

French State Rail Company found guilty of Nazi collaboration

By Pierre Mabut and Antoine Lerougetel
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On June 6, 2006, a court in Toulouse found the French state and the SNCF state railway company guilty of collaborating with the Nazis in deporting Jews to concentration camps during World War II.

After a five-year legal battle by a Green member of the European Parliament, Alain Lipietz, and his sister H el ene, the court ordered the SNCF to pay the family 62,000 euros in compensation. Their father Georges had initiated the case but died before the trial's end.

Their lawyer R emi Rouquette commented, "Yes, it is a historic trial because for the first time the French state and the SNCF have been found guilty for their brutal actions committed during the sombre period of the Second World War. For the first time the declaration of President Chirac [July 17, 1995], recognising that the French state had a debt towards the victims of anti-Semitism, takes on a judicial meaning."

Right and left governments, including that of Socialist Party president Fran ois Mitterrand, failed to acknowledge this state culpability. General Charles de Gaulle had always insisted on no connection with the French state of Marshal Philippe P tain's wartime collaborationist Vichy government, calling it a "parenthesis" in French history.

Georges Lipietz and his family had been denounced as Jews to the authorities by neighbours in the southern French city of Pau in 1944 and transferred by an SNCF train to the Drancy concentration camp near Paris, run by SS Hauptsturmf hrer Alo is Brunner and manned by the French police. The Lipietz family awaited shipment in Drancy, like tens of thousands of others, to almost certain death in Germany. They stayed there for three months.

Luckily, they were not put on the death trains. The train they were due to travel on was held up by Resistance activity. They were liberated from Drancy camp on August 18. However, they did witness the departure to their deaths of 200 Jewish children and many other victims until the last convoy moved off on August 17, two months after the D-Day landings. Alain Lipietz explained, "Forty years later, our father wanted to be one of the last witnesses to the ignominy of the French state."

The Study Circle of the Deportation and the Shoah writes: "The reaction of public opinion after 1942 and the courageous attitude of some French people meant that between 220,000 and 250,000 Jews could be saved. All the same, nearly 80,000 deportees and several thousand resistance fighters and hostages were handed

over to the executioners on the orders of the Vichy government."

Nearly 2,000 railway workers engaged in the Resistance were arrested and shot by the occupiers and their collaborators.

The historian Henri Rousso, who sided with the SNCF in the legal dispute, admits that "the top management personnel of the 'Technical Department' of the SNCF participated in the important negotiations concerning the issue on the deportation of Jews" as early as 1942. "I consider this point to be very important because it means that right from the start, just like the police, the gendarmes or the pr fets, some SNCF bosses were involved in the technical organisation of the deportation."

The Lipietz family were only able to bring the case to court in 1992, after the SNCF had belatedly agreed to open up the archives on its war record to inspection. Historians took four years to sift through the information, which led to the 1,500-page Bachelier report. Legal action against the French state was not possible before 2001 because up to then a 1944 ruling denied any responsibility by the Vichy regime in the application of anti-Jewish laws. A Council of State decree in 2001 only allows such actions to be brought until December 2007. After that date, any crimes committed by the state during the war will cease to be actionable.

The Lipietz family sought to find the French state guilty of crimes against humanity. The judges replaced this with a verdict of "a grave fault" by the state and SNCF. They noted: "The French administration could manifestly not ignore that their transfer...facilitated an operation which was normally due to be a prelude to a deportation of the persons concerned."

The SNCF's lawyer, Yves Baudelot, pleaded that under the Nazis, "the SNCF acted under the regime of requisition without any margin for manoeuvre." However, the court found that the company "was not in any way in a state of constraint so as to justify such dealings."

The SNCF in fact sought payment for the deportations by the issuing of third-class tickets for people thrown into cattle wagons. The court considered that "the company never uttered any objection nor protest about the carrying out of this transport." On the contrary, it "continued to reclaim the payment of such bills, after the liberation."

Attorney Avi Bitton commented, "The SNCF organised the transport in frightening conditions, without water, no hygiene, of old people, children, pregnant mothers, whilst it had a margin for manoeuvre. It used these cattle wagons in the interests of

economy.”

Bitton represents 200 families, living in Canada, the United States, Belgium, Israel and France, who have come forward after the Lipietz verdict. Two hundred letters have been sent to the SNCF demanding it take responsibility for voluntarily transporting the deportees and pay reparations. The company has two months to react, or face court action. SNCF Director General Guillaume Pepy persists in denying responsibility: “The SNCF was requisitioned. It acted under constraint,” he claimed. The SNCF is appealing the Toulouse Court judgement.

In a September 11 opinion piece in *Le Monde*, Avi Betton and his colleague Matthieu Delamas wrote: “For over 40 years, the families of deportees have been kept in ignorance about the responsibility of the SNCF in the deportation of thousands of men, women, children, French or foreign, Jews, resistance fighters, homosexuals, communists and gypsies, because the SNCF refused to open up its archives. It was only in 1992 that the SNCF, which reproaches families for acting too late, agreed, for the first time, to allow certain historians acceptable to the company to study its role in the deportations.”

General Charles de Gaulle’s primary concern in his opposition to the German occupation of France was to prevent the struggle of the Resistance from developing from a nationalist struggle against the Occupation and the collaborating bourgeoisie into a socialist revolution, as had happened in Russia in World War I. His acceptance by the US and British Allies as the official liberator of France was conditional on their belief that he could achieve this.

Another priority for de Gaulle was the maintenance of France’s colonial possessions. These aims required the continuity of the French bourgeois state, its army, its civil service, its network of central government functionaries in the regions and localities, its judiciary, its police, education system—and for that matter the SNCF—all of which had largely collaborated with the Nazi occupiers.

Following Liberation in 1944, de Gaulle was more concerned with keeping the state intact than with punishing war criminals such as René Bousquet and Maurice Papon. This required a cover-up of many of the crimes committed by the Vichy regime and for the functionaries who carried them out.

SNCF Director Pepy is not alone in denouncing the Lipietz judgement. Historians, researchers, lawyers and even families of Jewish deportees who perished in the camps have come forward to defend the SNCF and the French state. They claim that the verdict is an attack on the memory of the thousands of Resistance fighters amongst employees of the SNCF who were shot or deported. Alain Lipietz made it clear that the actions of the Resistance fighters were completely independent of the SNCF management, which could not hide behind their heroism. He insisted that the SNCF’s resistance was the “resistance of the rail workers.”

Historian Henri Rousso, director of the state scientific research institute CNRS and specialist of the Shoah study, estimated that the “latitude for manoeuvre by the SNCF was, under the occupation, particularly limited. To ask for reparations is the absolute right of these people...but don’t forget, the SNCF simply didn’t have a choice.”

The same apology for the state bureaucracy and collaborationist

regime of Vichy was echoed by the Nazi hunter and lawyer Serge Klarsfeld, the president of the Association of the Sons and Daughters of Deported French Jews. He claims: “The SNCF didn’t want it, but did it. How can it be criticised today for not having hidden its trains? That would amount to putting on trial a Frenchman who didn’t enter the resistance movement” (*Le Figaro*, September 1, 2006).

His son, lawyer Arno Klarsfeld, is even more virulent against the Lipietz judgement, describing it as “demagogic.” Klarsfeld has been engaged to defend the SNCF in the United States in similar court actions brought against it. In his opinion, “the convoys were German, not French,” and the Lipietz case only served “to create a dilution of the responsibility.”

In a recent article in *Le Monde*, “The SNCF and the Death Trains,” Arno Klarsfeld attacked Lipietz: “These legal complaints are contrary to historical truth. They stain the memory of 1,647 rail workers, shot or deported, not returning, they eliminate the role of the German authorities, of the Vichy French state regime and dilute the responsibility of those who were responsible for the deportation of French Jews.... The requisition was an authoritative act of state from which the SNCF could not shrink, could not remove the wagons, nor the locomotive, the driver and his mechanic.”

He justified the SNCF collaboration in these terms: “Those who did it [participated in the Resistance] are heroes, the others have always been, are and will remain the norm. Indifference to the crimes of others is not a crime, it is part of the human condition.”

Klarsfeld is a Zionist and a close collaborator of Gaullist Interior Minister Nicolas Sarkozy. In 2005, the Chirac government attempted to introduce a new law obliging teachers to teach the “positive” role of French colonialism in schools, but was forced to retreat by popular opposition. Sarkozy engaged Klarsfeld to analyse and report on “negative attitudes” towards colonial history.

Klarsfeld argued that a distinction had to be made between colonial regimes that carried out massacres and repression, and those that invested in infrastructure, public health and transport. On this score, despite its record in countries such as Vietnam and Algeria, he gave the French state a clean bill of health.

In his role as “immigration mediator” for Sarkozy, Klarsfeld has the job of deciding which undocumented immigrants can remain. Of the 30,000 undocumented immigrants with children at school in France who had applied for a special dispensation to stay in France, Klarsfeld participated in the rejection of more than 23,000 applications.

Those who apologise for the state’s role in the past under the Nazi occupation will continue to do so with respect to the crimes it perpetrates today.

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