

Australia's war crimes trials have ended with the decision to abandon the trial of an elderly South Australian man, nearly eight years after a special investigation unit was set up by the Government to investigate suspected Nazi criminals living in Australia.

This week, nearly four months into Supreme Court proceedings, the Federal Director of Public Prosecutions, Mr Michael Rozenes, QC, made a decision not to proceed with the charges against Mr Heinrich Wagner, 68, of Hindmarsh Island, 100 kilometres south of Adelaide.

His defence counsel claimed that continuing with the trial could have killed him.

Mr Wagner, who has been on trial in the South Australian Supreme Court since early August, suffered a heart attack recently. His lawyer, Ms Lindy Powell, said Mr Wagner's health had been severely affected by the stresses of the trial on "charges which should never have been brought".

It is estimated the investigation and prosecution of alleged Nazi criminals has now cost the public almost \$40 million without result.

But the president of the Executive Council of Australian Jewry, Mr Isi Leibler, told the Herald that it was important for the Australian statute books to have war crimes legislation as an educational tool and in recognition that Australia had no statute of limitations for war criminals.

There was a "sense of disappointment and outrage that the trials had not been held 40 or 50 years ago when the evidence and witnesses were in better shape", Mr Leibler said.

Under the war crimes legislation, Mr Wagner had been charged with the murders of 19 Ukrainian children of part-Jewish descent and a railway worker, and also with being involved in the mass execution of 104 Jewish people in Ukraine during 1942-43.

Yesterday, Ms Powell said her client was relieved but still suffering severe stress as a result of the criminal proceedings. "We were terribly concerned about his health and were firmly of the view that there was a very real risk continuing the matter would cause a serious incident or perhaps even kill him," Ms Powell said.

The special unit set up by the Federal Director of Public Prosecutions originally had a list of 800 suspected Nazi war criminals; this list was cut during the investigations to 12 cases and further shortened to three suspects, all South Australians.

After a highly publicised two-month trial earlier this year, the first Adelaide man charged with war crimes, Mr Ivan Polyukhovich, 77, walked free from the Supreme Court after a jury unanimously found him not guilty on two counts of alleged participation in the German plan to exterminate the Jews of Europe.

Mr Polyukhovich had been charged with helping German soldiers who slaughtered 850 Jews from the ghetto of Serniki and being in the company of German soldiers when a Jewish woman and two boys were killed near Serniki in Ukraine in 1942.

Last year an Adelaide magistrate ruled that a second South Australian, Mr Mikhail Berezowsky, 79, had no case to answer on charges of knowingly being involved in the 1942 murder of 102 men, women and children, collectively known as the Jews of Gnivan, in the Vinnitsa region of Ukraine.

After the acquittal of Mr Polyukhovich, counsel for the DPP, the Sydney lawyer Mr Greg James, QC, expressed his concern that there was little likelihood of a conviction against Mr Wagner, but the DPP decided to continue

A spokesman for the Commonwealth DPP, Mr Ian Bermingham, said a decision had been made not to proceed with the trial against Mr Wagner after "we took into account the substantial medical evidence

tendered to the court".

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