

MILITARY TRIBUNALS

CASE NO. 2

**THE UNITED STATES
OF AMERICA**

— against —

ERHARD MILCH

Defendant

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)
NURNBERG 1946

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INDICTMENT

The United States of America, by the undersigned Telford Taylor, Chief of Counsel for War Crimes, duly appointed to represent said Government in the prosecution of war criminals, charges the defendant Erhard Milch with the commission of War Crimes and Crimes against Humanity as defined in Control Council Law No. 10, duly enacted by the Allied Control Council on 20 December 1945. The defendant Milch between 1939 and 1945 was: Secretary of State in the Air Ministry (Staatssekretär im Reichsluftfahrt-Ministerium), Inspector General of the Air Force (Generalinspekteur der Luftwaffe), Deputy to the Commander in Chief of the Air Force (Stellvertreter des Oberbefehlshabers der Luftwaffe), and Member of the Nazi Party (Mitglied der NSDAP). The defendant Milch was also Field Marshal in the Luftwaffe (Generalfeldmarschall in der Luftwaffe) 1940—45, Aircraft Master General (Generalluftzeugmeister) 1941—44, Member of the Central Planning Board (Mitglied der „Zentralen Planung“) 1942—1945, and Chief of the Jaegerstab 1944—1945. The War Crimes and Crimes against Humanity charged herein against the defendant Milch include deportation, enslavement and mis-treatment of millions of persons participation in criminal medical experiments upon human beings, and murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts.

COUNT ONE

1. Between September 1939 and May 1945 the defendant Milch unlawfully, wilfully, and knowingly committed War Crimes as defined by Article II of Control Council Law No. 10, in that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving slave labor and deportation to slave labor of the civilian populations of Austria, Czechoslovakia, Italy, Hungary, and other countries and territories occupied by the German armed forces, in the course of which millions of persons were enslaved, deported, ill treated, terrorized, tortured, and murdered.

2. Between September 1939 and May 1945 the defendant Milch unlawfully, wilfully, and knowingly committed War Crimes as defined by Article II of Control Council Law No. 10, in that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving the use of prisoners of war in war operations and work having a direct relation with war operations, including the manufacture and transportation of arms and munitions, in the course of which murders, cruelties, ill treatment, and other inhumane acts were committed against members of the armed forces of nations then at war with the German Reich and who were in custody of the German Reich in the exercise of belligerent control.

3. In the execution of the plans and enterprises charged in Paragraphs 1 and 2 of this Count, millions of persons were unlawfully subjected to forced labor under cruel and inhumane conditions which resulted in widespread suffering. At least 5,000,000 workers were deported to Germany. The conscription of labor was accomplished in many cases by drastic and violent methods. Workers destined for the Reich were sent under guard to Germany, often packed in trains without adequate heat, food, clothing or sanitary facilities. Other inhabitants of occupied countries were conscripted and compelled to work in their own countries to assist the German war economy and on fortifications and military installations. The resources and needs of the occupied countries were completely disregarded in the execution of the said plans and enterprises. Prisoners of war were assigned to work directly related to war operations, including work in munitions factories, loading bombers, carrying ammunition, and manning anti-aircraft guns. The treatment of slave laborers and prisoners of war based on the principle that they should be fed, sheltered, and treated in such a way as to exploit them to the greatest possible extent at the lowest expenditure.

4. The defendant Milch from 1942 to 1945 was a member of the Central Planning Board which had supreme authority for the scheduling of production and the allocation and development of raw materials in the German war economy. The Central Planning Board determined the labor requirements of industry, agriculture and all other phases of German war economy, and made requisitions for and allocations of such labor. The defendant Milch had full knowledge of the illegal man-

ner in which foreign laborers were conscripted and prisoners of war utilized to meet such requisitions, and of the unlawful and inhumane conditions under which they were exploited. He attended the meetings of the Central Planning Board, participated in its decisions and in the formulation of basic policies with reference to the exploitation of such labor, advocated the increased use of forced labor and prisoners of war to expand war production, and urged that cruel and repressive measures be utilized to procure and exploit such labor.

5. During the years 1939—1945 the defendant Milch, as Secretary of State in the Air Ministry, Inspector General of the Air Force, Deputy to the Commander in Chief of the Air Force, Field Marshal in the Luftwaffe, Aircraft Master General, and Chief of the Jaegerstab, had responsibility for the development and production of arms and munitions for the German Air Force. The defendant Milch exploited foreign laborers and prisoners of war in the arms, aircraft and munitions factories under his control, made requisitions for and allocations of such labor within the aircraft industry, and personally directed that cruel and repressive measures be adopted towards such labor.

6. Pursuant to the order of the defendant Milch, prisoners of war who had attempted escape were murdered on or about 15 February 1944.

7. The said War Crimes constitute violations of international conventions, particularly of Articles 4, 5, 6, 7, 46, and 52 of the Hague Regulations, 1907, and of Articles 2, 3, 4, 6, and 31 of the Prisoner-of-War Convention (Geneva, 1929), the laws customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and Article II of Control Council Law No. 10.

COUNT TWO

8. Between March 1942 and May 1943 the defendant Milch unlawfully, wilfully, and knowingly committed War Crimes as defined in Article II of Control Council Law No. 10, in that he was a principal in, accessory to, ordered, abetted, took a consenting part in and was connected with plans and enterprises involving medical experiments without

the subjects' consent, upon members of the armed forces and civilians of nations then at war with the German Reich and who were in the custody of the German Reich in the exercise of belligerent control, in the course of which experiments the defendant Milch, together with divers other persons, committed murders, brutalities, cruelties, tortures, and other inhumane acts. Such experiments included, but were not limited to, the following:

(A) HIGH ALTITUDE EXPERIMENTS. From about March 1942 to about August 1942 experiments were conducted at the Dachau concentration camps for the benefit of the German Air Force to investigate the limits of human endurance and existence at extremely high altitudes. The experiments were carried out in a low-pressure chamber in which the atmospheric conditions and pressure prevailing at high altitudes (up to 68,000 feet) could be duplicated. The experimental subjects were placed in the low-pressure chamber and thereafter the simulated altitude therein was raised. Many victims died as a result of these experiments and others suffered grave injury, torture, and ill treatment.

(B) FREEZING EXPERIMENTS. From about August 1942 to about May 1943 experiments were conducted at the Dachau concentration camp primarily for the benefit of the German Air Force to investigate the most effective means of treating persons who had been severely chilled or frozen. In one series of experiments the subjects were forced to remain in a tank of ice water for periods up to three hours. Extreme rigor developed in a short time. Numerous victims died in the course of these experiments. After the survivors were severely chilled, rewarming was attempted by various means. In another series of experiments, the subjects were kept naked outdoors for many hours at temperatures below freezing. The victims screamed with pain as parts of their bodies froze.

9. The said War Crimes constitute violations of international conventions, particularly of Articles 4, 5, 6, 7, and 46 of the Hague Regulations, 1907, and of Articles 2, 3, and 4 of the Prisoner-of-War Convention (Geneva, 1929), the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and of Article II, of Control Council Law No 10.

COUNT THREE

10. Between September 1939 and May 1945 the defendant Milch unlawfully, wilfully, and knowingly committed Crimes against Humanity, as defined by Article II of Control Council Law No 10, in that he was a principal in, accessory to, ordered, abetted took a consenting part in, and was connected with plans and enterprises involving slave labor and deportation to slave labor of German nationals and nationals of other countries in the course of which millions of persons were enslaved, deported, ill treated, terrorized, tortured, and murdered. The particulars of these crimes are set forth in Count One of this Indictment and are incorporated herein by reference.

11. Between March 1942 and May 1943, the defendant Milch unlawfully, wilfully, and knowingly committed Crimes against Humanity as defined in Article II of Control Council Law No. 10 in that he was principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experiments, without the subjects' consent, upon German nationals and nationals of other countries, in the course of which experiments the defendant Milch, together with divers other persons, committed murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts. The particulars of such experiments are set forth in Count Two of this Indictment and are incorporated herein by reference.

12. The said Crimes against Humanity constitute violations of international conventions, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and Article II of Control Council Law No. 10.

WHEREFORE, this Indictment is filed with the Secretary General of the Military Tribunals and the charges herein made against the above named defendant are hereby presented to the Military Tribunals.

TELFORD TAYLOR

Brigadier General, USA

Chief of Counsel for War Crimes

Acting on Behalf of the United States of America

Nurnberg, 13 November 1946