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**Records of the United States  
Nuernberg War Crimes Trials  
United States of America V.  
Erhard Milch (case II)  
November 13, 1946-  
April 17, 1947**



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RECORDS OF THE UNITED STATES NUERNBERG WAR CRIMES TRIALS  
*UNITED STATES OF AMERICA V. ERHARD MILCH* (CASE II)  
NOVEMBER 13, 1946-APRIL 17, 1947

On the 13 rolls of this microfilm publication are reproduced the records of Case II (*United States of America v. Erhard Milch*), one of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, as well as prosecution opening and closing statements, prosecution and defense exhibits, and document books in one language or the other. Also included in this publication are a minute book, the official court file, order and judgment book, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in two sets of seven bound volumes (one set in German and one in English), are the recorded daily trial proceedings. The prosecution opening and closing statements are also in English but unbound. The unbound prosecution exhibits, numbered 1-161, consist largely of documents from various Nuernberg record series offered in evidence by the prosecution in this case. The defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged numerically. Both prosecution document books and defense document books consist of full or partial translations of exhibits into the English language. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

The minute book is a summary of the transcripts. The official court file includes the progress docket, the indictment, amended indictment, and the service thereof; appointments and applications of defense counsel and defense witnesses and prosecution comments thereto; defendants' applications for documents; motions and examination of defendant reports; uniform rules of procedures; and appendixes. The order and judgment book represents the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Clemency petitions of the defendant were directed to the military governor, the President of the Swiss Federation, and the Supreme Court of the United States. The finding aids summarize transcripts, exhibits, and the official court file.

Case II was heard by U.S. Military Tribunal II from November 13, 1946, to April 17, 1947. The records of this case, as the records of the other Nuernberg and Far East (IMTFE) war crimes trials, are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

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

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

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

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

Erhard Milch held several essential positions in the Third Reich. He was state secretary in the German Air Ministry, 1933-44, Inspector General of the Air Force, 1938-45, Deputy to the Commander in Chief of the Air Force, 1938-45, Field Marshal in the Air Force, 1940-45, Aircraft Master General, 1941-44, member of the Central Planning Board, 1942-45, and Chief of the Jaegerstaff, 1944-45.

The proceedings of the Milch Case center around a three-count indictment. The prosecution charged Milch both with war

crimes and with crimes against humanity as defined by Control Council Law No. 10.

The first count indicted Milch's central role in the planning and implementing of the Nazi's massive 5 million-man slave labor recruiting program. These men and women were forcibly enlisted from occupied territories and prisoner-of-war camps all over Europe to work at war production factories in Germany. Milch's position in the Air Force required him to develop, plan, and implement a vast armaments and airplane production program using this slave labor. Milch was further implicated in this war crime by his membership on the Central Planning Board during the years 1942-45. The Board had ultimate responsibility for the scheduling of war production and control over the dispensing of raw materials. Milch not only participated in the Board's discussion of slave labor, but he encouraged expansion of this labor force. The defense tried to prove that Milch was ignorant of the atrocities perpetrated by the slave labor program and that Milch had fallen out of favor with both Hitler and Goering during the last 2 critical years of Nazi decision making. The prosecution, however, countered by accusing Milch of being the founder and mastermind of the Jaegerstab. This was the last ditch effort of the Nazis in 1944 to rebuild the German fighter-bomber industry underground in order to escape Allied strategic bombing. The Jaegerstab council, on which Milch served, determined to use all available manpower in both occupied territories and the concentration camps and to work them to death if need be. Milch was found guilty on this count of war crimes.

The second count of the indictment, also charging war crimes, dwelt upon Milch's relationship with the high-altitude and freezing experiments conducted on unwilling inmates of Dachau Concentration Camp by the Air Force Medical Service. This count, on which Milch was found not guilty for lack of evidence, branded him as knowingly aiding and abetting medical atrocities in the course of his duty as Inspector General of the Luftwaffe. Both series of experiments took place during 1942-43 and were intended to benefit the German Air Force in cutting down future casualties.

The final count indicted Milch for crimes against humanity as defined in article II of Control Council Law No. 10. This included his association with both the slave labor program and the Luftwaffe medical experiments. Milch was found guilty on this count and was sentenced to imprisonment for life.

In addition to the indictment, the transcripts also contain the arraignment and pleas of the defendant (who pleaded not guilty), opening and closing statements of defense and prosecution, and the judgment.

The English language transcript volumes are arranged numerically, 1-7; pagination is continuous, 1-2528. The German language transcript volumes are numbered 1a-7a and paginated 1-2544.

The letters at the top of each page indicate morning, afternoon, and evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more of the commissions took testimony and received documentary evidence for consideration by the tribunals).

The legibility of the 161 prosecution exhibits (of which numbers 48 and 75 are multipart documents) is generally of poor quality because of deterioration caused by rapid photostating of documents. They include a wide variety of documentation: 75 exhibits are minutes from conferences Milch attended with the Central Planning Board, the Jaegerstab, and Hitler, as well as the high command of the Luftwaffe; 55 exhibits consist of letters exchanged between Milch and ranking officials in the Nazi hierarchy; the remaining groups of exhibits are reports, memorandums, decrees, and instructions along with excerpts of former tribunals and photographs covering both the Luftwaffe medical experiments and conditions in the slave labor camps.

The first item in the arrangement of the prosecution exhibits is usually a certificate listing the document number, a short description of the exhibit, and a statement on the location of the original document from which the exhibit was reproduced. The certificate is followed by the document (the actual prosecution exhibit that consists mostly of photostats and a few mimeographed items). Some documents, chiefly affidavits, have no certificates. In rare cases the exhibits are followed by translations or additional certificates.

The 57 defense exhibits consist of extracts from meetings with Hitler, the Central Planning Board, and the Jaegerstaff; affidavits; a newspaper clipping; and other individual items. The defense exhibits are arranged by exhibit number, each followed by the certificate wherever available.

The translations in each of prosecution document books IA, IIA, IIIA, IV, and VA are preceded by an index listing exhibit numbers, document numbers, descriptions, and page numbers of each translation. The indexes provide a schedule of the order in which the prosecution exhibits were presented in court. Supplementary descriptions are in the index of prosecution document book VI. The document books consist entirely of mimeographed pages.

The defense document books are similarly arranged. Each book is preceded by an index giving document numbers, description,

and page number for each exhibit. The corresponding exhibit numbers are generally not provided. There is one unindexed supplement to document book III. Pagination is consecutive, yet there are several pages where an "a" or "b" is added to the numeral.

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

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

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of prosecution and defense exhibits already microfilmed or opening statements of prosecution and defense, which can be found in the transcripts of the proceedings.

The records of the Milch Case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the International Military Tribunal, T988; NI (Nuernberg Industrialist) Series, T301; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; records of the Greifelt case, M894; Records of the Ohlendorf case, M895; and records of the List case, M893. In addition, the record of the International Military Tribunal at Nuernberg has been published in *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947), 42 vols. Excerpts from the subsequent proceedings have been published as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (U.S. Government Printing Office), 15 vols. The Audiovisual Archives Division of the National Archives and Records Service holds motion picture records and still photographs of all 13 trials and tape recordings of the International Military Tribunal proceedings.

John Mendelsohn collaborated with Gibson Smith in the writing of this introduction and in the arrangement of these records for microfilming.

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