

The annulment of the judgment

In January 1990, the Peace Library in Berlin conveyed the news that the verdict against Franz Jägerstätter was now accessible to the public “in Prague”. In May, a copy of the verdict was sent to the author from the Military Historical Archive there. Franz Jägerstätter’s religious motivation had been clearly stated, even before the Reich Court-Martial.¹⁶⁹

On 12th February 1997, Franziska Jägerstätter and her daughters petitioned the Public Attorney’s Office at the District Court of Berlin for an annulment of the judgment against Franz Jägerstätter. On 7th May 1997, the court-martial verdict pronounced by the Reich Court-Martial on 6th July 1943 was officially annulled by the District Court of Berlin (No. 517 AR 2/97 – 2P Aufh. 1/97). It was the first annulment of its kind.

Here follows an excerpt from the reason given for the annulment: “The legislative aim of the Nazi Criminal Law Reparation Act¹⁷⁰ is to provide the most extensive reparation possible for Nazi injustices in the field of criminal justice ... Its aim is to enable the annulment of court decisions which were issued on the basis of flawed legal provisions or a flawed application of the law, solely for the purpose of supporting and perpetuating the Nazi regime ... According to the court-martial verdict of the Reich Court-Martial, the victim was condemned on political and religious grounds. In the reasons given for the judgment, the court first found it necessary to state that the accused was neither a member of the Nazi Party nor of one of its ‘organizations’, and that he was an opponent of Nazism (cf. p.2 of the reasons given for the judgment);¹⁷¹ statements which are not relevant to the judgment of a military criminal offense, insofar as the said judgment should not be based on political grounds ... The decision is based on political grounds, as the person concerned was condemned to

169 First published in: Norbert Haase, Gott mehr gehorcht als dem Staat. Franz Jägerstätter vor dem Reichskriegsgericht. Eine Dokumentation (He obeyed God more than the State. Franz Jägerstätter before the Reich Court-Martial. A documented account.) . In the periodical *Tribüne, Zeitschrift zum Verständnis des Judentums*, Vol. 29, Issue 114 1990, p. 198–205

170 NS-Strafrechtswiedergutmachungsgesetz, the German law on the reparation of injustice perpetrated under Nazism in the field of criminal law.

171 Cf. facsimile of the court-martial verdict against Jägerstätter in the Appendix.

death in order, by this means, to create the politically-desired deterrent which the Reich Court-Martial sought to achieve through the pronouncement of a large number of death sentences on Jehovah's Witnesses and on members of other churches (cf. Haase, *Das Reichskriegsgericht und der Widerstand gegen die nationalsozialistische Herrschaft*, [The Reich Court-Martial and the resistance against Nazi rule] p. 47).¹⁷²

In the judgment of the Church

On 7th October 1997 Bishop Maximilian Aichern began the process of gathering information at his diocese in Linz, with a view to the beatification of Franz Jägerstätter, and appointed the Pastor of Linz Cathedral, Johann Bergsmann, to act as postulator. After Father Bergsmann's death in the summer of 1998, the Bishop transferred this task to Manfred Scheuer, (who was appointed Bishop of Innsbruck in 2003). The diocesan procedure was concluded on 21st June 2001, and the records were sealed and given to the lawyer Andrea Ambrosi, as the postulator in Rome, for submission to the Congregation for Sanctification and Beatification. Ludwig Schwarz, the Bishop of Linz since 2005, also endeavored to bring about a rapid conclusion to the procedure.

On 1st June 2007, the Vatican recognized the martyrdom of Franz Jägerstätter, thereby opening the way for his beatification. At an audience with the Prefect of the Sanctification Congregation, Cardinal Jose Saraiva Martins, Pope Benedict approved the publication of a corresponding Papal Decree.¹⁷³

In connection with the beatification ceremony which is planned to take place in Linz in the autumn of 2007, the Austrian Bishop's Conference described Franz Jägerstätter as a "martyr of conscience" and a "wit-

172 The annulment of the death sentence against Franz Jägerstätter received much public attention in Germany and Austria, and led to a questioning of the positivistic interpretation of law which still prevails in Austria up to the present day. Cf. Reinhard Moos, *Die Aufhebung der Todesurteile der NS – Militärgerichtsbarkeit* (The annulment of the death sentences passed by the Nazi military judiciary). In: *Journal für Rechtspolitik*, Vienna/ New York, Vol. 5, Issue 4 1997, p. 253-265

173 Cf. *Kathpress* dated 20th June 2007

ness to the Sermon on the Mount.” “The farmer and sacristan Franz Jägerstätter recognized the complete irreconcilability of the Christian faith and the criminal system of Nazism more clearly than many of his contemporaries. Despite being well aware of the consequences, he felt compelled by his conscience to refuse to perform military service for Hitler. Jägerstätter’s witness is a shining example in dark times, which can also help people today, living in a very different situation, to sharpen their consciences through studying the Gospels.”¹⁷⁴

174 Press statement issued by the Austrian Bishops’ Conference, Kathpress, dated 21st June 2007



Parish church with cemetery (above), Franz Jägerstätter's farm and the sacristan's house in St. Radegund, district of Braunau, Upper Austria.



Franz Jägerstätter's grave by the wall of St. Radegund parish church.



Franz Jägerstätter's widow, Franziska.



Prayer book of the Third Order of St. Francis (above), and documents and wedding rings (below), today all kept at the Jägerstätter House in St. Radegund.

Weiterführende Literaturhinweise:

Erna Putz

Franz Jägerstätter – Besser die Hände als der Wille gefesselt



Der Innviertler Bauer und Mesner Franz Jägerstätter verweigerte den Nationalsozialisten den Wehrdienst und wurde 1943 hingerichtet. Seine Person und sein Handeln werden nach wie vor kontroversiell diskutiert. Die vorliegende Biographie zeichnet ein differenziertes Bild und basiert auf Materialien und Briefen, Archivmaterial und Zeitzeugenberichten.

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Franz Jägerstätter – Christ und Märtyrer

Diese Broschüre bietet auf 48 Seiten eine kompakte Information über Franz Jägerstätters Leben und Martyrium und ist für eine breite Streuung (z. B. für Schriftenstände usw.) gedacht.

Preis: € 3,-

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Rudolf Zinnhobler

Von Florian bis Jägerstätter – Glaubenszeugen in Oberösterreich



Rudolf Zinnhobler präsentiert 24 Glaubenszeugen aus dem Gebiet der heutigen Diözese Linz. Zeitlich decken sie die Spätantike, das Mittelalter, Reformation/Gegenreformation, die Umbrüche der Neuzeit und die Zeit des Nationalsozialismus ab.

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