme Council (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance, 3^e trimestre 1921*, CL.B.324 VI [12 August 1921]).

79. Ibidem.

80. Jaspar to s.n. (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance, 3^e trimestre 1921*, CL.B.324 VI [6 September 1921]).

81. 'Nouvelles judiciaires' (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance, 4^e trimestre 1921*, CL.B.324 VII [6 October 1921]).

82. De Gaiffier to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance, 4^e trimestre 1921*, CL.B.324 VII [28 October 1921]).

83. S.n. to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance, 4^e trimestre 1921*, CL.B.324 VII [16 December 1921]).

gericht had been highly unsatisfactory, inasmuch as there had been no sufficient effort made to arrive at the truth". Secondly, the commission concluded that in almost all cases "the judgements of the court had been highly unsatisfactory, inasmuch as accused persons were acquitted who ought to have been convicted and even where convictions were made, the punishment imposed was inadequate". Accordingly, the commission concluded, full effect had to be given to the provisions of article 228 of the peace treaty, meaning that the German government would have to hand over the accused persons to be tried by the allied powers⁸⁴.

VII. French threats, Belgian reluctance

When the German government was informed about these conclusions, chancellor Joseph Wirth declared to the Reichstag that his government would never give in to the allies if they were to demand the extradition of the German accused. In the eyes of the new French Premier and hard-liner Raymond Poincaré, the German refusal was a provocation that could not go unpunished. The Belgians agreed that appropriate actions should be taken against the German refusal, yet they had strong doubts about the political and judicial measures propagated by the French prime minister. As a political reaction to the German violation of article 228, Poincaré pleaded for a prolonged occupation of the Rhineland. The Belgians, however, feared that a further occupation of the Ruhr would represent a huge threat to their national safety and increase the likelihood of a new war. Moreover, both Belgium and France knew that the British were hostile to any further occupation of German territory. Jaspar therefore

advised the Belgian ambassador in Paris to exercise restraint at the Conference of Ambassadors and to leave the initiative to the French, in order not to involve the Belgian government in the discussion. If his opinion would be asked, the ambassador could argue that it was disproportionate to connect such a serious issue as the occupation of the Rhineland with the relatively inconsequential issue of punishing war criminals out of moral duty⁸⁵. After all, Jaspar was of the opinion that military occupation could only be considered as a sanction for not providing reparations payments⁸⁶.

As a judicial response to the German refusal Poincaré propagated to try all original Germans before national tribunals, if necessary in absentia. Contrasting with its earlier position, in spring of 1922 the Belgian government, however, was hardly in favour of such a procedure. There were several reasons for its reluctance. Firstly, it had become apparent that several serious mistakes had been made while drawing up the original Belgian list of accused, and a number of German officers had been accused of crimes committed in places where they had never been during the war. Secondly, it was unknown if all of the accused were still alive. Thirdly, it proved almost impossible to gather the necessary evidence, mainly because Germany refused any assistance⁸⁷. Trials conducted in such adverse conditions would inevitably lead to judicial errors that would bring the Belgian judiciary into disrepute. A last objection was that the procedure to convict people in absentia did not exist in British law. Instead, Jaspar suggested to suspend the statute of limitations for war crimes in all allied countries, thus banning the accused effectively from the allied countries for the rest of their lives⁸⁸.

84. Inter-Allied Commission on the Leipzig Trials, first and second resolution (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1922*, CL.B.324 VIII [7 January 1922]).

85. Jaspar to de Gaiffier (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1922*, CL.B.324 VIII [2 June 1922]).

86. De Ramaix to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1922*, CL.B.324 VIII [4 May 1922]).

87. Ibidem.

88. Jaspar to de Gaiffier (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1922*, CL.B.324 VIII [2 June 1922]).

In June 1922, in anticipation of the Conference of Ambassadors, the French ambassador in Brussels met twice with Jaspar on behalf of Poincaré. Since both countries found themselves in the same precarious situation, the French Prime Minister hoped that France and Belgium would collectively urge Britain and Italy to accept their right to condemn the accused in absentia and impose further sanctions on Germany. The least the French and Belgian public demanded, the ambassador argued, was a moral punishment of the war criminals. Although the Belgian government was against further military sanctions against Germany, Poincaré succeeded in convincing Jaspar that the Belgian public would find it hard to understand why the government had not supported the French plan to try the accused in absentia. They therefore decided to support France in its demand to try Germans in absentia before national tribunals. However, the Belgian ambassador was ordered to remain reticent about any further military sanctions against Germany⁸⁹.

As in earlier instances, the French initiative to further occupy the Rhineland was effectively blocked by the British government⁹⁰. As a compromise, however, the governments involved agreed to deliver a memorandum to the German government, stating that the allies considered the processes of Leipzig invalid and that they would no longer cooperate with the German authorities. As a special concession to Poincaré, and with the promised Belgian support, Italy and Britain agreed to add an appended note, stating that the allies reserved the right to judge Germans before their own courts, if necessary in absentia⁹¹. This vague compromise showed that cooperation between the former Entente members had ultimately come to an end. Indeed, after Germany was informed about the new allied policy on August 23, 1922,

no new attempts were undertaken by neither the British nor the Italian government to prosecute war criminals. Only France and Belgium would autonomously take further steps in that direction.

VIII. The aftermath: French and Belgian trials in absentia

The French were the first to start trying Germans in absentia before military tribunals. In fact, such trials had already taken place in Lille in October 1921. In April 1922, the French Prime Minister Poincaré had ordered the French ministry of Justice to prosecute all 2000 suspects of the original French list of accused. The first of those trials took place in October 1922, before the courts-martial of Lille, Chalons-sur-Marne and Nancy. This marked the beginning of an extensive program of trials. By December 1924, French court-martials had convicted over 1200 Germans⁹².

Although they had agreed with the allied memorandum at the Conference of Ambassadors in July 1922, the Belgian government seemed to be much more hesitant to start trying Germans in absentia. Many Belgian officials still had their reservations about the usefulness and consequences of such proceedings. In a letter to Jaspar, an unknown writer summed up the major disadvantages of convictions in absentia, which were in line with doubts phrased already earlier on. First of all, the absence of German witnesses and sufficient evidence meant that the risk of judicial errors was very high. Such errors would discredit the allied courts and stimulate Germany to further undermine the Belgian charges. Moreover, the author warned that the conviction of Germans in absentia would refuel the mutual hatred between Belgium

89. De Margerie to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1922*, CL.B.324 VIII [7 June 1922]).

90. De Gaiffier to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1922*, CL.B.324 VIII [31 July 1922]).

91. Conférence des ambassadeurs, séance du 2 août 1922 (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1922*, CL.B.324 VIII [2 August 1922]).

92. JAMES F. WILLIS, *Prologue to Nuremberg*, p. 72.

and Germany, while in reality both countries had to strive for reconciliation. In such circumstances, the author ruled, it would be a regrettable decision to prosecute Germans in absentia, solely to respond to the pressure of the public opinion. Instead, the author advised, Belgium should abolish the limitation period of war crimes, instead of exposing itself to inevitable legal mistakes⁹³.

Despite this advice, minister of Justice Fulgence Masson held that the public opinion in some parts of the country simply demanded the punishment of war criminals. The Belgian cabinet, agreeing with this conclusion, asked Masson on October 16, 1922 to determine which criminals could be prosecuted⁹⁴. From early 1923 on, the Belgian ministry of Justice began with the selection of Germans who would be tried in absentia before Belgian courts-martial. The ministry decided to limit the selection to particularly serious offenses committed on Belgian territory, of which the perpetrators were perfectly identifiable. Those cases were not only selected from the final list of 334 accused that was handed over to Germany in February 1920, but also from the original Belgian list of 1058 names.⁹⁵

Remarkably, the first Belgian trials in absentia only took place in mid-December 1924, two years after the approval by the cabinet and over five years after the signing of the Treaty of Versailles. On December 16, the West Flemish court-martial in Bruges convicted a military doctor of the German navy to twenty years of forced labour for violent robbery. A German soldier was sentenced to lifelong forced labour for murder. The following three months, 34 Germans were sentenced in absentia by Belgian courts-martial. The court-martial of Namur, for example, sen-

tenced a German sergeant to death for the murder of a Belgian worker in August 1914. Two other officers were sentenced to twenty years of forced labour for arson. The most controversial trial was against the German Colonel Richard Karl von Tessmarr, who had ordered the execution of 122 Belgian citizens in Arlon in August 1914. On January 16, 1925, he was sentenced to death in absentia by the courts-martial of Liège and Luxembourg⁹⁶.

As the examples above show, the verdicts rendered by the Belgian courts-martial were generally very harsh. After all, the trials were mainly a form of moral retaliation for the Belgians. Moreover, the accused, who were not present at the court, could not defend themselves either, nor was there a possibility for them to appeal against a judgment. Under these circumstances, criticism of the trials quickly increased, mainly in Germany, but in Belgium as well. In early April 1925, shortly after Belgium and Germany had signed a customs and credit agreement in Berlin, the Belgian diplomat and advisor to the *Légation de Belgique* in Berlin, Louis d'Ursel, made an appeal to Foreign Minister Hymans, to take into account the consequences of the verdicts for the Belgian interests in Germany. According to d'Ursel, the trade agreement marked a new phase in which the two countries had to reach a consensus for the purpose of future cooperation. The trials were clearly contradictory with the new spirit of reconstruction, he concluded⁹⁷. Nonetheless, the condemnation of Germans in absentia continued the next several months. On April 30, 1925 for instance, 25 Germans, including 18 senior officers were sentenced to death by a court-martial in Namur, for their involvement in executions and arson in

93. S.n. to Jaspar (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1922*, CL.B.324 VIII [14 October 1922]).

94. Zitting ministerraad (Algemeen Rijksarchief, *Notulen van de Ministerraad (1916-1949)*, BE-A0510 [16 October 1922], I 252/01.

95. Note to de Ramaix (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1925*, CL.B.324 IX [10 March 1925]).

96. Liste des jugements rendus à charge d'allemands, coupables de guerre (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables - Extraits des jugements rendus à charge d'allemands coupables*, CL.B. 324 XII [s.d.]).

97. D'Ursel to Hymans (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables - Extraits des jugements rendus à charge d'allemands coupables*, CL.B.324 IX [6 April 1925]).

Dinant⁹⁸. The following month the court-martial of Namur sentenced another nine Germans, including four to death⁹⁹. On May 16 the East Flemish court-martial also sentenced a German soldier to death for manslaughter¹⁰⁰.

During the annual meeting of the *Deutsche Gesellschaft für Völkerrecht* on June 4, 1925, the President of the German Reichsgericht, Walter Simons, called on the German people to continue opposing the Belgian and French attempts to try Germans for war crimes, before tribunals that only offered “an appearance of impartiality”. In a reaction to Simons’ appeal, the Belgian ambassador in Berlin, Robert Everts, warned the Belgian government that the conditions in which the judgments were handed down could lead to “regrettable judicial errors”. He called on the government to put an end to the trials, since they would lead to further aggravation in the German public opinion and would expose Belgium to international criticism¹⁰¹. The response of Foreign Minister ad interim, Albéric Ruzette, was negative. If the trials were put to an end, one group of accused would be subjected to all legal consequences of a conviction, while the other group would escape any form of persecution. Such a double standard would be difficult to justify, he argued. One would therefore have to consider granting amnesty to the already sentenced Germans. This would cause an outrage in the Belgian public opinion and provide unfortunate incentives for future war criminals. It would, in other words, be an outright denial of the Belgian policy conducted towards Germany since the armistice. Advised by the Head of the Political

Section of the Ministry of Foreign Affairs, Pierre van Zuylen, Ruzette instead decided to limit the prosecutions to the most serious cases involving murder and robbery with violence¹⁰².

On July 1, 1925 the aforementioned van Zuylen made clear his intentions to end all trials within four months to Foreign Minister Vandervelde. Vandervelde, however, seemed to share the view of his predecessor Ruzette. Granting amnesty to the accused would not only be an act of weakness, he argued, but another lamentable encouragement for crimes in future wars. Moreover, such a decision would take an enormous toll on the Belgian public opinion¹⁰³. Remarkably, the day before van Zuylen’s appeal the Belgian Council of Ministers did inquire whether the French Government considered it appropriate to terminate the trials against the German accused. A judicial blunder lay at the basis of this sudden change of attitude. On February 12, 1925, a German officer had been sentenced to death by a Belgian court-martial for killings and arson in Bièvre, while the officer in question had never set foot in the Belgian town during the war. The German press had taken full advantage of this legal error to further attack the Belgian military tribunals¹⁰⁴.

There was a noticeable turnaround by the end of July 1925, when the last large group of German defendants was convicted in absentia by Belgian courts-martial. After July the cases against German defendants were almost systematically dropped. Sporadically a number of German defendants were convicted during the following months, but

98. Conseil de Guerre de la province de Namur (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables - Extraits des jugements rendus à charge d'allemands coupables*, CL.B.324 IX [30 April 1925]).

99. *Le Soir*, 28 May 1925, p. 1.

100. Liste des jugements rendus à charge d'allemands, coupables de guerre (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables - Extraits des jugements rendus à charge d'allemands coupables*, CL.B. 324 XII [s.d.]).

101. Everts to Ruzette (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1925*, CL.B.324 IX [9 June 1925]).

102. Ruzette to Everts (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1925*, CL.B.324 IX [16 June 1925]).

103. Rolin-Jaquemyns to P.B./E.S. (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1925*, CL.B.324 IX [1 July 1925]).

104. Rolin-Jaquemyns to P.B./E.S. (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables. Art 228 du traité de Versailles. Correspondance. 1925*, CL.B.324 IX [30 June 1925]).

the majority of the cases was dropped. Strikingly, those cases often involved serious offenses, such as murder and arson¹⁰⁵.

The final turning point came during the negotiations in Locarno in October 1925. During these talks, German Foreign Minister, Gustav Stresemann insisted to Vandervelde and his French colleague, Aristide Briand, on ending the prosecution and conviction of Germans for war crimes as soon as possible. Both Vandervelde and Briand promised to commit themselves to the German request, realizing that a continuation of the trials would be contrary to the spirit of reconciliation that prevailed in Locarno¹⁰⁶. On October 20, 1925, the Belgian Council of Ministers unanimously decided that it was time to put an end to the trials. Justice Minister Paul Tschoffen thereby ordered the Belgian judicial authorities to end the current trials as quickly as possible and cancel all future prosecutions¹⁰⁷. Thus the judicial processing of German war crimes in Belgium had come to an end. The result was highly dissatisfactory. 153 trials in absentia had been held before Belgian courts martial, but of the 1058 alleged war criminals Belgium had indicted in October 1919, none had been effectively punished¹⁰⁸.

IX. Conclusion: The powers of the weak and the weakness of the powerful

This article looked at a so far neglected phenomenon, the diplomatic manoeuvring of the country most affected by German atrocities in the First World War in the quest for coming to terms with crimes of a new order. Our article brought to the fore the manifold attempts of the Belgian government to push through the juridical procedures

foreseen in the Treaty of Versailles and manifested in particular in attempts to achieve an extradition of those German militaries regarded as criminals of war. It did so in highlighting the position of the Belgian government both vis-à-vis the former Entente-powers and Germany but also vis-à-vis the Belgian public.

What could have made for a strong position – the moral cause for which Belgium fought – in fact weighted little in the face of a double tension. While the Belgian government followed for seven years a flexible but also very consistent course it constantly had to deal with the tension in the camp of the former Entente, in particular between Britain and France. Moreover, the Belgian government was torn between an outspoken public opinion which demanded visible results, that is harsh punishments of the responsible Germans, and towering practical problems to push these through. In order to make any chance to see Germans convicted, Belgium depended on an at least minimal cooperation of the former aggressor. The only feasible alternative, a conviction in absence, was doomed to remain a symbolic gesture and to undermine the crumbling public support for a *post festum* treatment of the events in invaded and occupied Belgium even more. This constellation limited the leeway of the Belgian government severely and to a degree that the new German Republic, which, on the face of things, was both morally as in terms of power politics in an extremely feeble position factually could drive through its position very effectively. The alleged ‘Diktat’ of Versailles, which loomed so large in the German public throughout the interwar period, with regard to the juridical dealing with German war crimes in Belgium proofed rather a paper tiger.

105. Poursuites à charge d'Allemands (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables - Extraits des jugements rendus à charge d'allemands coupables*, CL.B. 324 XII [16 August 1925]).

106. Generally on Locarno: JON JACOBSON, *Locarno Diplomacy: Germany and the West, 1925 – 1929*, Princeton, 1972.

107. Note indiquant le dernier état de la question (Diplomatiek archief Buitenlandse Zaken, *Livraison des coupables - Extraits des jugements rendus à charge d'allemands coupables*, CL.B. 324 XII [23 October 1925]).

108. GERD HANKEL, *The Leipzig Trials*, p. 360.

As the Belgian decision makers clearly reflected, they had to face at least three public opinions – at home, in Germany and eventually what was referred to as the international public opinion, thus foremost in the formerly neutral countries. Moreover, these public opinions were interacting and were changing, generally speaking, with the memory of the German invasion of Belgium fading, not in the favor of the Belgian cause. Moralizing and politicizing the German excesses of violence proved indeed, in the words of Adam Tooze, a “high-stakes wager”¹⁰⁹. What on first glance seemed a rather clear-cut struggle between victorious powers trying to condemn what had happened and Germany unfit to acknowledge its guilt turned into an ever more complex matter, which brought forth splits through the Entente camp but in the long run also within the Belgian government and diplomacy. One should be cautious, however, to qualify the acting of the Belgian government and Foreign Ministry as a complete failure. While it is difficult to exactly quantify this influence it is very plausible that the criteria and structures established in the intergovernmental exchange in the 1920s left their mark.

One should also be cautious to treat the juridical coming to terms with war crimes as a foremost symbolic matter. As this article has shown there were manifold reasons why a nuanced and in

the wider sense fair trial of German war crimes committed in Belgium could not be realized. This should not obscure however, that - unlikely as it may have been - a true juridical inquiry into the excesses of the German military in Belgium would have offered the chance to address the structures which made the latter possible¹¹⁰. If Weimar Germany would have been able to undergo such debates is, of course, another question.

Only 25 years after Leipzig and under completely different circumstances and dealing with crimes of a wholly different order, the Nuremberg trials made the decisive step towards systematically trying war crimes¹¹¹. While the material evolution of international law between Versailles and Nuremberg has received ample attention, this article suggests to also stress the relevance of looking at continuities and changes in the structures allowing or preventing to push through legal provisions. The political problems the Belgian government was confronted with in the interbellum are in essence still the problems preventing or restricting justice in the aftermath of wars. After all, since Nuremberg, progress in institutionalizing dealing with war crimes has been strikingly limited. The centenary of the Versailles Conferences and the ensuing attempts to put German War crimes on trial offers the chance to add an important historical dimension to this problem.

Eduard Clappaert graduated as Master of History at KU Leuven in 2015 with his Master thesis “‘Poor Little Belgium’: de juridische verwerking van de Duitse oorlogsmisdaden in België (1919 - 1925). Currently he’s living in Brussels and working as a history teacher at the Heilig Hart College Tervuren. His main field of interest is 20th century European history. He’s passionate about film and travelling.

Martin Kohlrausch is Associate Professor of European Political History at the research unit Modernity & Society at the KU Leuven. Before joining the KU in 2012 he taught modern history at Technische Universität Berlin, was a Research Fellow at the German Historical Institute Warsaw and a Diltthey-Fellow of the VolkswagenStiftung and lecturer at Bochum University. In 2011 he was Fellow-in-Residence at the NIAS. He published widely on the history of the monarchy and mass media, as well as on the history of experts in the 20th century. In 2014 his book ‘Building Europe on Expertise’, written collaboratively with Helmuth Trischler, was published by Palgrave.

109. ADAM TOOZE, *Deluge*, p. 9.

110. For this argument see: JÜRGEN MATTÄUS, *The Lessons of Leipzig*, p. 18-20.

111. Cf. the special issue of the *Journal of Modern European History* 14 (2016), 4 on ‘New Perspectives on the Post-Second-World-War-Trials of Nuremberg and Tokyo’.

