## **CONTENTS**

	Use of History in the Field of Transitional Justice: A Critical roduction
11111	Nico Wouters
1. 2. 3.	Is history useful?
4.	Justice and (historic) truth
5.	To conclude: how this book approaches history in transitional
	justice
We	st Germany: A Case of Transitional Justice avant la lettre?
	Annette Weinke
1.	International law and 20 <sup>th</sup> Century Germany
	<ul><li>1.1. The "longue durée" of the German "struggle to come to terms" 25</li><li>1.2. "A past that will not go away" Continuity and rupture</li></ul>
	after 1945
2.	1.3. The legacy of "Leipzig" and "Nuremberg"
۷.	National policies of "Vergangenheitsbewältigung"
	2.2. Return of the rule of law?
3.	Justice, history, memory
4.	Summary 52
Sele	ective further reading55
	anging Things so Everything Stays the Same: The Impossible "épuration" French Society, 1945–2000
	Marc Olivier Baruch
1.	The legacy of earlier experiences
2.	Transitional justice in the making (1943–1947)
	2.1. Type of preceding regime
	<ul><li>2.2. Type of transition</li></ul>
	2.3. Type and duration of key transitional justice period

Intersentia

		2.3.1.	Before the liberation of mainland France (August 1943-	
			August 1944)	67
		2.3.2.	Judicial state-initiated and state-executed measures	68
		2.3.3.	Quasi-judicial techniques	70
		2.3.4.	Non-judicial	72
		2.3.5.	Numbers of punished perpetrators	73
	2.4.	Evalua	ation	74
3.	Trar	sitiona	l justice in the long run, a chronological approach	76
	3.1.	1947-	1954: A troubled time of changes in TJ policy	77
		3.1.1.	Trials	77
		3.1.2.	Reconciliation measures	78
		3.1.3.	The domestic and international political context	79
		3.1.4.	The national impact of international developments in	
			the domain of TJ	80
		3.1.5.	The role of academic research and of literary works	8
		3.1.6.	Memory eruptions: the public debate	8
	3.2.	1954-	1970: a time overshadowed by General de Gaulle	82
		3.2.1.	The domestic and international political context	82
		3.2.2.	The influence of successive generations, the role of	
			academic research, literary works and movies	83
		3.2.3.	Memory eruptions: the public debate	85
	3.3.	1970-	1994: France's troubled memories	86
		3.3.1.	The political context	86
		3.3.2.	The role of academic research and culture	87
		3.3.3.	Memory eruptions: the public debate	88
	3.4.	1995 a	nd after	88
4.	A fe	w words	s of conclusion	90
Sele	ctive f	urther	reading	92
A C	onsen	sus of I	Differences. Transitional Justice and Belgium's	
Div			mories (1944–2012)	
	Nico '	Woute	rs and Dirk Luyten	95
			1 (1044 1051)	0.1
1.			phase of transitional justice policies (1944–1951)	
			ccupation regime	
	1.2.		tional justice measures.	9,
		1.2.1.	Judicial policies: state-initiated and state-executed	0.
		122	measures	
		1.2.2.	Judicial innovations	
•	Tr.	1.2.3.	Quasi-judicial techniques	
2. 3		ards mi	tigation and reintegration of convicted collaborators	107 113
•	POLIC	'W TOP 371	CHIME	1 I ·

vi Intersentia

4.	LOH	g-term processes: on the enects of transitional justice on
	mem	nory development
	4.1.	Divided memories and the amnesty debate
	4.2.	Patriotic memory communities and the Belgian state 119
	4.3.	The memories of war enter a period of transition (1971–1994) 122
	4.4.	The global human rights culture: an end to Belgium's divided
		memories?
	4.5.	On memory consensus
Selec	ctive f	urther reading
Tran	ısitioı	nal Justice in the Netherlands after World War II
		ROMIJN and Erik Schumacher
1.	Phas	e I (before 10 May 1940): pre-war legal framework
2.	Phas	e II (between 10 May 1940 and 1 January 1952)
	2.1.	Background
	2.2.	New legislation
	2.3.	Administration of justice
		2.3.1. Minor cases
		2.3.2. Serious cases
	2.4.	Reintegration
	2.5.	Purging 143
		2.5.1. Purging in practice
		2.5.2. Purges in the non-government sphere 147
	2.6.	Compensation
	2.7.	Evaluation
3.	Phas	te III (from 1 January 1952)
	3.1.	Public memory
	3.2.	Clemency
	3.3.	Reintegration
	3.4.	Compensation
	3.5.	Commemorations
	3.6.	Reconciliation?
Abb	reviat	ions
Sele	ctive f	urther reading
From	n Dur	otured Transition to Politics of Silence: the Case of Portugal
		RAIMUNDO and António Costa Pinto
	ттра	KAIMONDO and Antonio Costa i into
1.	The	antecedents: the authoritarian regime
2.		Portuguese way to democracy: a transition by rupture

Intersentia vii

3.	Tran	nsitional justice: trials and purges	178
	3.1.	The first phase: transitional justice based on an alleged	
		revolutionary legality (April 1974–December 1975)	178
		3.1.1. The purge of the military, the civil service, and the	
		judiciary	179
		3.1.2. The political police	
		3.1.3. The economic elites	
	3.2.	The second phase: the establishment of democratic legality	
		(December 1975–1982)	185
		3.2.1. The military trials	
		3.2.2. The reintegration of perpetrators	
4.	The	post-transitional justice period (1982-)	
	4.1.	The archives	
	4.2.		
	4.3.	Symbolic reparations	192
	4.4.	Remembrance and truth telling	194
5.	Sum	mary and conclusions	196
Abb	reviat	ions	197
Sele	ctive f	further reading	197
		·	
Amı	nesty	and Reparations Without Truth or Justice in Spain	
	Palon	na Aguilar and Clara Ramírez-Barat	199
1.	Hist	orical antecedents of the current transitional justice policies	
1.		pain	200
	1.1.	Transitional justice in the pre-Franco period (September	200
	1.1.	1923–July 1936)	200
	1.2.	The Civil War (July 1936–April 1939).	
	1.3.	The Franco regime (July 1939–20 November 1975)	
2.		sistional justice policies (1975–2000)	
۷.	2.1.	The legacy of the Franco regime	
	2.2.	The 'Spanish model': reparations and amnesty without	207
	2.2.	accountability and truth telling	208
3.	Post.	-transitional justice policies and memory irruptions (2000–2011) .	
<i>J</i> .	3.1.	Why has a post-transitional phase taken place in Spain?	
	3.2.	Measures approved from 2002 to 2012	
	3.3.	Judicial initiatives	
	3.4.	Social initiatives	
4.		nory and transitional justice in the political culture of	<i>43</i> 0
7.		Spaniards	2/1
5.		clusions.	
J.	COH	C1U31O113	4±/

viii Intersentia

Abbr	reviations	253	
Selec	tive further reading	254	
Offic	ial websites and other private resources	257	
	sitional Justice after the Collapse of Dictatorship in Greece 4–2000)		
•	Stefanos Katsikas	250	
U	SCIANOS KAISIKAS	239	
1.	Introduction	259	
2.	The colonels' regime (1967–1974)	260	
3.	The first measures towards democratisation: "The Government		
	of National Unity"	263	
4.	The junta trials	264	
	4.1. The trial of the instigators of the 21 April 1967 military coup	266	
	4.2. The verdict of the trial of the instigators of the 21 April 1967		
	military coup	268	
5.	The trial over the November 1973 events at the Polytechnic		
	School of Athens	269	
	5.1. The verdict of the Trial over the November 1973 events		
	at the Polytechnic School		
6.	The trials of the torturers		
	6.1. The verdict of the trials of the torturers	274	
7.	Incarceration		
8.	Reconciliation in the aftermath of the junta period (1974–1981)		
9.	Reconciliation in the post-junta period (1981–1989)		
10.	1989 and reconciliation by fire.		
11.	Epilogue		
	reviations		
Selec	tive further reading	286	
	Incomplete Transition in Hungary		
F	Renáta Uɪтz	289	
1.	Introduction: The "three phases" in the Hungarian context	289	
2.	Phase 1: Repressions		
~.	2.1. From Admiral Horthy's conservative nationalist to the		
	national socialist regime		
	2.2. Establishing the communist regime: 1944–1948		
	2.3. 1949–1956: The years of communist dictatorship		
	2.4. From the suppression of the 1956 revolution to normalisation	,	
	into the 'happiest barrack'	300	
3.	Phase 2: Transitional justice measures		

Intersentia

	3.1.	A prelude to transitional justice measures in 1989: the first
		effort in doing justice about WWII?
	3.2.	The legal framework for transitional justice after 1989 304
		3.2.1. Retroactive justice measures punishing perpetrators
		of past crimes 306
		3.2.2. Rehabilitation laws
		3.2.3. The files and activities of the communist Secret
		Services: Lustration and access to files
	3.3.	The context of transitional justice measures following 1989 312
4.	Phas	se 3: Lasting impact
	4.1.	Reintegration of perpetrators
	4.2.	Measures for victims
		4.2.1. Compensation
		4.2.2. Victims' organisations
		4.3.3. A largely unfulfilled promise: access to files
	4.3.	Remembering: the politics of memory
5.		clusions
		further reading
The	Polisł	h Paradox: Transition from and to Democracy
		BACHMANN
1.	Tran	nsitional justice in Poland during and after World War II 327
	1.1.	Introduction
	1.2.	Antecedents
	1.3.	The preparation of transitional justice measures
	1.4.	The scope of justice
	1.5.	Non-judicial measures and popular purges
	1.6.	Reintegration and the impact of demography and
		reconstruction
	1.7.	The logic of inclusion
	1.8.	Historical policy, historiography and the meaning of
	1.0.	collaboration
	1.9.	Memory eruptions – the question of anti-Semitism after
	1.5.	the war
1	Tmam	nsitional justice and democratisation during the nineties
2.		,
	2.1.	
		Introduction
	2.2.	The preparation of transitional justice measures
	2.3.	The preparation of transitional justice measures
		The preparation of transitional justice measures

X Intersentia

	2.5.	Memory eruptions and the prevalence of inclusion and	
		the national paradigm	
	2.6.	The role of historical and sociological research	
		ions	
Selec	tive fu	urther reading	350
Com	narin	or Transitional Luctica Experiences in Europe	
	_	g Transitional Justice Experiences in Europe	251
. 1	uc m	U1SE	221
1.	Same	e challenges, but different answers?	351
	1.1.	A devil's choice: to punish or to let bygones be bygones	352
	1.2.	Exclusion versus inclusion of perpetrators	353
	1.3.	Blending Realpolitik and respect for the rule of law	355
	1.4.	Perpetrator- or victim-centered attention?	357
	1.5.	To forget or to remember?	358
2.	Cont	extual factors that shaped policies	360
	2.1.	The preceding regime	360
	2.2.	Earlier experiences	361
	2.3.	The type of transition	361
	2.4.	The international context	361
3.	Simi	larities	363
	3.1.	A chaotic start	363
	3.2.	Pragmatic and adaptive decision-making	363
	3.3.	Perpetrator-centered policies	364
	3.4.	Selectivity in accountability and reintegration measures,	
		and in reparation policies	364
	3.5.	Politico-strategic concerns dominated	364
	3.6.	A long-term process.	
		3.6.1. What?	365
		3.6.2. Why?	366
	3.7.	Common challenges	
	3.8.	The considerable impact of the outside world	367
Tran	sition	nal Justice and Memory Development in Europe	
		Wouters	369
1	1100 1		
1.	How	to approach transitional justice and memory?	369
2.		we see a sequenced TJ life cycle?	
3.	What was the impact of the politics of memory?		
4.		t kind of TJ-related issues invoked memory incidents/	
	irrup	otions?	386
5.	Wha	t was the role of local memories; civil society agency and	
		nory activism?	396

Intersentia xi

## Contents

6.	How do we explain shifts in memorial regimes?	401
7.	To conclude and summarise	408
Ahor	ut the Authors	413