

Adelaide Australia's war crimes prosecutions are over, after a decision to withdraw charges in the third and final case because of the ill-health of the elderly man on trial.

Nearly four months into Supreme Court proceedings against Heinrich Wagner, the federal director of public prosecutions dropped the charges against the 68-year-old pensioner from Hindmarsh Island, south of Adelaide.

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 in 1942-43, during the German occupation of Europe.

Mr Wagner was the last Australian to be charged under the 1987 War Crimes (Amendment) Act. Funding for the special investigations unit set up to pursue war criminals living in Australia expired at the end of June last year.

In June this year, another pensioner, Mr Ivan Polyukhovich, 77, of Adelaide, was acquitted of murder charges by a Supreme Court jury after a long trial.

And all the charges against a third pensioner, Mr Mikolay Berezowsky, 78, also of Adelaide, were dropped by an Adelaide magistrate last year without the case going to trial.

The three men were the only people to be charged under the act. The overall cost to taxpayers of bringing overseas witnesses to Australia, plus legal fees for the defendants, is believed to total about \$40million.

Mr Wagner's lawyer, Ms Lindy Powell, said he had recently had a heart attack. His health had been severely affected by the stresses of the trial on "charges which should never have been brought", she said.

Mr Ian Bermingham, for the federal director of public prosecutions, said a decision was made not to proceed with Mr Wagner's trial after taking into account substantial medical evidence.

The president of the Jewish Community Council, Mr Jack Hines, said: "Maybe if they had commenced the investigation 20 or even 30 years ago, as they should have done, they may have been able to gather better evidence." The special unit set up by the federal director of public prosecutions originally listed 800 suspected Nazi war criminals, but this list was later reduced to 12 "live cases" and then further shortened to three suspects.

At one stage, the Supreme Court went to Ukraine to hear evidence from witnesses who were unable to come to Australia for the proceedings against Mr Wagner. The Supreme Court also went to Ukraine during proceedings against Mr Polyukhovich.

The president of the Executive Council of Australian Jewry, Mr Isi Leibler, said the cost was justified even though none of the charges were proved.

"If one's going to look through the justice system and weigh up how much of taxpayers' money has been spent in terms of an issue affecting justice, I think it's a very small and trivial sum in the total context of what takes place in our justice system."